



Department of Defense INSTRUCTION

NUMBER 1325.06

November 27, 2009

Incorporating Change 1, February 22, 2012

USD(P&R)

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

References: See Enclosure 1

1. PURPOSE. This Instruction:

a. Reissues DoD Directive 1325.6 (Reference (a)) as a DoD Instruction in accordance with the authority in DoD Directive 5124.02 (Reference (b)).

b. Establishes DoD policy, assigns responsibilities, and provides procedures for handling dissident activities and protest activities among members of the Armed Forces.

2. APPLICABILITY. This Instruction applies to OSD, the Military Departments (including the Coast Guard at all times, including when it is a Service in the Department of Homeland Security by agreement with that Department), the Office of the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities in the Department of Defense (hereafter referred to collectively as the "DoD Components").

3. POLICY. It is DoD policy that:

a. The Department of Defense shall safeguard the security of the United States.

b. A Service member's right of expression should be preserved to the maximum extent possible in accordance with the constitutional and statutory provisions *of titles 10 and 18, United States Code (U.S.C.) (References (c) and (d), respectively) (examples of which are set forth in Enclosure 2 of this Instruction)* and consistent with good order and discipline and the national security.

c. No commander should be indifferent to conduct that, if allowed to proceed unchecked, would destroy the effectiveness of his or her unit.

Change 1, 02/22/2012

d. The proper balancing of these interests depends largely upon the calm and prudent judgment of the responsible commander.

4. RESPONSIBILITIES

a. Under Secretary of Defense for Personnel and Readiness (USD(P&R)). The USD(P&R) shall:

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

(2) Approve policies and procedures that the Secretaries of the Military Departments develop to implement this Instruction.

b. Secretaries of the Military Departments. The Secretaries of the Military Departments shall:

(1) Establish policies and procedures to implement this Instruction within their respective Departments.

(2) Ensure compliance with the training requirements set forth in paragraph 8.~~ee~~. of Enclosure 3 of this Instruction.

c. Commandant of the Coast Guard. The Commandant of the Coast Guard shall:

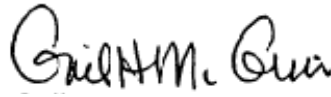
(1) Establish policies within the Coast Guard.

(2) Ensure compliance with the training requirements set forth in paragraph 8.~~ee~~. of Enclosure 3 of this Instruction.

5. PROCEDURES. The procedures set forth in Enclosure 3 provide guidelines that shall be applied to handling dissident and protest activities among Service members. Specific problems shall be resolved only on the basis of the particular facts of the situation and in accordance with the provisions of Enclosure 3; other applicable DoD issuances; chapter 47 of ~~title 10, United States Code (U.S.C.)~~; (Reference (c)); and other applicable laws and regulations.

6. RELEASABILITY. UNLIMITED. This Instruction is approved for public release and is available on the Internet from the DoD Issuances Web Site at <http://www.dtic.mil/whs/directives>.

7. EFFECTIVE DATE. This Instruction is effective immediately.



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Performing the Duties of the
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Enclosures

1. References
2. Constitutional and Statutory Provisions Relevant to Handling Dissident and Protest Activities in the Armed Forces
3. Procedures

ENCLOSURE 1

REFERENCES

- (a) DoD Directive 1325.6, "Guidelines for Handling Dissident and Protest Activities Among Members of the Armed Forces," October 1, 1996 (hereby canceled)
- (b) DoD Directive 5124.02, "Under Secretary of Defense for Personnel and Readiness (USD(P&R))," June 23, 2008
- (c) Title 10, United States Code
- (d) *Title 18, United States Code*
- (~~e~~) The First Amendment to the Constitution of the United States
- (~~e~~) ~~Title 18, United States Code~~
- (f) DoD Instruction 4105.70, "Sale or Rental of Sexually Explicit Material on DoD Property," June 2, 2006
- (g) DoD 5500.7-R, "Joint Ethics Regulation (JER)," August 1993
- (h) DoD Instruction 1334.1, "Wearing of the Uniform," October 26, 2005
- (i) Public Law 110-181, "The National Defense Authorization Act for Fiscal Year 2008," January 28, 2008

ENCLOSURE 2

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

1. CONSTITUTIONAL PROVISIONS. The First Amendment to the Constitution of the United States (Reference (~~de~~)) provides that “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or 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.”

2. STATUTORY PROVISIONS

a. Applicable to Members of the Armed Forces. These sections (*among others*) of Reference (c) apply to members of the Armed Forces:

- (1) Section 882 (Article 82). Solicitation.
- (2) Section 888 (Article 88). ~~Use of contemptuous words by commissioned officers against certain~~ *Contempt toward* officials.
- (3) Section 889 (Article 89). Disrespect toward ~~a~~-superior commissioned officer.
- (4) Section 891 (Article 91). Insubordinate conduct toward ~~a~~-warrant officer, *noncommissioned officer, or petty officer*.
- (5) Section 892 (Article 92). Failure to obey ~~an~~-order or regulation
- (6) Section 901 (Article 101). Improper use of ~~a~~-countersign.
- (7) Section 904 (Article 104). Aiding the enemy.
- (8) Section 917 (Article 117). Provoking speeches or gestures.
- (9) Section 934 (Article 134). General *Article*.
- (10) Section 938 (Article 138). Complaints of wrongs.
- (11) Section 1034. Protected communications; prohibition of retaliatory personnel actions.

b. Applicable to All Persons. These sections of title 18, ~~U.S.C. of~~ (*Reference (ed)*), apply to all persons, military and civilian, who are subject to that title:

- (1) Section 1381. Enticing desertion and harboring deserters.
- (2) Section 2385. Advocating overthrow of the Government.
- (3) Section 2387. Activities affecting the Armed Forces generally.
- (4) Section 2388. Activities affecting the Armed Forces during war.

