

SECTION 803 OF 9/11 COMMISSION ACT OF 2007
DETAILS OF CIVIL LIBERTIES COMPLAINTS AND DISPOSITIONS
4TH QTR FY14 – JULY 1, 2014 – SEPTEMBER 30, 2014

Agency Name: Department of the Army

Total number of complaints: 27

Complaint #1 (continued from the FY 2014 3d Quarter report):

Plaintiff is a Washington state corporation that operates a retail business in Lakewood, WA, called The Foxhole. According to plaintiff's website they sell "genuine military products" and they sell those products at their retail store and on-line through their website. In addition to their retail store, plaintiff also has a warehouse in Lakewood in which they store a significant portion of their retail store and on-line inventory.

On 4 Jun 13, a joint law enforcement task force consisting of law enforcement personnel from the Lakewood Police Department and Joint Base Lewis-McChord (JBLM) executed search warrants on The Foxhole and on plaintiff's warehouse. This was part of a joint state and federal investigation into the sale of U.S. military property by local surplus stores which apparently obtained the property from military personnel assigned to JBLM. The Lakewood Police Department obtained the warrants from a Lakewood Municipal Court judge and the warrants authorized the officers to seize, among other items, "[a]ny property belonging to the U.S. Government and any property unauthorized for resale." Pursuant to those warrants, the task seized a significant quantity of what appeared to be U.S. military property and property that was unauthorized for resale.

On 28 Oct 13, claimants filed an administrative claim in which they alleged that the search and seizure violated their 4th Amendment rights as well as other unspecified federal laws. On 6 May 14, plaintiff filed a complaint in U.S. District Court against the City of Lakewood and a number of individual defendants, to include three Department of the Army (DA) law enforcement officers. The three individually named DA police officers have submitted requests for representation which are currently being processed by the Army's Litigation Division. On 4 Jun 14, the U.S. Army Claims Service denied Plaintiff's administrative claim because the complaint plaintiff filed in U.S. District Court concerned the incident that was the basis for plaintiff's administrative claim.

Findings: We have completed and submitted the litigation report requested by the U.S. Attorney's Office and the litigation is now in the discovery phase.

Disposition: On-going.

Complaint # 2:

Description of Complaint: A complainant in a Congressional alleged that his constitutional right to remain silent and his due process rights to respond to allegations against him in an AR 15-6 investigation and GOMOR. He states he invoked his right to remain silent and this right was not protected when the investigation sought incriminating evidence against him.

Findings: There is no evidence to support the complainant's claim that his due process rights were violated. Soldier was been placed in the Retired Reserves in March 2014. Soldier was the subject of an Army Regulation (AR) 15-6 investigation in April 2013. A thorough investigation was conducted, completed and determined the allegation of misconduct by the Soldier was substantiated. Results of the AR 15-6 investigation were mailed to Soldier on July 2, 2013, and he was afforded every opportunity to respond and rebut the results of the investigation. He had an assigned attorney from the Trial Defense Service (TDS) but chose not to submit a rebuttal. There is no evidence that he was forced, coerced or intimidated into making this decision not to respond to the investigation. In July 2013, Soldier was issued a General Officer Memorandum of Reprimand (GOMOR). The GOMOR was also mailed on July 2, 2013, via certified mail, and he acknowledged receipt in September 2013. He also acknowledged receipt of the notice of the command's intent to recommend his removal from the Command Sergeant Major program in November 2013. The latter notice also advised him that he had the right to consult with an attorney and must submit matters in rebuttal within 20 days after receipt. The Soldier signed the notice and indicated he chose not to provide anything in rebuttal. There is no evidence his rights were violated during this process.

Disposition: Closed.

Complaint #3:

Description of Complaint: A Battalion Commander ordered a Soldier to give his vehicle to his estranged wife, leaving the Soldier without a vehicle. The vehicle appears to be marital property. Possible right to property/unlawful takings issue.

Findings: The Brigade commander spoke to the Battalion commander to verify the complaint. Once the Brigade commander substantiated the complaint, the Brigade commander orally admonished the Battalion commander.

Disposition: Closed.

Complaint #4:

Description of Complaint: Investigation into allegations of a 1SG disparaging Soldiers who believe in God by intimidating them, verbally disparaging them, calling himself God, and spitting in a Bible and kicking it across the floor. Possible freedom of religion issue.

Findings: An AR 15-6 was conducted. The Investigating Officer (IO) interviewed all of the know witnesses and victims. The IO did not find any evidence or witnesses to support the allegation of violating the religious liberties of any Soldier within the company.

Disposition: Closed.

Complaint # 5.

Description of Complaint: Alleged seizure of personal items was brought to command's attention via an Article 138 complaint on 26 August 2014. Soldier's vehicle was searched after issuance of a search authorization by a Battalion Commander. Search was based upon witness observing the Soldier removing unit records and files from the company supply room. Search was conducted of Soldier's vehicle. Soldier alleged that command removed personal financial records and insurance documents from the Soldier's vehicle when conducting the search and did not return them. Command did seize unit records found in the Soldier's vehicle. After receiving the Article 138 complaint, the command searched for the reported personal records. No personal records were found during the command's review of the seized documents. An AR 15-6 investigation has been appointed to ascertain the facts and determine if there were personal documents which were seized and not returned.

