

COMPONENT CIVIL LIBERTIES COMPLAINT REPORT

SUMMARY OF CIVIL LIBERTIES COMPLAINTS

4th QTR FY13 – JULY THRU SEPTEMBER 2013

DEPARTMENT OF THE ARMY

TOTAL NUMBER OF COMPLAINTS: 20

Complaint #1:

Description of Complaint: An inmate at a military regional corrections facility alleged he was denied access to a religious publication. Possible infringement on freedom of religion.

Findings: The requested publication violated the content criteria established in the regional correction facility's prisoner rule book. The inmate was advised on how to request accommodation of this religious practice under Army procedures (AR 600-20, paragraph 5-6).

Disposition: Closed.

Complaint #2:

Description of Complaint: An inmate at a military corrections facility alleged that the facility personnel caused him to violate Ramadan daylight fasting practices by issuing his prescribed medications during daylight hours. Possible infringement on freedom of religion.

Findings: The inmate was advised on how to request accommodation of this religious practice under Army procedures (AR 600-20, paragraph 5-6).

Disposition: Closed.

Complaint #3 (continued from 3d Quarter FY13 report):

Description of Complaint: A Soldier complained that three non-commissioned officers (NCOs) in his chain of command demanded entry to his on-post residence on a Friday evening at about 9 pm. After entering, the NCOs searched the Soldier's cabinets and closets and found some female visitors. One of the NCOs took the Soldier's motorcycle keys. Then the NCOs ordered the Soldier and another Soldier visiting at the time to the unit orderly room, where they had to spend the night. The next morning the two

Soldiers' chain of command issued them counseling statements which the Soldiers signed, admitting to violations of the Uniform Code of Military Justice. Possible unreasonable search and seizure and self-incrimination issues.

Findings: Investigation has been initiated into the warrantless search and seizure. The unit had concerns about the Soldiers' adulterous activity, excessive alcohol use, and improperly registered motorcycle.

Disposition: On-going.

Complaint #4:

Description of Complaint: A Soldier complained that a "health and welfare" inspection of the Soldiers' privately owned vehicles in the barracks parking lot was actually a subterfuge to search for illegal drugs. The chain of command told the Soldiers their cars were being checked for safety issues. However, the inspectors opened up glove compartments, and one was heard yelling "No drugs here, next vehicle!" The Soldier's commander also told the Soldiers that an inspection of all on-post family quarters would take place the next week. Possible unreasonable search and seizure issue.

Findings: The commander conducted the inspection without following installation procedures requiring legal advisor approval beforehand. The commander was advised about appropriate inspection parameters. He was also advised that he may not "inspect" on-post family housing without occupant consent or probable cause.

Disposition: Closed.

Complaint #5 (continued from the 3d Quarter FY13) report:

Description of Complaint: A Soldier complained that his commander illegally searched his off-post quarters. Possible unreasonable search and seizure issue.

Findings: Inquiry indicated that the unit commander indeed searched the Soldier's off-post barracks. The commander believed that a "White House Dot" message from Mrs. Obama's office gave him the authority to conduct this search. The First Lady had received correspondence from the Soldier's mother. Inquiry continues.

Disposition: On-going.

Complaint #6 (continued from the 3d Quarter FY13 report):

Description of Complaint: A Service Member stated his company commander entered the family quarters and searched his home and vehicle without consent and proper authorization.

Findings: The Department of the Army has received and evaluated the complaint and the complaint is being investigated. The installation Inspector General received advisement notification.

Disposition: On-going.

Complaint #7 (continued from the 3d Quarter FY13 report):

Description of Complaint: A Sergeant Major(SM) reported that his Battalion Commander (BN CDR) ordered that his privately-owned weapons be seized from the SM's off-post residence. The BN CDR authorized the seizure after the SM had made a statement to the effect that he would kill his company commander. The SM made the statement to a healthcare professional during a counseling session. The BN CDR sought legal advice and was given legal advice contrary to his actions.

Findings: Substantiated

Disposition: BN CDR received a formal counseling. Closed.

Complaint #8:

Description of Complaint: A complaint was received that a childcare provider in a military child care facility told the children that "if you don't have Jesus in your heart, you're going to a bad place." Possible establishment of religion issue.

Findings: Inquiry indicated that the statement was actually made by another child at the facility, to whom the provider responded "we are kind to everyone because everyone believes something different."

Disposition: Closed.

Complaint #9 (continued from the 3d Quarter FY13 report):

Description of Complaint: Complaint alleges that Army personnel stole \$100,000 from his Thrift Savings Plan (TSP) account after his court martial. Complainant was originally AWOL when the complaint was received. Complainant was returned to duty and hospitalized. Complainant is now out of the hospital. Possible violation of 5th Amendment.

Findings: Psychiatric review has been ordered on the individual by the US Army Court of Criminal Appeals. Complainant is still not competent for trial. No further actions have been done on his complaint as he still cannot assist investigators in conducting investigation of the allegation. Due to on-going psychological issues, family is seeking a court order for declaration of incompetence and the appointment of a conservator.

Disposition: Ongoing.

Complaint #10:

Description of Complaint: A complaint was received that a commander had issued an improper order to his Soldiers living in the barracks. He ordered these Soldiers who owned weapons stored off-post to register the weapons on-post and store them in the unit arms room. Possible right to bear arms issue.