ENCLOSURE 3

PROCEDURES

1. POSSESSION AND DISTRIBUTION OF PRINTED AND ELECTRONIC MATERIALS ON POST

a. 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. Prohibiting the sale or rental of sexually explicit material on DoD property is governed by DoD Instruction 4105.70 (Reference (f)).

(1) A commander may require prior approval of publications to be distributed on a military installation through other than official outlets to determine if the publication would:

(a) Create a clear danger to the loyalty, discipline, or morale of military personnel; or

(b) Materially interfere with the accomplishment of the military mission.

(2) Distribution of any publication determined to be a danger in any of the areas in paragraphs 1.a.(1)(a) and 1.a.(1)(b) of this enclosure shall be prohibited.

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

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

2. 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~~ *at these establishments* include, *but are not limited to*, counseling, *encouraging, or inciting* Service 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.

3. SERVICE MEMBER ORGANIZATIONS. Commanders are not authorized to recognize or to bargain with any union representing or seeking recognition to represent Service members.

4. PUBLICATION OF PERSONAL WRITING MATTERS (TO INCLUDE WEB SITES, WEB LOGS (BLOGS), AND OTHER ELECTRONIC COMMUNICATIONS). Service

members may not pursue personal writing for publication whether by traditional written or by electronic means (Web sites, BLOGS, and other electronic communications) during duty hours, nor may they use Government or non-appropriated fund property for this purpose, on or off duty, unless it is for official use or authorized purposes only pursuant to section 2-301 of DoD 5500.7-R (Reference (g)). Publication of such matters by military personnel off-post, on their own time, and with their own money and equipment is not prohibited; however, if such a publication contains language the utterance of which is punishable under Federal law or otherwise violates this Instruction or other DoD issuances, those involved in printing, publishing, or distributing it may be disciplined or face appropriate administrative action for such infractions.

5. ON-POST DEMONSTRATIONS AND SIMILAR ACTIVITIES

a. 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:

(1) Result in interference with or prevention of orderly accomplishment of the mission of the installation or facility; or

(2) Present a clear danger to the loyalty, discipline, or morale of the troops.

b. 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 pursuant to section 1382 of Reference (*ed*).

6. OFF-POST DEMONSTRATIONS BY SERVICE MEMBERS. Members of the Armed Forces are prohibited from participating in off-post demonstrations under any of these circumstances:

a. They are on-duty.

b. They are in a foreign country.

c. The activities constitute a breach of law and order.

d. Violence is likely to result.

e. They are in uniform in violation of DoD Instruction 1334.1 (Reference (h)).

7. GRIEVANCES. The right of members to complain and request redress of grievances against actions of their commanders is protected by section 938 (article 138) of Reference (c). In addition, a member may petition or present any grievance to any member of Congress or an inspector general, among other officials, pursuant to section 1034 of Reference

(c). An open-door policy for complaints is a basic principle of good leadership. Commanders should personally ensure that adequate procedures exist for identifying valid complaints and taking corrective action.

8. PROHIBITED ACTIVITIES

a. Military personnel must not actively advocate supremacist, *extremist, or criminal gang* doctrine, ideology, or causes, including those that advance, encourage, or advocate illegal discrimination based on race, creed, color, sex, religion, ethnicity, or national origin or *those* that advance, encourage, or advocate the use of force, violence, or criminal activity or otherwise advance efforts to deprive individuals of their civil rights.

b. Military personnel must reject active participation in criminal gangs pursuant to section 544 of Public Law 110-181 (Reference (i)) and in other organizations that advocate supremacist, *extremist, or criminal gang* doctrine, ideology, or causes; *including those that* attempt to create illegal discrimination based on race, creed, color, sex, religion, ethnicity, or national origin; advocate the use of force, violence, or criminal activity; or otherwise engage in efforts to deprive individuals of their civil rights. Active participation in such gangs or organizations is prohibited. Active participation includes, but is not limited to, fundraising; demonstrating or rallying; recruiting, training, organizing, or leading members; distributing material (including posting on-line); *knowingly wearing gang colors or clothing; having tattoos or body markings associated with such gangs or organizations*; or otherwise engaging in activities in furtherance of the objective of such gangs or organizations that are detrimental to good order, discipline, or mission accomplishment or are incompatible with military service.

c. Commanders have the authority to employ the full range of administrative and disciplinary actions, including administrative separation or appropriate criminal action, against military personnel who engage in activity prohibited in paragraphs 8.a. or 8.b. of this enclosure ~~when such conduct or activity is detrimental to good order and discipline or is service discrediting.~~

d. The 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.

e. The Military Departments shall ensure that the policy and procedures on prohibited activities in this Instruction are included in initial active duty training, precommissioning training, professional military education, commander training, and other appropriate Service training programs.

9. PREVENTIVE ACTIVITIES

a. Commanders should remain alert for signs of future prohibited activities. They should intervene early, primarily through counseling, when observing such signs even though the signs may not rise to active advocacy or active participation or may not threaten good order and discipline, but only suggest such potential. The goal of early intervention is to minimize the risk of future prohibited activities.

b. Examples of such signs, which, in the absence of the active advocacy or active participation addressed in paragraphs 8.a and 8.b are not prohibited, could include mere membership in criminal gangs and other organizations covered under paragraph 8.b. Signs could also include possession of literature associated with such gangs or organizations, or with related ideology, doctrine, or causes. While mere membership or possession of literature normally is not prohibited, it may merit further investigation and possibly counseling to emphasize the importance of adherence to the Department's values and to ensure that the Service member understands what activities are prohibited.