



Defense Health Agency

ADMINISTRATIVE INSTRUCTION

NUMBER 064

June 14, 2017

PCLO/J-1/8

SUBJECT: Civil Liberties Program

References: See Enclosure 1.

1. PURPOSE. This Defense Health Agency-Administrative Instruction (DHA-AI), based on the authority of References (a) and (j), and in accordance with the guidance of References (b) and (d) through (i) reissues, incorporates, and cancels Reference (c), to update responsibilities and establish the Defense Health Agency's (DHA) procedures for the DHA Civil Liberties Program.

2. APPLICABILITY. This DHA-AI applies to all DHA personnel to include: assigned, attached, or detailed Service members, federal civilians, contractors (when required by the terms of the applicable contract), and other personnel assigned temporary or permanent duties at DHA, to include regional and field activities (remote locations) and the National Capital Region Medical Directorate activities (centers, clinics, and Medical Treatment Facilities).

3. POLICY IMPLEMENTATION. It is DHA's policy pursuant to References (d) through (j) that pertinent references contained therein but not limited to include the following key duties:

a. Protect the privacy and Civil Liberties of all DHA employees (Service members, civilian employees, and contractors), members of the Military Services, family members, and the public to the greatest extent possible, consistent with operational requirements.

b. Consider, when appropriate, incorporating the DHA Privacy and Civil Liberties Office (PCLO) in the review, development, and implementation of new or existing laws, regulations, policies, and initiatives.

c. Not maintain information, as defined in Reference (i), on how an individual exercises rights protected by the First Amendment to the Constitution of the United States, including the freedoms of speech, assembly, press, and religion, except when:

- (1) Specifically authorized by statute;
 - (2) Expressly authorized by the individual, group of individuals, or association on whom the record is maintained; or
 - (3) The record is pertinent to and within the scope of an authorized law enforcement, intelligence collection, or counterintelligence activity.
- d. Develop adequate procedures to receive, investigate, respond to, and redress complaints from individuals who allege that DHA has violated their Civil Liberties.
 - e. Ensure the DHA PCLO provides the DHA workforce with adequate training on DHA's Civil Liberties Program, including the protection of Civil Liberties.
 - f. Ensure DHA's compliance with federal laws and DoD policies, procedures, and directives concerning Civil Liberties.
 - g. Prohibit adverse actions, or the threat of adverse actions, against individuals who make complaints, or disclose information, that indicate a possible violation of privacy protections or Civil Liberties in the administration of the programs and operations of the Federal Government to DHA, as described in Enclosure 2. No adverse action(s) or threat of adverse actions will be pursued by any DHA employee in a position to pursue such action unless the complaint was made, or the information was disclosed with the knowledge that it was false or with willful disregard for its truth or falsity.

4. RESPONSIBILITIES. See Enclosure 2.

5. PROCEDURES. See Enclosure 3.

6. RELEASABILITY. **Not cleared for public release.** This DHA-AI is available to users with Common Access Card authorization on the DHA Intranet.

7. EFFECTIVE DATE. This DHA-AI:

a. Is effective upon signature.

b. Will expire 10 years from the date of signature if it has not been reissued or cancelled before this date in accordance with DHA-Procedural Instruction 5025.01 (Reference (b)).


For R.C. BONO
VADM, MC, USN
Director

Enclosures

1. References
2. Responsibilities
3. Procedures

Glossary

ENCLOSURE 1

REFERENCES

- (a) DoD Directive 5136.13, "Defense Health Agency (DHA)," September 30, 2013
- (b) DHA-Procedural Instruction 5025.01, "Publication System," August 21, 2015
- (c) DHA-Administrative Instruction 064, "Health Affairs/Defense Health Agency Civil Liberties Program," June 12, 2014 (hereby cancelled)
- (d) DoD Civil Liberties Officer Memorandum, "Protection of Civil Liberties in the Department of Defense," November 1, 2010
- (e) Public Law 110-53, Section 803 of the 9/11 Commission Act of 2007
- (f) DoD Instruction 1000.29, "DoD Civil Liberties Program," November 26, 2014, as amended
- (g) United States Code, Title 42, Sections 2000ee and 2000ee-1, Privacy and Civil Liberties Officers
- (h) Public Law 108-458, "Intelligence Reform and Terrorism Prevention Act of 2004," as amended
- (i) DoD Civil Liberties Officer Memorandum, "Organizational Placement, and Structure of DoD Civil Liberties Officer (CLO) Functions," December 14, 2009
- (j) DoD Directive 5136.01, "Assistant Secretary of Defense for Health Affairs (ASD(HA))," September 30, 2013

ENCLOSURE 2

RESPONSIBILITIES

1. DIRECTOR, DHA. The Director, DHA, will:

a. Maintain oversight activities and management controls to ensure compliance with this DHA-AI.

b. Delegate authority to the DHA PCLO to develop and update supporting templates, training, and guidance under this DHA-AI, as necessary.