Findings: Pending conclusion of AR 15-6 investigation.

Disposition: Ongoing.

Complaint #6 (continued from FY 2014 3d Quarter Report):

Description of Complaint: The underlying matter is a U.S. District Court (Northern District of Ohio) case in which the Toledo Blade, a news publication, alleges that three military police unlawfully detained two of its employees and destroyed property (photos) protected by the First Amendment without due process of law at the Joint Systems Manufacturing Center-Lima Army Tank Plant (JSMC-Lima) in Ohio on 28 March 2014. The plaintiffs are the Toledo Blade and the two employees involved in the incident. The complaint was filed against the Secretary of Defense in his official capacity, the Commandant of JSMC-Lima and three military police officers in their official and

personal capacities. The complaint alleges violations of the First Amendment, unlawful search and seizure, false imprisonment, and assault.

Findings: Pending.

Disposition: Ongoing.

Complaint #7:

Description of Complaint: Civilian employee alleges a violation of first amendment freedom of speech when management official proposed disciplinary action because of statements made by the employee on social media.

Findings: Pending.

Disposition: Ongoing.

Complaint #8:

Description of Complaint: Alleged violation of religious freedom. A contract employee complained that she was not allowed to pray during the duty day. Investigation showed that the employee did have opportunities to exercise her right to religion during the duty day but failed to take advantage of those opportunities available to her.

Findings: Investigative findings revealed no violation of religious freedom.

Disposition: Closed.

Complaint #9:

Description of Complaint: A former civilian employee filed a federal civil suit against a Department of the Army police officer, alleging that the officer used excessive force while apprehending him. Possible Fourth Amendment violation.

Findings: Pending.

Disposition: On-going.

Complaint #10:

Description of Complaint: A complaint arrived that the installation military police/medical personnel improperly examined a Soldier's son following a domestic disturbance call at the Soldier's on-post quarters. The complaint also alleged that the command improperly ordered the Soldier to remove a video from his Facebook account that contained material derogatory to the command. Possible violations of the prohibition on unreasonable searches and seizures and of the Soldier's freedom of speech.

Findings: Inquiry on-going. .

Disposition: On-going.

Complaint #11:

Description of Complaint: Army installation hospital employee objected by e-mail to a Chaplain "all command" notice describing an upcoming official Chaplaincy programmed event. The employee claimed that having to look at/receive such emails violated his right of free exercise of religion, which was to practice no belief or ascribe to no faith.

Findings: Employee was actually seeking special accommodation to be specifically removed from command mailings informing of Chaplaincy programs only. Command email at issue was found to be routinely sent to inform the workforce of important activities of a variety of important activities of interest/help to the workforce. The Chaplaincy program is an official command program founded in Public Law and Army Regulation. Commanders have a regulatory obligation to support it. Removing the employee from the command mailing list any time a notice of a Chaplaincy program was dispatched was determined to be too burdensome. Employee was advised and informed on ability to "create email rule" to delete such mail as it came into employee's email in-box.

Disposition: Closed.

Complaint #12 (continued from the FY 2014 3d Quarter report):

Description of Complaint: Customer/Client filed a claim in February 2014 alleging that military police (MPs) wrongfully towed his two vehicles in August 2013 from a parking area on post.

Findings: Claim is closed, as reconsideration rights have expired.

Disposition: Ongoing.

Complaint #13 (continued from the FY 2014 3d Quarter report):

Description of Complaint: Customer/Client filed a claim in March 2014 asserting that the military police (MPs) wrongfully towed his vehicle in August 2013 after he experienced a medical emergency.

Findings: Claim is closed, as reconsideration rights have expired.

Disposition: Closed.

Complaint #14:

Description of Complaint: A noncommissioned officer alleged he was unlawfully detained by CID agents. Additionally, the agents allegedly threatened to arrest his spouse; charge him with more serious offenses if he did not cooperate; and spread rumors that he and his wife sold cocaine. Agents also allegedly twisted his words; coerced him to surrender the password to his cellular telephone; used unlawful force by placing his hand on the fingerprint reader of his cellular telephone; unlawfully searched his home; and prevented him from speaking to legal counsel.

Findings: An inquiry did not develop any credible information that agents committed any acts of misconduct.

Disposition: Closed

Complaint #15:

Description of Complaint: The spouse of a noncommissioned officer alleged her husband was unlawfully apprehended by a CID agent.

Findings: An inquiry did not develop any credible information that agents committed any acts of misconduct.

Disposition: Closed

Complaint #16:

Description of Complaint: A noncommissioned officer alleged CID agents interrogated him regarding criminal offenses without legal rights advisement.

Findings: An inquiry is currently underway.

Disposition: On-going

Complaint #17 (continued from the FY 2014 3d Quarter report):

Description of Complaint: A complaint alleged that a unit commander, with the assistance of local law enforcement, entered a subordinate Soldier's off-post residence using a key that was provided by a coworker and confiscated the Soldier's privately owned weapons and ammunition without his consent while the Soldier was receiving in-patient mental health treatment at a local facility. Possible right to bear arms/unreasonable search and seizure issue.

