



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
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MCO 5370.4B
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26 Jun 97

MARINE CORPS ORDER 5370.4B

From: Commandant of the Marine Corps
To: Distribution List

Subj: GUIDELINES FOR HANDLING DISSIDENT AND PROTEST ACTIVITIES

Ref: (a) MCO 3800.2A
(b) MCO 5740.2F

Encl: (1) DoDDir 1325.6 of 1 Oct 96

1. Purpose. To promulgate and implement revised Department of Defense policy for the handling of dissident and protest activities involving members of the U.S. Marine Corps.

2. Cancellation. MCO 5370.4A.

3. Background

a. The enclosure sets forth Department of Defense policy for the handling of dissident activities by members of the armed forces. It seeks to balance the sometimes competing interests of a servicemember's right of expression and the maintenance of good order and discipline within a military unit or on a military installation. Specific guidelines addressing certain activities the armed forces have encountered are set forth in paragraph C5 of the enclosure.

b. Reference (a) provides guidance to commanders on the collection of information on U.S. persons by intelligence elements.

DISTRIBUTION STATEMENT A: Approved for public release;
distribution is unlimited.

4. Action

a. The policy set forth in the enclosure will be followed throughout the Marine Corps.

b. Activity occurring at Marine Corps commands suspected of falling within the purview of the enclosure will be reported under reference (b).

5. Summary of Revision. This revision:

a. Adds a more detailed "applicability" provision.

b. Expands the commander's authority to place establishments "off-limits."

c. Clarifies that government and non-appropriated fund property may not be used to accomplish personal writing for publication whether the person is on or off duty.

d. Reaffirms the responsibility and authority of commanders to prohibit demonstrations or activities that could result in interference with mission accomplishment or present a clear anger to the loyalty, discipline, or morale of military personnel.

e. Prohibits commanders from recognizing or bargaining with any union representing, or seeking recognition to represent servicemembers.

f. Designates inspectors general-- in addition to service and command grievance procedures (request mast), procedures under article 1150, U.S. Navy Regulations, 1990, article 138 of the UCMJ, and members of congress -- as persons to whom a servicemember may present a grievance.

g. Adds further examples of what constitutes "active participation" in certain types of prohibited organizations.

h. Suggests the types of actions that may be taken by commanders against servicemembers who participate in prohibited activities.

i. Imposes a training requirement upon the military departments regarding activities prohibited by the directive.

j. Includes a new "Responsibilities" paragraph.

6. Reserve Applicability. This Order is applicable to the Marine Corps Reserve.



R. L. NEAL
Assistant Commandant
of the Marine Corps

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Department Of Defense
DIRECTIVE

October 1, 1996
NUMBER 1325.6

USD (P&R)

SUBJECT: Guidelines for Handling Dissident and Protest Activities Among Members of the Armed Forces

References: (a) DoD Directive 1325.6, subject as above, September 12, 1969 (hereby canceled)
(b) Chapter 47 of title 10, United States Code, "Uniform Code of Military Justice"
(c) Title 18, United States Code
(d) DoD Directive 1334.1, "Wearing of the Uniform," August 11, 1969
(e) Title 10, United States Code

A. REISSUANCE AND PURPOSE

This Directive reissues reference (a) to update DoD policy and responsibilities governing the handling of dissident activities by members of the Army, Navy, Air Force, and Marine Corps. Specific problems should be resolved only on the basis of the particular facts of the situation and in accordance with the provisions of applicable DoD regulations and reference (b).

B. APPLICABILITY

This Directive applies to the Office of the Secretary of Defense, the Military Departments (including the Coast Guard when it is operating as a Military Service in the Navy), the Chairman of the Joint Chiefs of Staff, the Combatant Commands, the Defense Agencies, and the DoD Field Activities (hereafter referred to collectively as "the DoD Components"). The term "Military Services," as used herein, refers to the Army, the Navy, the Air Force, and the Marine Corps.

C. POLICY

It is DoD policy that:

1. The Department of Defense shall safeguard the security of the United States.
2. The Service members' right of expression should be preserved to the maximum extent possible, consistent with good order and discipline and the national security.
3. No commander should be indifferent to conduct that, if allowed to proceed unchecked, would destroy the effectiveness of his or her unit.
4. The proper balancing of these interests will depend largely upon the calm and prudent judgment of the responsible commander.

5. The following guidelines be applied to principal activities that the Armed Forces have encountered:

a. Possession and Distribution of Printed Materials

(1) A commander is not authorized to prohibit the distribution of a specific issue of a publication distributed through official outlets such as post exchanges and military libraries. In the case of distribution of publications through other than official outlets, commanders may require that prior approval be obtained for any distribution on a military installation to determine whether there is a clear danger to the loyalty, discipline, or morale of military personnel, or if the distribution of the publication would materially interfere with the accomplishment of a military mission. Distribution of any publication determined to be a danger in any of these areas shall be prohibited.

(2) While the mere possession of unauthorized printed material may not be prohibited, printed material that is prohibited from distribution shall be impound if the commander determines that an attempt will be made to distribute.

