



# COMMAND INFORMATION FACT SHEET

## COMMAND INFORMATION BRANCH INFORMATION OFFICE

Headquarters U. S. Continental Army Command, Fort Monroe, Virginia 23351 727-3303

October 1969



*Cpt Law*

"...The service member's right of expression should be preserved to the maximum extent possible, consistent with good order and discipline and the national security. On the other hand, no commander should be indifferent to conduct which, if allowed to proceed unchecked, would destroy the effectiveness of his unit...."

The above statement is from DOD Directive 1325.6, 12 Sep 69. That directive, as provided in US Army Command Information Fact Sheet #134, 16 Sep 69, is quoted below. (See, also, "Guidelines on Dissent," Army Digest, Aug 69, and TAG, DA, ltr, 28 May 69, subj: "Guidance on Dissent.")

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

"References: (a) U. S. Constitution, First Amendment  
(b) Title 50, U. S. Code Appendix, Section 462  
(c) Title 18, U. S. Code, Sections 1381, 2387, 2385, 2388  
(d) Title 10, U. S. Code, Chapter 47 (Uniform Code of Military Justice)  
(e) DoD Directive 1334.1, "Wearing of the Uniform," August 11, 1969

#### I. PURPOSE AND APPLICABILITY

This Directive provides general guidance governing the handling of dissident activities by members on active duty of the Army, Navy, Air Force, and Marine Corps. Specific problems can, of course, be resolved only on the basis of the particular facts of the situation and in accordance with the provisions of applicable Department regulations and the Uniform Code of Military Justice.

## II. POLICY

It is the mission of the Department of Defense to safeguard the security of the United States. The service member's right of expression should be preserved to the maximum extent possible, consistent with good order and discipline and the national security. On the other hand, no Commander should be indifferent to conduct which, if allowed to proceed unchecked, would destroy the effectiveness of his unit. The proper balancing of these interests will depend largely upon the calm and prudent judgment of the responsible Commander.

## III. SPECIFIC GUIDELINES

The following guidelines relate to principal activities in this area which 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, a Commander may require that prior approval be obtained for any distribution on a military installation in order that he may 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. When he makes such a determination, the distribution will be prohibited.
2. While the mere possession of unauthorized printed material may not be prohibited, printed material which is prohibited from distribution shall be impounded 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 upon 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, including counselling members to refuse to perform duty or to desert, involve acts with a significant adverse effect on members' health, morale, or welfare.

C. Servicemen's Organizations. Commanders are not authorized to recognize or to bargain with a so-called "servicemen's union."

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. While publication of "underground newspapers" by military personnel off-post, on their own time and with their own 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 shall prohibit any demonstration or activity on the installation which could result in interference with or prevention of orderly accomplishment of the mission of the installation, 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 (18 U. S. C. 1382).

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

G. Grievances. The right of members to complain and 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 grievance to any member of Congress (10 U. S. C. 1034). An open door policy for complaints is a basic principle of good leadership, and Commanders should personally assure themselves that adequate procedures exist for identifying valid complaints and taking corrective action.

#### IV. EFFECTIVE DATE AND IMPLEMENTATION

This directive is effective immediately. Two (2) copies of implementing regulations shall be forwarded to the Assistant Secretary of Defense (Manpower and Reserve Affairs) within ninety (90) days.

/S/ Secretary of Defense"

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Constitutional and Statutory Provisions

DISTRIBUTION:

CG  
First USA (5500)  
Third USA (8000)  
Fourth USA (3800)  
Fifth USA (4400)  
Sixth USA (6500)  
MDW (60)  
(For co/det level)  
USAJFKCENMA (250)  
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USACMLCS, USWACS) (4 ea)

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CONSTITUTIONAL AND STATUTORY PROVISIONS RELEVANT TO  
HANDLING OF 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. § 1381 - - Enticing desertion.
- b. 18 U. S. C. § 2385 - - Advocating overthrow of the Government.
- c. 18 U. S. C. § 2387 - - Counselling insubordination, disloyalty, mutiny, or refusal of duty.
- d. 18 U. S. C. § 2388 - - Causing or attempting to cause insubordination.
- e. 50 U. S. C. App. § 462 - - Counselling evasion of the draft.

2. Applicable to Members of the Armed Forces

- a. 10 U. S. C. § 917 (Article 117, UCMJ) - - Provoking speech or gestures.
- b. 10 U. S. C. § 882 (Article 82, UCMJ) - - Soliciting desertion, mutiny, sedition, or misbehavior before the enemy.
- c. 10 U. S. C. § 904 (Article 104, UCMJ) - - Communication or corresponding with the enemy.
- d. 10 U. S. C. § 901 (Article 101, UCMJ) - - Betraying a countersign.
- e. 10 U. S. C. § 888 (Article 88, UCMJ) - - Contemptuous words by commissioned officers against certain officials.
- f. 10 U. S. C. § 889 (Article 89, UCMJ) - - Disrespect toward his superior commissioned officer.

INCLOSURE 1

- g. 10 U. S. C. § 891 (Article 91, UCMJ) -- Disrespect toward a warrant officer or noncommissioned officer in the execution of his office.
- h. 10 U. S. C. § 892 (Article 92, UCMJ) -- Failure to obey a lawful order or regulation.
- i. 10 U. S. C. § 934 (Article 134, UCMJ) -- Uttering disloyal statement, criminal libel, communicating a threat, and soliciting another to commit an offense.