

23 Jul 19

From: LCDR (b) (6), USN

To: Commander, Expeditionary Strike Group SEVEN

Subj: COMMAND INVESTIGATION TO SUPPLEMENT USS WASP INVESTIGATION
INTO AIRCREW PATCHES WORN DURING POTUS VISIT ON 28 MAY 19

Ref: (a) JAGINST 5800.7F, CH-1, Chapter II
(b) DODD 1344.10
(c) Memorandum for Chief Management Officer of the Department of Defense (DoD)
(d) Navy Uniform Regulation Section 6803 3.a.4.f (Flight Suit Insignia/Patches)
(e) Navy Uniform Regulation Section 6803 3.b.1.a (Flight Jackets)
(f) NAVADMIN 12/164
(g) ALNAV 16/055
(h) NAVADMIN 19/051

Encl: (1) Your ltr, of 11 Jul 19
(2) Initial Federal Elections Commission filing ICO Donald Trump of 21 June 19
(3) Screen shot of MAGA HATS at Trump Rally from bbc.com of 17 Jul 19
(4) LCDR (b) (6), USN, ltr 5830 of 12 Jun 19
(5) Screen shot of U.S. DoD Twitter Feed of 27 Sep 17
(6) Summary of Telephonic Interview of CDR Frank Loforti, USN, of 13 Jul 19
(7) Summary of Interview of LCDR (b) (6), USN, of 13 Jul 19
(8) Transcript of President Trump's Speech onboard USS WASP (LHD-1) of 28 May 19
(9) Stars and Stripes article concerning USAF MAGA hats of 27 Dec 18
(10) DVIDS Photo Capture of 25 Sep 17 and 28 Sep 17

PRELIMINARY STATEMENT

1. As directed by enclosure (1) and conducted in accordance with reference (a), enclosures (2) – (10) are hereby submitted.
2. This investigation addressed the following:
 - a. Whether the patch is question violated ref (b).
 - b. Whether previous or current HSC-25 Commanding Officers approval of said patch violated ref (b).
 - c. Whether previous or current HSC-25 Commanding Officers authorized, either officially or unofficially, the wearing of said patch
 - d. Whether the wearing of said patch was authorized for wear on 28 May 19
 - e. Whether previous or current HSC-25 Commanding Officers were aware of the requirements prescribed in ref (b) and how they determined the patch did not violate ref (b).
 - f. Whether the patch was prohibited from wear following the 28 May 19 visit and explanation

g. Whether the patches which were collected as described in Encl (3) have been returned to the Sailors in question and why this decision was made.

3. Prior to the current CO, CDR Frank Loforti, CDR William Eastham was the Commanding Officer, and before him, CAPT, then CDR, Edward Weiler. Neither officer was able to be reached for an interview.

4. During the course of my investigation, I consulted with LCDR (b) (6), USN, Staff Judge Advocate, Expeditionary Strike Group SEVEN.

FINDINGS OF FACT

1. Partisan political activities that are not explicitly prohibited by Reference (b) are governed by Section 4.1.5:

“Activities not expressly prohibited may be contrary to the spirit and intent of this Directive. Any activity that may be reasonably viewed as directly or indirectly associating the Department of Defense or the Department of Homeland Security (in the case of the Coast Guard) or any component of these Departments with a partisan political activity or is otherwise contrary to the spirit and intention of this Directive shall be avoided.” [Ref (b)]

2. “Partisan political activity” is defined as “[a]ctivity supporting or relating to candidates representing, or issues specifically identified with, national or State political parties and associated or ancillary organizations or clubs.” [Ref (b)]

3. Ref (b) applies a reasonable person standard, and does not assign a final authority to determine if an action is a partisan political activity. [Ref (b)]

4. President Trump officially started his 2020 campaign for re-election on 21 June 19. [Encl (2)]

5. The Trump campaign slogan “Make America Great Again,” is most well-known for its appearance on red hats with white letters worn by then candidate-Trump and his followers. [Encl (3)]

6. After President Trump took over the Presidency, the red “Make America Great Again” hats continue to be worn by Trump supporters at rallies and events. [Encl (3)]

7. On May 28, 2019, President Trump gave an official speech onboard USS WASP, and several aircrew members of the HSC-25 detachment who attended the speech attracted national attention by wearing a patch that read “Make Aircrew Great Again,” having the patches autographed by President Trump, having their picture taken displaying the patch on their flight suits, and having President Trump hold the patch while having his picture taken. [Encl (4)]