(3) The fact that a publication is critical of government policies or officials is not, in itself, a ground on which distribution may be prohibited.

b. Off-Post Gathering Places. Commanders have the authority to place establishments "off-limits" in accordance with established procedures when, for example, the activities taking place there include counseling members to refuse to perform duty or to desert; pose a significant adverse effect on Service members' health, morale, or welfare; or otherwise present a clear danger to the loyalty, discipline, or morale of a member or military unit.

c. Servicemen Organizations. Commanders are not authorized to recognize or to bargain with any union representing or seeking recognition to represent Service members.

d. Publication of "Underground Newspapers." Personal writing for publication may not be pursued during duty hours, or accomplished by the use of Government or non-appropriated fund property on-or off-duty. While publication of "underground newspapers" by military personnel off-post, on their own time, and with their won money and equipment, is not prohibited, if such a publication contains language the utterance of which is punishable under Federal law, those involved in the printing, publication, or distribution may be disciplined for such infractions.

e. On-Post Demonstrations and Similar Activities. The commander of a military installation or other military controlled facility under the jurisdiction of the United States shall prohibit any demonstration or activity on the installation or facility that could result in interference with or prevention of orderly accomplishment of the mission of the installation or facility, or present a clear danger to loyalty, discipline, or morale of the troops. It is a crime for any person to enter a military reservation for any purpose prohibited by law or lawful regulations, or for any person to enter or re-enter an installation after having been barred by order of the commander under 18 U.S.C. 1382 (reference (c)).

f. Off-Post demonstrations by Members. Members of the Armed Forces are prohibited from participating in off-post demonstrations when they are on-duty, in a foreign country, when their activities constitute a breach of law and order, when violence is likely to result, or when they are in uniform in violation of DoD Directive 1334.1 (reference (d)).

g. Grievances. The right of members to complain and request of grievances against actions of their commanders is protected by Article 138 of the Uniform Code of Military Justice (reference b). In addition, a member may petition or present any grievance to any Member of Congress or an Inspector General under 10 U.S.C. 1034 (reference (e)). An open door policy for complaints is a basic principle of good leadership, and commanders should personally ensure that adequate procedures exist for identifying valid complaints and taking corrective action.

h. Prohibited Activities. Military personnel must reject participation in organizations that espouse supremacist causes; attempt to create illegal discrimination based on race, creed, color, sex, religion, or national origin; advocate the use of force or violence; or otherwise engage in efforts to deprive individuals of their civil rights. Active participation, such as publicly demonstrating or rallying, fund raising, recruiting and training members, organizing or leading such organizations, or otherwise engaging in activities in relation to such organizations or in furtherance of the objectives of such organizations that are viewed by command to be detrimental to the good order, discipline, or mission accomplishment of the unit, is incompatible with Military Service, and is, therefore, prohibited. Commanders have authority to employ the full range of administrative procedures, including separation or appropriate disciplinary action, against military personnel who actively participate in such groups. Functions of command include vigilance about the existence of such activities; active use of investigative authority to include a prompt and fair complaint process; and use of administrative powers, such as counseling, reprimands, orders, and performance evaluations to deter such activities. Military Departments shall ensure that this policy on prohibited activities is included in initial active duty training, pre-commissioning training, professional military education, commander training, and other appropriate Service training programs.

D. RESPONSIBILITIES

1. The Under Secretary of Defense for Personnel and Readiness shall:

a. Develop overall policy and guidelines for handling dissident and protest activities among members of the Armed Forces.

b. Approve policies and procedures developed by the Secretaries of the Military Departments that implement this Directive.

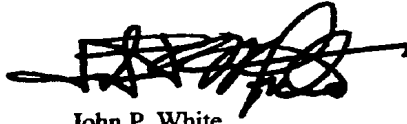
2. The Secretaries of the Military Departments shall:

a. Establish policies and procedures to implement this Directive within their respective Departments.

b. Ensure compliance with the training requirements set out in paragraph C.5.h. above.

A. EFFECTIVE DATE

This Directive is effective immediately.

A handwritten signature in black ink, appearing to read 'John P. White', with a stylized flourish extending to the right.

John P. White

Enclosure

Constitutional and Statutory Provisions Relevant to Handling of
Dissident and Protest Activities in the Armed Forces

CONSTITUTIONAL AND STATUTORY PROVISIONS RELEVANT TO
HANDLING OR DISSIDENT AND PROTEST ACTIVITIES IN THE
ARMED FORCES

A. **Constitution** The First Amendment, U.S. Constitution, provides as follows:
Congress shall make no law...abridging the freedom of speech,
or of the press; or the right of the people peaceably to assemble
and to petition the government for a redress of grievances.

B. **Statutory Provisions**

1. Applicable to All Persons

- a. 18 U.S.C. Section 1381, reference (c) -- Enticing desertion and harboring deserters.
- b. Section 2385 -- Advocating overthrow of the Government.
- c. Section 2387 -- Counseling insubordination, disloyalty, mutiny, or refusal of duty.
- d. Section 2388 -- Causing or attempting to cause insubordination, disloyalty, mutiny, or refusal of duty during war.

2. Applicable to Members of the Armed Forces

- a. 10 U.S.C. Section 917, reference (e), (Article 117, UCMJ) -- Provoking speeches or gestures.
- b. Section 882 (Article 82, UCMJ) -- Soliciting desertion, mutiny, sedition, or misbehavior before the enemy.
- c. Section 904 (Article 104, UCMJ) -- Aiding the enemy.
- d. Section 901 (Article 101, UCMJ) -- Improper use of a countersign.
- e. Section 888 (Article 88, UCMJ) -- Contemptuous words by commissioned officers against certain officials.
- f. Section 889 (Article 89, UCMJ) -- Disrespect toward a superior commissioned officer.
- g. Section 891 (Article 91, UCMJ) -- Insubordinate conduct toward a warrant officer, noncommissioned officer, or petty officer.
- h. Section 892 (Article 92, UCMJ) -- Failure to obey order or regulation.
- i. Section 934 (Article 134, UCMJ) -- Uttering disloyal statement, criminal libel, communicating a threat, and soliciting another to commit an offense.