



Defense Commissary Agency DIRECTIVE

DeCAD 80-22
January 8, 2016

Office of General Counsel

SUBJECT: Defense Commissary Agency (DeCA) Civil Liberties Program

References: See Enclosure 1

1. PURPOSE. This Directive:

a. Establishes policy and provides responsibilities for the implementation of the Defense Commissary Agency's (DeCA) Civil Liberties Program in accordance with (IAW) Sections 2000ee and 2000ee-1, of Title 42, United States Code (U.S.C.), and Department of Defense Instruction (DoDI) 1000.29.

b. Is established in compliance with references listed in Enclosure 1.

2. APPLICABILITY. This Directive applies to all DeCA activities and all DeCA personnel IAW Department of Defense (DoD) Directive 5105.55. For purposes of this Directive, "DeCA personnel" includes contractors who must use, have access to, or disseminate personally identifiable information (PII) subject to the Privacy Act in order to perform their duties.

3. POLICY. It is DeCA policy to:

a. Protect the privacy and civil liberties of military members and civilian employees, to the greatest extent possible, consistent with its operational requirements IAW DeCA Directive (DeCAD) 80-22, DeCA Manual (DeCAM) 80-22.1, DeCAD 80-21, and, DeCAM 80-21.1.

b. Ensure no information is maintained on how an individual exercises rights protected by the First Amendment to the Constitution of the United States, including the freedoms of speech, assembly, 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 counter intelligence activity.

c. Receive, investigate, respond to, and redress complaints from individuals who allege that DeCA violated their privacy or civil liberties IAW Sections 2000ee and 2000ee-1, of Title 42, U.S.C., DoDI 100.29, DoDD 5105.55, DeCAD 80-22, DeCAM 80-22.1, DeCAD 80-21, and DeCAM 80-21.1.

d. Prohibit reprisals or the threat of reprisals against individuals who make complaints or disclose information that indicates a possible violation of privacy protections or civil liberties in the administration of the programs and operations of DeCA. No reprisals or threat of reprisals shall be taken by any DeCA employee in a position to take such actions, 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.

a. Director, DeCA. The Director shall:

(1) Consider privacy and civil liberties when proposing, developing, or implementing laws, regulations, policies, procedures, or guidelines related to DeCA's mission.

(2) Periodically investigate and review DeCA actions, policies, procedures, guidelines, and related laws and their implementation to ensure that DeCA is considering appropriate privacy and civil liberties.

(3) Ensure that DeCA has adequate procedures to receive, investigate, respond to, and redress complaints from individuals who allege that DeCA violated their privacy or civil liberties.

(4) In providing advice on proposals to retain or enhance a particular governmental power, consider whether DeCA has established that:

(a) The need for the power is balanced with the need to protect privacy and civil liberties.

(b) There is adequate supervision of the use by DeCA of the power to ensure protection of privacy and civil liberties.

(c) There are adequate guidelines and oversight to properly confine the use of the power.

(5) Ensure DeCA employees are trained, as appropriate, regarding the protection of privacy and civil liberties.

(6) Submit reports as directed by the Defense Privacy and Civil Liberties Division (DPCLD) IAW Sections 2000ee and 2000ee-1, of Title 42, U.S.C. and DoDI 1000.29.

b. General Counsel, DeCA. The DeCA Office of General Counsel (OGC) shall:

(1) Serve as the DeCA Chief Civil Liberties Officer (CCLO).

(2) Designate a civilian employee to serve as the DeCA primary Civil Liberties Point of Contact (Civil Liberties point of contact (POC)).

(3) Assist the Director, DeCA, in carrying out his responsibilities set forth in paragraph 4.a. above.

(4) Provide advice and assistance on all legal matters arising out of, or incident to, the DeCA Civil Liberties Program.

(5) Review, in consultation with the Civil Liberties POC, allegations of privacy and civil liberties violations and provide support to the investigation of those allegations as appropriate.

(6) Consult with and advise management officials on appropriate penalties and disciplinary action for substantiated misconduct by employees in violation of this instruction and coordinate recommended actions with Human Resources (HR).

(7) Provide guidance and assistance to investigators on requirements and protocol for conducting investigations into privacy and civil liberties violations, involved individuals' due process rights, and writing the investigative report or memorandum of record.

(8) Investigate, in accordance with established OGC processes and procedures, complaints of violations of privacy and civil liberties determined to be within the scope of the GC's responsibilities.

c. Civil Liberties POC. The DeCA Civil Liberties POC shall:

(1) Review complaints of violations that may be privacy or civil liberties-related to determine if the complaints are valid.

