

1 FEBRUARY 1998



Law

DISSIDENT AND PROTEST ACTIVITIES

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OPR: HQ USAF/JAG
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Supersedes AFI 51-903, 4 March 1994

Certified by: HQ USAF/JAG
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Pages: 4
Distribution: F

This instruction implements AFPD 51-9, *Civil Law for Individuals*, and Department of Defense Directive 1325.6, *Guidelines for Handling Dissident and Protest Activities Among Members of the Armed Forces*, October 1, 1996. It provides prohibitions and guidance regarding dissident and protest activities involving Air Force installations or Air Force members. It applies to all Air Force military personnel serving on active duty or active duty for training. Military members who violate the prohibitions contained in paragraphs 2., 5., 5.1., 7., and 7.2., are subject to disciplinary action under Article 92, or other applicable articles of the Uniform Code of Military Justice.

SUMMARY OF REVISIONS

This revision aligns the instruction with AFPD 51-9, and updates the instruction to implement DODD 1325.6, October 1, 1996. The revision contains minor editing changes for clarification. Major textual changes were made concerning prohibited activities paragraph 5.); new guidance on the functions of command (paragraph 5.2.); and, training requirements to educate members about prohibited activities (paragraph 6.). Punitive language was added to paragraphs 2., 5.1., 7., and 7.2., to comply with notice requirements. A | indicates revisions from the previous edition.

1. Authority and Responsibility of Commanders. Air Force commanders have the inherent authority and responsibility to take action to ensure the mission is performed and to maintain good order and discipline. This authority and responsibility includes placing lawful restriction on dissident and protest activities.

1.1. Air Force commanders must preserve the service member's right of expression, to the maximum extent possible, consistent with good order, discipline, and national security.

1.2. To properly balance these interests, commanders must exercise calm and prudent judgment and should consult with their staff judge advocates. In appropriate cases, commanders may find it advisable to confer with higher authority before initiating action to restrict manifestations of dissent.

1.3. AFI 31-209, *Air Force Resource Protection Program*, contains additional guidance.

2. Possession and Distribution of Printed Materials. Air Force members may not distribute or post any printed or written material, other than publications of an official government agency or base-regulated activity, within any Air Force installation without permission of the installation commander or that commander's designee. Members who violate this prohibition are subject to disciplinary action under Article 92 of the Uniform Code of Military Justice in addition to any other applicable violation of the Uniform Code of Military Justice or Federal law.

2.1. The member must provide a written request including a copy of the material and a proposed plan or method for distribution or posting.

2.2. The installation commander or authorized designee determines if a clear danger to the loyalty, discipline, or morale of members of the Armed Forces or interference with accomplishing the military mission would result from publication or distribution of the materials. If so, the commander or authorized designee shall prohibit the distribution or posting and notify SAF/PA.

2.2.1. Do not prohibit distribution or posting of publications on the sole ground that the material is critical of government policies or officials. See Article 88--Contempt Toward Officials, the Uniform Code of Military Justice, when publications are critical of officials.

2.2.2. This instruction will not be used to prohibit the distribution of publications or other materials through the US mail or the distribution of materials officially approved by the Air Force or Army and Air Force Exchange Service (AAFES) for distribution through official outlets, such as military libraries and exchanges.

2.3. Do not prohibit mere possession of materials unauthorized for distribution or posting, unless otherwise unlawful. These materials may be impounded if a member of the Armed Forces distributes or posts, or attempts to distribute or post them, within the installation. Return

impounded materials to the owners when they leave the installation, unless the materials are determined to be evidence of a crime.

3. Writing for Publications. Air Force members may not write for unofficial publications during duty hours. While unofficial publications, such as "underground newspapers," are not prohibited, they may not be produced using government or nonappropriated fund property or supplies on or off-duty. If such a publication contains language, the utterance of which is punishable by the Uniform Code of Military Justice or other Federal laws, those members involved in printing, publishing, or distributing such materials are subject to discipline for such infractions.

4. Off-limits Action. Action may be initiated under AFJI 31-213, *Armed Forces Disciplinary Control Boards and Off-Installation Liaison and Operations*, to place establishments "off limits" when, for example, activities taking place include counseling members of the Armed Forces to refuse to perform their duty or to desert, or involve acts with a significant adverse effect on health, welfare, or morale of military members.

5. 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 the effort to deprive individuals of their civil rights.

5.1. 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 organization that the commander concerned finds to be detrimental to good order, discipline, or mission accomplishment, is incompatible with military service and prohibited. Members who violate this prohibition are subject to disciplinary action under Article 92, in addition to any other appropriate articles of the Uniform Code of Military Justice.

5.1.1. Mere membership in the type of organization enumerated is not prohibited, however, membership must be considered in evaluating or assigning members (AFI 36-2701, *Social Actions Operating Procedures*; AFI 36-2403, *The Enlisted Evaluation System*; AFI 36-2402, *Officer Evaluation System*; and AFI 36-2706, *Military Equal Opportunity and Maltreatment Program*).

5.2. Commanders are authorized to use the full range of administrative procedures, including separation or appropriate disciplinary action against military personnel who actively participate in such groups.

5.3. It is a function of command to be vigilant about the existence of the type of activities enumerated above. Active use of investigative authority to include a prompt and fair complaint process, and the use of administrative powers, such as counseling, reprimands, orders, and performance evaluations should be used to deter such activities.

6. Training Policy on Prohibited Activities. The policy on prohibited activities shall be included in initial active duty training, pre-commissioning training, professional military education, commander training, and other appropriate Air Force programs.

7. Demonstrations and Similar Activities. Demonstrations or other activities within an Air Force installation, which could result in interference with or prevention of the orderly accomplishment of a mission of the installation or which present a clear danger to loyalty, discipline, or morale of members of the Armed Forces, are prohibited. Members who violate this prohibition are subject to disciplinary action under Article 92, in addition to any other appropriate articles of the Uniform Code of Military Justice.

7.1. It is a crime for any person to enter a military installation for any purpose prohibited by law or unlawful regulation, or for any person to enter or reenter an installation after having been barred by order of the installation commander (AFI 31-209; 18 U.S.C. 1382).

7.2. Air Force members are prohibited from participating in demonstrations when they are on duty, when they are in a foreign country, when they are in uniform, when their activities constitute a breach of law and order, or when violence is likely to result. Members who violate this provision are subject to disciplinary action under Article 92 of the Uniform Code of Military Justice.

8. Military Grievances. The right of Air Force members to complain and request redress of their grievances against actions of their commanders is protected by Article 138, UCMJ (AFI 51-904, *Complaints of Wrongs Under Article 138, Uniform Code of Military Justice*) and by the Inspector General Complaint

System (AFI 90-302). Military personnel may also petition or present a grievance to any member of Congress without fear of reprisal. An open door policy for complaints is a basic principle of good leadership. Commanders should ensure that adequate procedures exist locally for identifying complaints and taking necessary corrective actions.

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