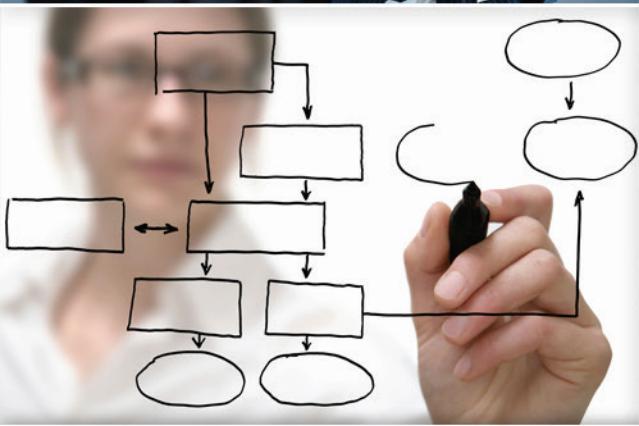


2012 HEALTH INFORMATION PRIVACY & SECURITY TRAINING



Civil Liberties, Where Are We Now? The Status of DoD's Program Implementation

THE POWER OF TEAM WORK

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Civil Liberties, Where Are We Now?

Purpose

The purpose of this presentation is to provide an overview of DoD's Civil Liberties Program and the status of its implementation within the TRICARE Management Activity (TMA).



Objectives

- Upon completion of this presentation, you should be able to:
 - Define civil liberties
 - Distinguish civil liberties from civil rights
 - Describe the background and requirements of the 9/11 Commission Act
 - Describe DoD civil liberties requirements
 - List the roles and responsibilities of the TMA Chief Civil Liberties Officer (CLO) and the Primary Civil Liberties Point of Contact (POC)
 - Identify who to contact at TMA for information on civil liberties



Civil Liberties, Where Are We Now?

Civil Liberties vs. Civil Rights

- Civil liberties: Offer protection to individuals from improper government action and arbitrary government interference. They are the freedoms guaranteed by the Bill of Rights – the first 10 Amendments of the United States Constitution – and federal laws enacted by Congress
- Civil rights: Refer to the basic human right to be free from unequal treatment based on certain protected characteristics. Civil rights are personal rights guaranteed and protected by the 13th and 14th Amendments to the United States Constitution and federal laws enacted by Congress (e.g., Civil Rights Act of 1964 and the Americans with Disabilities Act of 1990)



Civil Liberties, Where Are We Now?

Civil Liberties vs. Civil Rights

Civil Liberties

Limit government action

Ensure freedom from government
for citizens

First 10 Amendments to the
Constitution and acts of Congress

Civil Rights

Promote government action

Ensure equal protection for citizens

13th and 14th Amendments to the
Constitution and acts of Congress



Civil Liberties, Where Are We Now?

Civil Liberties Rights / Freedoms

- Right to equal protection under the law
- Right to a speedy and impartial trial
- Right to jury trial
- Right to vote
- Right to be free from cruel and unusual punishment
- Right to privacy in the exercise of all of the above
- Right to life, liberty, and the pursuit of happiness



Civil Liberties Rights / Freedoms

- Freedom of speech
- Freedom of religion
- Freedom of press
- Freedom of assembly
- Freedom to petition the government for redress of grievances
- Right to purchase and own firearms
- Right against unreasonable search and seizure
- Right to due process of the law



Civil Liberties, Where Are We Now?

Background

- In 2007, Congress passed Public Law 110-53, “Implementing Recommendations of the 9/11 Commission Act of 2007” (9/11 Act). Section 803 of the Act requires certain federal law enforcement and homeland security related agencies, including DoD, to appoint a senior official to advise on civil liberties and meet certain statutory requirements
- “Protection of Civil Liberties in the DoD”, Office of the Secretary of Defense (OSD) 12888-10 instructed DoD components to review the placement of civil liberties within their organizations and designate a civil liberties office and CLO prior to December 1, 2011



Civil Liberties, Where Are We Now?

TMA's Civil Liberties Authority

- The 9/11 Commission Act of 2007 (9/11 Act)
 - Public Law 110-53, “Implementing Recommendations of the 9/11 Commission Act” (42 United States Code (USC) 2000ee-1)
 - Designates a CLO to serve several functions
 - Requires increased information sharing between agencies
 - Requires safeguards for civil liberties
 - Requires quarterly reporting to Congress



Civil Liberties, Where Are We Now?