(2) Refer valid complaints of privacy or civil liberties violations to the appropriate office for investigation and, if possible, provide resolution. The appropriate offices to investigate and, if possible, resolve complaints of violations of privacy or civil liberties are the DeCA Equal Employment Office (EEO), the DeCA Office of Inspector General (IG), DeCA HR Directorate, the DeCA Privacy Officer, the DeCA OGC, or inquiry or investigating officers appointed to conduct an inquiry or investigation IAW DeCAD 80-12.

(3) Assist the Director, DeCA in submitting reports as directed by the DPCLD IAW Sections 2000ee and 2000ee-1, of Title 42, U.S.C and DoDI 1000.29.

d. Civil Liberties Complaint Processors. DeCA Civil Liberties Complaints Processors shall:

(1) Complete Civil Liberties Complaint Processor training.

(2) Review complaints received from individuals who allege that DeCA violated their privacy or civil liberties and refer those complaints to the Civil Liberties POC for a determination of validity.

(3) Investigate complaints of privacy or civil liberties violations from individuals referred to a processor by the Civil Liberties POC IAW the procedures used by that office for investigation of complaints, prepare a report summarizing the findings and conclusions of the investigation, and provide that report to the Civil Liberties POC.

(4) Maintain records of complaints of privacy or civil liberties violations and investigation IAW DeCA Records Retention Schedules.

(5) Provide reports to the Civil Liberties POC on a periodic basis specifying the number of complaints received and investigated by that office.

e. Director, Equal Employment Opportunity, DeCA. The Director, DeCA EEO shall:

(1) Appoint a Civil Liberties Complaint Processor.

(2) Refer complaints of violations that may be privacy or civil liberties-related to the Civil Liberties POC for review to determine if the complaints are valid.

(3) Upon referral of valid complaints of privacy or civil liberties violations by the Civil Liberties POC, investigate and, if possible, resolve those complaints IAW established EEO processes and procedures.

(4) Maintain records of complaints of privacy or civil liberties violations and investigation IAW DeCA Records Retention Schedules.

(5) Periodically provide the Civil Liberties POC with reports as necessary in order to carry out the Civil Liberties POC responsibility of assisting the Director, DeCA, in submitting reports as directed by DPCLD IAW Sections 2000ee and 2000ee-1, of Title 42, U.S.C. and DoDI 1000.29.

(6) Consider privacy and civil liberties when proposing, developing, or implementing laws, regulations, policies, procedures, or guidelines related to DeCA's mission, and refer all publications, issuances, policy letters, and operational guidance to the Civil Liberties POC to review for consideration of the effect on the DeCA Civil Liberties Program.

f. Director, Human Resources Directorate. The Director, DeCA HR shall:

- (1) Appoint a Civil Liberties Complaint Processor.
- (2) Refer complaints of violations that may be privacy or civil liberties-related to the Civil Liberties POC for review to determine if the complaints are valid.
- (3) Upon referral of valid complaints of privacy or civil liberties violations by the Civil Liberties POC, investigate and, if possible, resolve those complaints IAW established HR processes and procedures,
- (4) Maintain records of complaints of privacy or civil liberties violations and investigation IAW DeCA Records Retention Schedules.
- (5) Consult with and advise management officials on appropriate penalties and disciplinary actions for substantiated misconduct and coordinating recommended actions with OGC.
- (6) Periodically provide the Civil Liberties POC with reports as necessary in order to carry out the Civil Liberties POC responsibility of assisting the Director, DeCA, in submitting reports as directed by DPCLD IAW Sections 2000ee and 2000ee-1, of Title 42, U.S.C. and DoDI 1000.29.
- (7) Consider privacy and civil liberties when proposing, developing, or implementing laws, regulations, policies, procedures, or guidelines related to DeCA's mission, and refer all publications, issuances, policy letters, and operational guidance to the Civil Liberties POC to review for consideration of the effects on the DeCA Civil Liberties Program.

g. Inspector General, DeCA. The DeCA IG shall:

- (1) Appoint a Civil Liberties Complaint Processor.
- (2) Refer complaints of violations that may be privacy or civil liberties-related to the Civil Liberties POC for review to determine if the complaints are valid.
- (3) Upon referral of valid complaints of privacy or civil liberties violations by the Civil Liberties POC, investigate and, if possible, resolve those complaints IAW established IG processes and procedures.
- (4) Maintain records of complaints of privacy or civil liberties violations and investigation IAW DeCA Records Retention Schedules.
- (5) Periodically provide the Civil Liberties POC with reports as necessary in order to carry out the Civil Liberties POC responsibility of assisting the Director, DeCA in submitting reports as directed by DPCLD IAW Sections 2000ee and 2000ee-1, of Title 42, U.S.C. and DoDI 1000.29.