Findings: Inquiry indicated that the commander indeed issued the improper order, but rescinded it after consultation with legal advisors. Only one weapon ended up being involuntarily relinquished to the commander; this weapon belonged to a Soldier who negligently discharged it at an off-post party, causing another Soldier to be hospitalized. The Soldier who owned/discharged the weapon received punishment for this act.

Disposition: Closed.

Complaint #11:

Description of Complaint: Soldier was walking on post on 7 Sep 13 when a Military Police patrolman offered him a courtesy ride home. Once in the vehicle, the officer noticed a smell of alcohol and that Soldier had slurred speech. The MP asked Soldier his age. Soldier replied "20." The MP questioned him further, asking "what have you been doing tonight?" etc., to which Soldier responded that he had been drinking. The MP then took Soldier to the station, read him his rights and Soldier invoked.

Findings: Soldier had his article 31 rights and Miranda rights violated. Soldier's constitutional rights against self-incrimination were violated when he was questioned by a military police patrolman suspected him of having violated a punitive article of the UCMJ.

Disposition: No formal complaint was filed. The Chain of Command recommended an Art 15 for underage drinking. The Art 15 proceedings were terminated once the police report was received and the Chain of Command was notified that there was a potential civil liberties violation. No further action taken by the Chain of Command or Sergeant Major.

Complaint #12:

Description of Complaint: A Company Commander removed a license plate from an NCO's vehicle because that vehicle parked in the Company Commander's parking space. The Company Commander did not intend to keep the license plate, but rather took it to ensure the Soldier would report to him and discuss why the Soldier parked there. An anonymous call was placed to the Police Department stating the license plate was stolen. The police in turn called the installation military police, who investigated and detained the Company Commander. The license plate was returned to the vehicle.

Findings: The Company Commander never intended to keep the license plate but did wrongly take the license plate.

Disposition: Company Commander is pending a local letter of reprimand.

Complaint #13 (continued from previous quarter reports):

Description of Complaint: A Soldier alleged that his supervisor reprimed against him, in part for posting a derogatory comment about medical doctors ("MDs") on Facebook. Possible freedom of speech issue.

Findings: The Soldier, an Army captain, criticized workplace policies and personnel (without using names) on his Facebook page. Some office subordinates read the Facebook postings and discussed them in the workplace. The captain's supervisor counseled him for his lack of professionalism in posting these comments. This Facebook posting was not considered a "protected communication" under the Military Whistleblower Reprisal statute. The subsequent unfavorable personnel actions that the

captain received, resulting from this Facebook posting and from several other unprofessional acts, were appropriate.

Disposition: Closed.

Complaint #14 (continued from the 3d Quarter FY13 report):

Description of Complaint: A Soldier complained that his unit commander, with the assistance of local law enforcement, entered the 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 seizure issue.

Findings: Investigation on-going.

Disposition: On-going.

Complaint #15 :

Description of Complaint: Soldier living off-post complained that his commander ordered him to store his privately owned weapon in the unit arms room. The commander admitted having issued the order after consulting with his legal advisor. The commander believed the Soldier posed a threat to himself and others based on the Soldier's recent non-judicial punishment, his deteriorating work performance, and newborn baby in the house.

Findings The legal advisor confirmed that the commander had the legal authority to issue this order.

Disposition: The case is still on-going in the IG system.

Complaint #16(continued from the 3d Quarter FY13 report):

Description of Complaint: A former Soldier complained that, while he was still in the Army and living off-post, his former commander ordered him to store his privately owned weapon in the unit arms room during his mental illness treatment. The Soldier was told, when he asked for return of his weapon upon his discharge from the Army, that the commander had given his weapon to the local civilian police department. The police department will not return the weapon without a court hearing.

Findings: Investigation continues.

Disposition: Ongoing.

Complaint #17(continued from the 3d Quarter FY13 report):

Description of Complaint: Soldier living off-post complained that his commander ordered him to store his privately owned weapon in the unit arms room during his mental illness treatment.

Findings: Investigation continues.

Disposition: Ongoing.

Complaint #18:

Description of Complaint: The Soldier complained that his commander ordered him to store his privately owned weapon in the unit arms room after a domestic violence incident.

Findings: The Soldier was told that his commander had an adequate basis to issue the order, and to petition his commander for release of the weapon.

Disposition: Closed.

Complaint #19:

Description of Complaint: Spouse of civilian employee complained that his First Amendment Rights were violated when a statement in a 15-6 investigation made reference to the spouse being in the process of contacting his congressman.

Findings: The Office of General Counsel reviewed the complaint and found that there was no violation of the spouse's civil liberties.

Disposition: Written response was e-mailed to the employee's government address and mailed to the spouse by certified mail. Closed.

Complaint #20:

Description of Complaint: Civilian employee claimed her civil liberties were violated when she heard from a third party that someone had conveyed to that person and another third party false information about her medical information and status.

Findings: The Office of General Counsel reviewed the complaint and made recommendations regarding inquiry into the matter and response to the complainant.

Disposition: A civilian employee has been appointed to conduct an informal investigation into the incident and the respondent has been informed of the inquiry. Ongoing.