TMA's Civil Liberties Authority

- DA&M 01, Civil Liberties Program Case Management System, January 19, 2011
 - DoD's System of Records Notice (DA&M 01) covers TMA's systems of records
 - Purpose: To receive, log, and track the processing of allegations of civil liberties violations by the DoD, its civilian employees, members of the Military Services, DoD contractors, or others acting under the authority of the DoD and document the review, investigation, and redress provided. Records may also be used as a management tool for statistical analysis, tracking, reporting, evaluating program effectiveness, and conducting research



Civil Liberties, Where Are We Now?

TMA's Civil Liberties Authority

- Department of Defense Instruction Number 1000.29, May 17, 2012
 - Establishes policy and assigns responsibilities for the implementation of DoD Civil Liberties Program
 - Delegates authorities for the effective implementation of the DoD Civil Liberties Program
 - Authorizes the Defense Civil Liberties Board
 - Requires quarterly reporting to Congress on Civil Liberties programs including components such as TMA



Civil Liberties, Where Are We Now?

TMA's Civil Liberties Authority

- It is DoD's policy to:
 - Protect the privacy and civil liberties of DoD employees, members of the Military Services, and the public
 - Consider appropriate privacy and civil liberties in the review, development, and implementation of new or existing laws, regulations, policies, and initiatives
 - Not maintain information on how an individual exercises his/her First Amendment rights
 - Have adequate procedures to receive, investigate, respond to, and redress complaints
 - Prohibit reprisals or the threat of reprisals for individuals who make complaints or disclose information that indicates a possible violation of privacy protections or civil liberties



Civil Liberties, Where Are We Now?

Summary of Civil Liberties Program at TMA

- Thus DoD's policy is to complete our mission in such a way as not violating Civil Liberties, train on these requirements, and have a mechanism for accountability and addressing civil liberties violations that occur
- To accomplish this, there must be a Civil Liberties program, written procedures, and related activities
- At TMA, the Civil Liberties program is located within the TMA Privacy and Civil Liberties Office
- The Director of the TMA Privacy and Civil Liberties Office is designated as the TMA Chief Civil Liberties Officer (CLO)



Civil Liberties, Where Are We Now? Roles and Responsibilities

- TMA Chief CLO
 - Direct component compliance with the 9/11 Act (PL 110-53)
 - Speak on behalf of component head
- TMA Primary Civil Liberties POC
 - Attend DoD Civil Liberties board meetings
 - Establish and implement the complaint processing procedure
 - Fulfill reporting requirements including DoD's quarterly report
 - Provide training to stakeholders/partners
 - Outreach and communications
 - Monitor compliance with PL 110-53



Civil Liberties, Where Are We Now?

Looking Ahead

- Civil Liberties Model Program
 - The Defense Privacy and Civil Liberties Office (DPCLO) is developing a user guide and checklist to assist DoD components with establishing Model Civil Liberties Programs
 - The checklist will provide program implementation best practices
 - DPCLO is considering incentives to recognize components with “Model Civil Liberties Programs” in a manner that increases awareness of civil liberties



Civil Liberties, Where Are We Now?

Summary

- You should now be able to:
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 - Describe DoD civil liberties requirements
 - List the roles and responsibilities of the TMA Chief CLO and the Primary Civil Liberties POC
 - Identify who to contact at TMA for information on civil liberties



Civil Liberties, Where Are We Now?

Resources

- Implementing Recommendations of the 9/11 Commission Act of 2007, Public Law 110-53
- Department of Defense Instruction Number 1000.29, May 17, 2012
- Section 804 of the 9/11 Commission Act, the Federal Agency Data Mining Reporting Act of 2007
- DoD Directives
 - Organizational Placement and Structure of DoD Civil Liberties Officer (CLO) Functions, December 14, 2009
 - Protection of Civil Liberties in the Department of Defense (DoD), OSD 12888-10, November 1, 2010
 - Action Memo from Deputy Chief TMA Business Operations, Approving the Office Name “TMA Privacy and Civil Liberties Office”



Civil Liberties, Where Are We Now?

Resources

- DoD 6025.18-R, “DoD Health Information Privacy Regulation”, January 2003
- DoD 8580.02-R, “DoD Health Information Security Regulation”, July 2007
- DA&M 01, Civil Liberties Program Case Management System, January 19, 2011
- Department of Defense Instruction Number 1000.29, May 17, 2012
- <http://www.tricare.mil/tma/privacy/mailinglist.aspx> to subscribe to the TMA Privacy and Civil Liberties Office E-News
- TMA Chief Civil Liberties Officer