8. The “Make Aircrew Great Again” patches have existed since at least 27 Sep 17. They were created by a vender and aircrew personnel in squadrons other than HSC-25 have been photographed by the media wearing the patch. [Encl (4, 5, 10)]

9. The patch is the color red, in the shape of a circle, and the words "Make Aircrew Great Again" appear around the outer edge of the circular patch in white lettering. A caricature in the likeness of President Trump appears in the middle. [Encl (4, 5)]
10. A USS WASP (LHD-1) All Hands Email dated 22 May 19 stated President Trump was attending the event as the Commander in Chief and not as a political candidate. [Encl (4)]
11. CDR Frank Loforti is the current Commanding Officer of HSC-25 and took command as of 5 Oct 18. [Encl (6)]
12. When he first saw the patch, the conditions of ref (b) did cross CDR Loforti's mind, but he did not interpret the patch as a political statement, either in support or related to the Trump campaign or otherwise. [Encl (6)]
13. CDR Loforti did not specifically and expressly granted permission for wear of the patches, but admits that by allowing aircrew members to wear the patch in his presence, his approval was implicit. [Encl (6)]
14. CDR Loforti is aware, and was aware prior to the 28 May 19 event, of the requirements prescribed in ref (b), but did not revisit whether the patch continued to meet the conditions of ref (b) once he heard about the planned 28 May 19 event. [Encl (6)]
15. CDR Loforti has prohibited the wear of the patches in light of the attention they received after the 28 May 19 event, in order to send an appropriate message to the public. [Encl (6)]
16. LCDR (b) (6) checked into HSC-25 on 30 Oct 18. He is the DET OIC onboard USS WASP (LHD 1) for the current deployment. [Encl (3)]
17. LCDR (b) (6) took temporary possession of the patches after the 28 May 19 event to hold until the conclusion of the investigation. [Encl (6), (7)]
18. At least one aircrew member appeared in a picture on the official Department of Defense social media page wearing the patch in 2017. [Encl (5), (10)]
19. USAF personnel, who were seen holding official merchandise from the 2016 Trump Presidential campaign, were investigated and found to not have violated ref (b). [Encl (9)]
20. "Weapons school patch (if authorized) shall be worn centered on the shoulder arch, approximately 1 inch below the seam." [Ref (d)]
21. "Patches may be affixed to the CWU-36/P Summer weight jacket either by hook and pile (Velcro) or directly to the jacket at the discretion of the individual, subject to commanding officer guidance. Patches shall not be affixed to the Multi-Climate Shell jacket. In all cases, patches shall be in good taste and will be reflective of Naval aviation professionalism." [Ref (e)]

22. There is no standing guidance from HSC Wing Pacific or HSC-25 for the wearing of patches on flight suits. [Encl (4)]

OPINION: THE PATCH DOES NOT VIOLATE REF (B)

1. The patch itself did not violate reference (b), however, the actions by the aircrew members, in bringing the patches to the event, having them autographed and taking pictures with them, gave the appearance of partisan political activity in violation of reference (b). [FF (1)-(10), (18), (19)]

2. This case presents two activities to analyze: whether wearing the patch on the uniform constituted prohibited partisan political activity, and whether the actions taken by the aircrew members wearing the patch on 28 May 19 constituted prohibited partisan political activity. [FF (1)-(10), (18), (19)]

3. The patch is not a piece of campaign memorabilia, and it does not replicate campaign memorabilia. It does however bear a striking resemblance to the 2016 Trump Campaign “Make America Great Again” hats, in background color, color of the lettering, and the play on words of the slogan. The appearance of the caricature in the likeness of President Trump provides an additional connection. It is unclear however, whether a reasonable person would view the patch as a tribute to President Trump. It is also unclear whether a reasonable person would view the play on words “Make Aircrew Great Again” as a tribute to President Trump’s campaign slogan. In the view of a reasonable person, it looks like the caricature of President Trump is endorsing the slogan “Make Aircrew Great Again,” which is neither partisan nor political – just in fun. Taking the whole patch together, it is not difficult to conclude that this patch is related to Trump’s 2016 campaign slogan, however, it would be difficult to conclude that it is in support of that campaign or any future campaign. [FF (1)-(10), (18), (19)]

