UNITED STATES MARINE CORPS
MARINE CORPS AIR STATION
PSC BOX 8003
CHERRY POINT, NORTH CAROLINA 28533-0003

AirStaO 5370.4E
SES
15 JUL 2008

AIR STATION ORDER 5370.4E

From: Commanding Officer, Marine Corps Air Station, Cherry Point
To: Distribution List

Subj: DISSIDENT AND PROTEST ACTIVITIES

Ref: (a) MCO 5370.4B
(b) DOD 1354.1 (NOTAL)

Encl: (1) Constitutional and Statutory Provisions Relevant to Dissident and Protest Activities in the Armed Forces

1. Situation. To implement the policy set forth in references (a) and (b).

2. Cancellation. AirStaO 5370.4D.

3. Mission. Military commands aboard the Air Station serve as a force in readiness and an integral part of the Armed Forces of the United States. Consistent with the orderly accomplishment of this primary mission, Commanding Officers will ensure that individual rights of lawful expression are preserved to the maximum extent possible, compatible with good order, discipline, and national security. However, should the right of expression be expressed in a dissident or protest manner, it could impair the accomplishment of this mission. Therefore, any dissident or protest activity on the Air Station which tends to interfere with or prevent the orderly accomplishment of the Station mission; is of questionable loyalty; or which may adversely affect the health, morale, or welfare of personnel, is prohibited.

4. Execution

a. Commander's Intent and Concept of Operations

(1) Commander's Intent. In order to promote the orderly accomplishment of the Station mission during protest activity, the constitutional and statutory provisions contained in the

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enclosure and the following guidelines will govern the handling of dissident and protest activities aboard the Air Station.

(2) Concept of Operations. The following '*Restrictions on Conduct*' will be adhered to during protest activities aboard the Air Station:

(a) Possession and Distribution of Printed Materials. Distribution of printed materials through other than official outlets must have the prior approval of the CO. Distribution without such prior approval is prohibited. The CO will determine whether the material presents a clear and present danger to the loyalty, discipline, or morale of military personnel or if distribution would interfere with the accomplishment of the military mission. If such a determination is made, distribution will be prohibited. If the CO determines that an attempt will be made or has been made to distribute such printed material, it shall be impounded.

(b) Off-Station Gathering Places. In accordance with established procedures, the CO has the authority to place establishments "off limits" when the activities taking place there may have a significantly adverse effect on the members' health, morale, welfare, or otherwise present a clear danger to loyalty, discipline, or morale of a member or military unit.

(c) 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 overthrow of the U.S. Government; or 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, and organizing or leading such organizations 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.

(d) Military Labor Organization. Unionization of the Armed Forces is incompatible with the military chain of command and would impair the readiness of the Armed Forces. Reference (b) provides specific guidelines and lists prohibited Military Labor Organization activities.

(e) Publication of "Underground Newspapers". Personal writing for publications may not be pursued during duty hours or by the use of Government or non-appropriated fund property. Publication of "underground newspapers" by military personnel off-station, on their own time, using their own money and equipment is not prohibited; however, if such a publication contains language (or graphics) which is punishable under Federal law, those involved in its printing, publication, or distribution may be disciplined.

(f) On-Station Demonstrations and Similar Activities. Any demonstration or activity on the Air Station that could result in interference with or prevention of the good order, discipline or morale of personnel, or present a clear danger to loyalty, discipline, or morale of the troops is prohibited. It is a crime for any person to enter the Air Station for any purpose prohibited by law or lawful regulations or for any person to reenter this Air Station after having been barred by order of the CO.

(g) Off-Station Demonstrations by Members of the Armed Forces. Members of the Armed Forces are prohibited from participating in off-station demonstrations when they are on duty; when such activities constitute a breach of law and order; when violence is likely to result; or when they are in uniform.

(h) Grievances. The right of military personnel to complain or request redress of grievances against actions of their commanders is protected by Article 138 of the Uniform Code of Military Justice. In addition, a member may petition or present any grievances to any member of Congress or an Inspector General under 10 U.S.C. 1034. Commanders should personally ensure that adequate procedures exist for identifying valid complaints and for taking corrective action.

b. Coordinating Instructions

(1) Reports. Activity occurring aboard the Air Station suspected of falling within the purview of this Order will be reported immediately to the CO (Code PMO).

(2) Personnel assigned to MCAS Cherry Point or tenant activities, and all those entering this Air Station shall be governed by the regulations set forth in this Order.

(3) Violations of this Order are subject to disciplinary action.

(4) Commanding Officers are responsible for the prevention of and/or quelling all prohibited dissident/protest activities in their designated areas. When required, assistance may be requested from the Provost Marshal or his representative.

5. Administration and Logistics. The CG 2d MAW; COs FRC-East, Naval Health Clinic, and CLC-21 concur with this Order insofar as it pertains to the members of their command.

6. Command and Signal

a. Command. This Order is applicable to all personnel.

b. Signal. This Order is effective the date signed.

R. D. CLINTON
By direction

DISTRIBUTION: A

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

1. Constitution: The First Amendment, U.S. Constitution:

"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."

2. Statutory Provisions

a. Applicable to All Persons

(1) 18 U.S.C. 1381 - Enticing desertion and harboring deserters.

(2) 18 U.S.C. 2385 - Advocating overthrow of the Government

(3) 18 U.S.C. 2387 - Counseling insubordination, disloyalty, mutiny, or refusal of duty.

(4) 18 U.S.C. 2388 - Causing or attempting to cause insubordination disloyalty, mutiny, or refusal of duty during war.

(5) 50 U.S.C. Appr. 462 - Counseling evasion of the draft.

b. Applicable to Members of the Armed Forces

(1) 10 U.S.C. 917 (Article 117, UCMJ) - Provoking speeches or gestures.

(2) 10 U.S.C. 882 (Article 82, UCMJ) - Soliciting desertion, mutiny, sedition, or misbehavior before the enemy.

(3) 10 U.S.C. 904 (Article 104, UCMJ) - Communicating or corresponding with the enemy. Aiding the enemy.

(4) 10 U.S.C. 901 (Article 101, UCMJ) - Betraying a countersign. Improper use of countersign.

(5) 10 U.S.C. 888 (Article 88, UCMJ) - Contemptuous words by commissioned officers against certain officials.

(6) 10 U.S.C. 889 (Article 89, UCMS) - Disrespect toward a superior commissioned officer.

(7) 10 U.S.C. 891 (Article 91, UCMJ) - Insubordinate conduct toward a warrant officer, noncommissioned officer, or petty officer.

(8) 10 U.S.C. 892 (Article 92, UCMJ) - Failure to obey order or regulation

(9) 10 U.S.C. 934 (Article 134, UCMJ) - Uttering disloyal statement, criminal libel, communicating a threat, and soliciting another to commit an offense.