(6) Consider privacy and civil liberties when proposing, developing, or implementing laws, regulations, policies, procedures or guidelines related to DeCA's mission, and refer all publications, issuances, policy letters, and operational guidance to the Civil Liberties POC to review for consideration of the effects on the DeCA Civil Liberties Program.

h. Other Functional Process Owners (FPOs), Staff Offices, Area Directors, Zone Managers, Store Managers, Central Meat Processing Plant (CMPP), and Central Distribution Center (CDC) Managers. Other FPOs, Special Staff Groups, Area Directors, Zone Managers, Store Managers, CMPP, and CDC Managers shall:

(1) Monitor complaints received by their respective departments, offices and divisions for potential privacy or civil liberties-related matters, and refer those complaints to the Civil Liberties POC.

(2) Consider privacy and civil liberties when proposing, developing, or implementing laws, regulations, policies, procedures, or guidelines related to DeCA's mission, and refer all publications, issuances, policy letters, and operational guidance to the Civil Liberties POC for review for consideration of the effect on the DeCA Civil Liberties Program.

i. Supervisors and Managers. Each supervisor and manager shall be responsible for the following:

(1) Always projecting appropriate professional behavior to foster and promotes a work environment free from privacy and civil liberties violations.

(2) Reassuring employees who raise privacy and civil liberties violations to them that confidentiality, to the extent possible, will be maintained.

(3) Informing employees who raise privacy and civil liberties violations to them that this Directive strictly prohibits retaliation, and ensuring that substantiated retaliation claims result in the appropriate disciplinary action.

(4) Taking prompt and appropriate corrective, remedial, or disciplinary action against subordinate personnel who have engaged in misconduct that violates this instruction.

(5) Referring complaints they have received to the Civil Liberties POC when privacy or civil liberties violations have been alleged.

(6) Ensuring that all DeCA employees receive Civil Liberties Awareness training at least triennially.

j. All DeCA Employees and Contractors. All DeCA employees and contractors shall:

(1) Act professionally and refrain from engaging in acts that may violate another individual's privacy or civil liberties.

(2) Complete Civil Liberties Workforce Awareness training as specified in DeCAM 80-22.1.

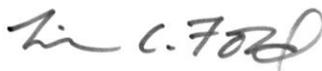
(3) Become familiar with the provisions of Sections 2000ee and 2000ee-1, of Title 42, U.S.C. and DoDI 1000.29, comply with all requirements of this Directive, and cooperate with any investigation under this Directive and DeCAM 80-22.1.

(4) Promptly report suspected violations of privacy and/or civil liberties to the Civil Liberties POC.

5. MANAGEMENT CONTROL SYSTEM. This Directive contains internal management control provisions that are subject to evaluation and testing as required by DeCAD 70-2.

6. RELEASABILITY. **Unlimited - Cleared for public release**. This Directive is available on DeCA's Internet Web site, www.commissaries.com.

7. EFFECTIVE DATE. This Directive is effective January 8, 2016.



Timothy C. Ford
Chief, Executive Services Division

Enclosures
References
Glossary

ENCLOSURE 1

REFERENCES

DeCAD 70-2, "Internal Control Program," December 17, 2007
DeCAD 80-12, "Procedures for Investigating Officers," January 21, 1994
DeCAD 80-22, "DeCA Civil Liberties Program," December 18, 2015
DeCAD 80-21, "Privacy Act Program," April 15, 2010
DeCAM 80-22.1, "DeCA Civil Liberties Program Manual," December 18, 2015
DeCAM 80-21.1, "Privacy Act Program Manual," May 18, 2010
DoD Instruction 1000.29, "DoD Civil Liberties Program," November 26, 2014, as amended
DoD Directive 5105.55, "Defense Commissary Agency (DeCA)," March 12, 2008
United States Code, Title 42, Sections 2000ee and 2000ee-1

GLOSSARY

G.1. ACRONYMS

CDC	Central Distribution Center
CCLO	Chief Civil Liberties Officer
CLPOC	Civil Liberties Point of Contact
CMPP	Central Meat Processing Plant
DeCA	Defense Commissary Agency
DeCAD	DeCA Directive
DeCAM	DeCA Manual
DoD	Department of Defense
DoDI	Department of Defense Instruction
DPCLD	Defense Privacy and Civil Liberties Division
EEO	DeCA Equal Employment Opportunity Office
FPO	Functional Process Owner
HR	Human Resources
IAW	in-accordance-with
IG	Inspector General
OGC	DeCA Office of General Counsel
PII	Personally Identifiable Information
POC	point of contact
U.S.C.	United States Code

G.2. DEFINITIONS

Civil Liberties. Fundamental rights and freedoms protected by the Constitution of the United States.

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. As used in this directive, the term “privacy” does not include rights related to the implementation or enforcement of the Privacy Act of 1974. Violations of Privacy Act rights may be raised only as set forth in DeCAD 80-21 and DeCAM 80-21.1.

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