2. CHIEF, DHA PCLO. The Chief, DHA PCLO, will:

a. Direct component compliance with Sections 2000 and 2000ee-1 of Reference (h), including conducting compliance reviews.

b. Advise senior leadership, as needed, on matters concerning Civil Liberties operations and compliance at DHA, including assisting leadership in appropriately considering Civil Liberties concerns in proposals for the development of regulations, policies, guidelines, or programs.

c. Speak on behalf of DHA with respect to Civil Liberties matters.

d. Ensure the fulfillment of proper Civil Liberties program oversight and management, including appropriate training and awareness; acceptance of Civil Liberties complaints and proper follow up and adjudication thereof; fulfillment of reporting requirements; and issuance of procedures regarding Civil Liberties for the DHA and relevant directives.

3. PRIMARY DHA CIVIL LIBERTIES POINT OF CONTACT (POC). The Primary DHA Civil Liberties POC will:

a. Support complaint processing procedures for receiving, evaluating, investigating, and reporting complaints alleging Civil Liberties violations or issues.

b. Serve as an active participant in the Defense Privacy and Civil Liberties Division (DPCLD) Civil Liberties Board meetings.

c. Coordinate with DHA sources regarding complaints alleging Civil Liberties violations.

d. Ensure the protection of the Civil Liberties of all DHA employees (Service members, civilian employees, and contractors), members of the Military Services, family members, and the public, and report allegations of Civil Liberties violations to the Chief, DHA PCLO.

e. Be fulfilled by the same person if it is permissible, though not required, for the roles of the Chief, PCLO and Primary Civil Liberties POC for DHA.

ENCLOSURE 3

PROCEDURES

1. FILING A COMPLAINT. The DHA PCLO, Chief, PCLO, and/or Primary Civil Liberties POC will receive complaints alleging Civil Liberties violations via facsimile, e-mail, or first class mail from Service members, civilian employees, and contractors. The complaints must be in writing and submitted as follows:

- a. First Class Mail: Defense Health Agency, PCLO, 7700 Arlington Boulevard., Suite 5101, Falls Church, Virginia 22042; and
- b. E-mail: DHA.Civil-Liberties@mail.mil.

2. COMPLAINTS. Complaints include:

- a. A description of the event(s) and the date(s) of occurrence.
- b. Identifying which one of the Civil Liberties rights and/or freedoms has allegedly been violated.
- c. Identifying the remedy or remedies/resolution sought.

3. STAGES OF COMPLAINT ACTIONS. Upon receipt of a complaint alleging a Civil Liberties violation(s), the DHA PCLO, Chief, PCLO, the Primary Civil Liberties POC, or designee, will:

- a. Date stamp the complaint, and create an administrative file.
- b. Assign a tracking number to the complaint, and enter the tracking number, the date the complaint was received, the complainant's name, and a brief description of the issue(s) in an established spreadsheet that tracks the complaint throughout the process.

(1) If there are multiple complaints by the same complainant, the Chief, PCLO and/or the Primary Civil Liberties POC may consolidate the complaints consisting of substantially similar allegations, or relating to the same matter, for joint processing after appropriate notification to the complainant.

(2) After the complaint is consolidated, it will be processed in accordance with the steps outlined in this enclosure.

- c. Conduct a preliminary review of the complaint and any supporting documentation provided to determine whether additional information is needed.
- d. Forward a letter to the complainant acknowledging receipt of the complaint, and provide the complainant with information concerning next steps.
- e. Conduct an investigation of the allegations in the complaint, and prepare a written report of investigation, including specific findings (internal document).
- f. Prepare a letter to the complainant providing him/her with a summary of the agency's findings (excluding all identifying information), actions taken (if any), and next steps.
- g. Validate findings, and recommend corrective actions (if applicable).
- h. Update tracking spreadsheet with agency's findings (internal document), and prepare a written report of investigation, including specific findings (internal document).