Findings: The evidence indicated that the unit commander and her battalion commander violated UCMJ Article 134, Unlawful Entry, through their seizure of the Soldier's privately owned weapons without authorization. Both were issued letters of concern.

Disposition: Closed.

Complaint #18 (continued from the FY 2014 3d Quarter report):

Description of Complaint: A complaint alleged that a Soldier's supervisor denied her the ability to attend church on Saturdays. Possible freedom of religion issue.

Findings: On-going. This allegation is one of several being investigated as violations of title 10, United States Code section 1034, the Military Whistleblower Reprisal statute.

Disposition: On-going.

Complaint #19 (continued from FY 2014 3d Quarter report):

Description of Complaint: A complaint alleged that two Department of Defense (DoD) Policeman improperly detained and unreasonably searched a driver after stopping him for failure to come to a complete stop at a stop sign. The incident occurred on a military installation around 2130. Possible unreasonable search and seizure issue.

Findings: Pending.

Disposition: Ongoing.

Complaint #20 (continued from FY 2014 3d Quarter report):

Description of Complaint: A complaint alleged the following:

- o That employees were using bible verses in their government e-mail signature blocks,
- o That employees were using political quotes in their government e-mail signature blocks, and
- o That an employee posted a large sign in a public area on post that has “Got Jesus?” on it.

Possible religious establishment/freedom of speech issue.

Findings: The employee removed the “Got Jesus” sign from the public area at the supervisor’s request. No Army policy exists prohibiting use of bible verses or other secular quotations in government e-mail signature blocks; this practice is acceptable as long as the biblical or secular quote does not violate any other government e-mail use restriction. The command agreed to examine the e-mail signature blocks in question for possible violations of Army e-mail use policy.

Disposition: Closed.

Complaint #21 (continued from FY 2014 3d Quarter report):

Description of Complaint: A complaint arrived that the staff at the installation family medical clinic refused to perform a rape kit examination and STD screening on a Soldier’s daughter unless the daughter consented to obtaining some form of birth control. The Soldier, who possessed a medical power of attorney for his daughter because of her mental health issues, objected to his daughter obtaining birth control on religious grounds. After leaving the clinic, the daughter told her parents that a member of the clinic staff told her that she should ride her bike back to the clinic and obtain birth control without her parents’ knowledge. Possible freedom of religion issue.

Findings: The evidence indicated that the daughter was 19 years old and legally entitled to make her own health care decisions. The “medical power of attorney” was insufficient - downloaded off an internet site and signed only by the parents.

Disposition: Closed.

Complaint #22 (continued from FY 2014 3d Quarter report):

Description of Complaint: A complaint arrived pertaining to an installation Child Development Center taking children to the installation medical clinic for a medical examination without the parents' consent. Possible unreasonable search and seizure issue.

Findings: Complainant requested that the IG discontinue the inquiry.

Disposition: Closed.

Complaint #23:

Description of Complaint: A complaint arrived that military police (MP) personnel improperly detained a family member (spouse) who witnessed an on-post incident involving her Active Duty Soldier/husband. The spouse had finished her statement to the MPs. Possible unreasonable search and seizure issue.

Findings: The evidence indicated that the spouse never indicated to the MPs that she wanted to depart.

Disposition: Closed.

Complaint #24:

Description of Complaint: A complaint arrived that the installation management only allowed Christian-oriented displays in the "Nature in Lights" event at the military recreation center. Possible religious establishment issue.

Findings: The evidence indicated that the displays were sponsored by private individuals and commercial entities, not by the installation. The installation's intent was to enhance military/civilian relations; the installation placed no religious restrictions or requirements for the displays - all religions could enter a display.

Disposition: Closed.

Complaint #25:

Description of Complaint: A complaint arrived that a unit commander improperly confiscated a Soldier's personally owned weapons from his off-post quarters, stored

them in the unit arms room, and failed to return them when requested. Possible Second Amendment, right to bear arms issue.

Findings: The evidence indicated that the unit commander indeed overstepped his statutory authority regarding confiscation of a Soldier's privately owned weapons stored off-post. The commander did so, however, following a domestic disturbance between the Soldier and his spouse, and the commander ultimately returned the weapons to the Soldier.

Disposition: Closed.

Complaint #26 (originated in FY 2014 2d Quarter):

Description of Complaint: A complaint arrived that a military correctional facility had not implemented the Army policy regarding religious accommodation (Army Regulation 600-20). Possible freedom of religion issue.

Findings: Inquiry ongoing

Disposition: Ongoing.

Complaint #27 (originated in FY 2014 2d Quarter):

Description of Complaint: A complaint arrived that a military correctional facility refused to provide necessary medical treatment for gender dysphoria. Possible violation of the Eighth Amendment's prohibition of cruel and unusual punishment.

Findings: Inmate was informed that his request for the medical treatment was under review at the Office of The Surgeon General.

Disposition: Closed.