4. The patch was worn in 2017 by an HSC-22 aircrewman in Dominica who was assisting in the humanitarian assistance following Hurricane Maria. That picture appeared on official DoD social media, and the patch did not draw any national attention. That event did not involve any interaction between the aircrew member and President Trump, and the focus of that event was not political. [FF (1)-(10), (18), (19)]

5. The patch took on the appearance of partisan political activity, directly or indirectly, associating the DoD with a partisan political activity when aircrew members of HSC-25 wore it on their flight suits, obtained autographs, and posed with President Trump for pictures. Images of the President’s apparent approval of the patch flooded the media and any ambiguity regarding the intent behind the patch was replaced with a message that members of the military supported President Trump by wearing campaign-like memorabilia on their uniforms. [FF (1)-(10), (18), (19)]

6. Although the 28 May 19 event was an official event in his capacity as President of the United States, it has become increasingly difficult for the public to discern official events from campaign events. Trump supporters appear at both types of events, wearing and carrying campaign memorabilia, and President Trump is known to sign autographs on these pieces of campaign memorabilia even at official functions. Since President Trump had already announced

his bid for re-election prior to the 28 May 19 speech on USS WASP, when the public saw HSC-25 Sailors getting autographs and taking pictures with the President wearing patches that looked like campaign memorabilia, it had the appearance that the Sailors were taking part in partisan political activity. Their activity, however, once parsed out from the appearance, did not violate the spirit and intent of reference (b). Now that the investigation is complete, in the view of a reasonable person, neither the patch nor the actions taken by the Sailors wearing the patches were supporting or relating to President Trump's 2020 campaign. Furthermore, neither the patches nor the Sailors' action associate the Department of Defense, either directly or indirectly, with President Trump's 2016 or 2020 presidential campaigns. [FF (1)-(10), (18), (19)]

OPINION: THE CO'S APPROVAL OF THE PATCH DOES NOT VIOLATE REF (B)

7. The prior and current HSC-25 Commanding Officers did not violate the spirit and intent of the directive by approving, either implicitly or explicitly, the "Make Aircrew Great Again" patch because although the patch is a play on words of the Trump campaign's 2016 slogan, the public would not reasonably view the patch as supporting President Trump, or either directly or indirectly associating the DoD with the Trump campaign, the Republican Party, or other partisan activity. [FF (12)-(14)]

8. The prior and current HSC-25 Commanding Officers did not, however, exercise good judgment in allowing Aircrew to wear unofficial patches on their flight suits in general. Given the demographics in the military and the association of the "Make America Great Again" slogan, the leadership of any squadron permitting aircrew members to wear the "Make Aircrew Great Again" should have been continuously re-evaluating the appropriateness of this patch for wear on the uniform. Tacit approval of these types of messages can ostracize members within our ranks and negatively impact morale and retention. [FF (12)-(14)]

OPINION: THE PATCH WAS STILL APPROVED FOR WEAR ON 28 MAY 19

9. Although flight suits were not the authorized Uniform of the Day for President Trump's 28 May 19 speech, the patch itself was still tacitly approved for wear on 28 May 19. Up until President Trump's speech, HSC-25 leaders did not consider the patch contrary to the spirit and intent of reference (b). [FF (12)-(14)]

OPINION: HSC-25 LEADERS WERE AWARE OF REF (B) BUT DID NOT EVALUATE THE PATCH IN LIGHT OF REF (B)

10. CDR Loforti was aware of reference (b), but had not viewed the patch as political activity, much less partisan political activity that would violate reference (b). [FF (12)-(14)]

OPINION: FURTHER WEAR OF THE PATCH PROHIBITED

11. CDR Loforti has determined that the patch will no longer be authorized for wear because of the appearance that it violates reference (b), and because it does not reflect professionally on Naval aviation. [FF (15)]

RECOMMENDATIONS

1. I recommend the HSC-25 leaders be counseled on their responsibility to ensure compliance with reference (b).
2. I recommend the patches be returned to the Sailors at the conclusion of this investigation, with appropriate counseling that they are no longer approved for wear on the flight suit.
3. I recommend the Navy promulgate Uniform regulations to prohibit the wear of unofficial patches on flight suits. This rule should also be reflected in any and all other applicable authorities for the wearing of patches on flight suits. Commanding officers should be given discretion to determine if a patch is unofficial and if it will be allowed to be worn on flight jackets, in keeping with reference (e), that patches reflect well on Naval aviation professionalism and are in good taste.

(b) (6)