4. COMPLAINT INVESTIGATIONS

- a. Complaints will be investigated by the Chief, DHA PCLO, Civil Liberties POC, or any person assigned to the DHA Civil Liberties Program.
- b. Complaints alleging Civil Liberties violations, as defined in the glossary, can be received from any DHA source and immediately forwarded to the Chief, DHA PCLO and/or DHA Primary Civil Liberties POC for adjudication.
- c. Complaints alleging Civil Liberties violations will begin with an initial review of the information.
- d. All DHA staff will continue to contact the Chief, DHA PCLO and/or the DHA Primary Civil Liberties POC concerning all matters relative to Civil Liberties, including alleged violations, complaints, and training.

5. REPORTING REQUIREMENTS

a. DPCLD Current Reporting Requirements. Each quarter, or at other interval(s) requested, DHA's complaints alleging Civil Liberties violations will be compiled and submitted to the DPCLD. This report will be submitted in a timely matter, as directed by DPCLD, and will provide information on the number and nature of complaints received (excluding identifiable information), including:

- (1) A description of the complaint.
- (2) The Constitutional Amendment, law, regulation, or authority alleged to be violated in

the complaint, if possible.

(3) A brief description of the findings.

(4) A brief summary of the disposition of the complaint.

(5) The number of complaints received, i.e., DHA has received a complaint and is evaluating the complaint for a Civil Liberties implication.

(6) Number of complaints pending, i.e., the complaint has not been fully adjudicated or resolved.

(7) Number of complaints resolved, i.e., the complaint has been fully adjudicated or resolved.

b. Other Reporting Requirements. Any oversight body, or DPCLD, may request additional reporting requirements on a regular or ad hoc basis from the PCLO. The DHA PCLO will comply with all such reporting requirements. The DHA PCLO will periodically reach out to specified DHA directorates that could have potentially received a Civil Liberties complaint to ensure the fullest possible capture of such complaints. Such outreach will, at a minimum, correspond with the semi-annual reporting requirement to DPCLD.

6. RECORDS MANAGEMENT

a. DHA Civil Liberties files are covered by the DoD Director of Administration and Management, Civil Liberties Case Management System, System of Records Notice. DHA Civil Liberties Records are stored in secure facilities that are locked when not attended. Electronic records are password-protected and Common Access Card enabled, as well as in encryption-required equipment. Personnel who have access to these records are granted such access only on a strict need-to-know basis, and must receive Privacy Act, Information Assurance, and Civil Liberties training prior to gaining such initial access and annually thereafter.

b. Records Disposition schedule is currently pending until the National Archives and Records Administration approves the proposed retention and disposition schedule of these records. Until such time as the records schedule is approved, DHA will treat them as permanent.

7. TRAINING REQUIREMENTS

a. It will be the responsibility of the DHA PCLO to ensure that adequate training tools on Civil Liberties are developed or acquired for appropriate audiences, including senior leadership, supervisors, and the workforce.

b. DHA PCLO Staff and any contractors who work specifically with Civil Liberties activities, as described herein, will reach out to appropriate sources to receive basic training in

Civil Liberties requirements, protections, and remediation prior to serving in that capacity. The DPCLD has developed a basic training in Civil Liberties which would be one possible source for such training.

c. DHA PCLO Civil Liberties staff will also participate on a regular basis in DPCLD Civil Liberties outreach meetings, which include training and guidance on fostering best practices for Civil Liberties at DHA directorates.

GLOSSARY

PART I. ABBREVIATIONS AND ACRONYMS

DHA	Defense Health Agency
DHA-AI	Defense Health Agency-Administrative Instruction
DPCLD	Defense Privacy and Civil Liberties Division
PCLO	Privacy and Civil Liberties Office or Officer
POC	point of contact

PART II. DEFINITIONS

These terms and their definitions are in accordance with Reference (f).

Civil Liberties. Fundamental rights and freedoms protected by the Constitution of the United States. Civil Liberties protect individuals against undue government interference and are commonly thought of as the individual rights and freedoms provided in the first 10 amendments to the Constitution of the United States, the Bill of Rights.

complaint. An assertion alleging a violation of privacy and/or Civil Liberties.

privacy. The right to privacy recognized under the Constitution of the United States.

violation of Civil Liberties. Undue government interference with the exercise of fundamental rights and freedoms protected by the Constitution of the United States.