



Peace and Justice Commission

CONSENT CALENDAR  
January 29, 2008

To: Honorable Mayor and Members of the City Council

From: Peace and Justice Commission

Submitted by: Steve Freedkin, Chairperson

Subject: Marine Recruiting Office in Berkeley

RECOMMENDATION

(1) Direct the City Attorney to investigate and report back to Council within 60 days on City options for enforcing Chapter 13.28 of the Berkeley Municipal Code, prohibiting discrimination on the basis of sexual orientation, with respect to military recruiting offices in Berkeley; (2) direct the City Manager to send letters to the Marine Corps Recruiting Station at 64 Shattuck Avenue and to General James T. Conway, Commandant of the United States Marine Corps, advising them that the Marine recruiting office is not welcome in our city, and if recruiters choose to stay, they do so as uninvited and unwelcome intruders; and (3) encourage all people to avoid cooperation with the Marine Corps recruiting station, and applaud residents and organizations such as Code Pink, that may volunteer to impede, passively or actively, by nonviolent means, the work of any military recruiting office located in the City of Berkeley.

FISCAL IMPACTS OF RECOMMENDATION

Staff time to research the City's options for enforcing Chapter 13.28 of the Berkeley Municipal Code, discrimination on the basis of sexual orientation, with respect to military recruiting offices in Berkeley.

CURRENT SITUATION AND ITS EFFECT

The United States has a history of launching illegal, immoral and unprovoked wars of aggression and the Bush Administration launched the most recent of those wars in Iraq and is threatening the possibility of war in Iran. These wars have produced catastrophic loss of human life, both civilian and military, as well as physically maiming and deforming and psychologically destroying countless numbers of civilians and military personnel.

The United States Marine Corps is being used as one of the means of perpetrating and prolonging illegal, unconstitutional and unnecessary wars of the United States. Military recruiters are sales people known to lie to and seduce minors and young adults into contracting themselves into military service with false promises regarding jobs, job

training, education and other benefits. Many enlisted persons never see the benefits they are promised and find out they are not eligible for the educational benefits due to loopholes and they did not receive the training promised or it did not qualify them for jobs outside the military.

The United States military discriminates by refusing to hire gays, lesbians, or bisexuals. By ordinance (BMC § 13.28.030; Ord. 5106-NS § 1 (part), 1978), the City of Berkeley prohibits such discrimination; requires employers to post a notice that discrimination on the basis of sexual orientation is prohibited by law; and provides for a fine of up to \$50 per offense for failure to do so.

### BACKGROUND

At the meeting of January 7, 2008, the Peace and Justice Commission approved the following motion: **M/S/C** (*Meola/sorgen*) that the Council of the City of Berkeley approve the following recommendation:

WHEREAS, the Peace & Justice Commission advises the City Council on all matters relating to the City of Berkeley's role in issues of peace and social justice [Berkeley Municipal Code (BMC) Chapter 369.070]; and

WHEREAS, the United States has a history of launching illegal, immoral and unprovoked wars of aggression and the Bush Administration launched the most recent of those wars in Iraq and is threatening the possibility of war in Iran; and

WHEREAS, the United States armed forces, including the Marine Corps, explicitly refuse to hire openly non-heterosexual individuals, and will discharge an individual in their employ "who engages in, attempts to engage in, has a propensity to engage in, or intends to engage in homosexual acts" [10 USC § 654(b)(2), "Policy Concerning Homosexuality in the Armed Forces"]; and

WHEREAS, Berkeley Municipal Code § 13.28, "Discrimination on the Basis of Sexual Orientation," provides that "it shall be an unlawful employment practice for an employer to fail or refuse to hire, or to discharge any individual, or otherwise to discriminate against any individual with respect to compensation, terms, conditions or privileges of employment on the basis of such individual's sexual orientation" [BMC § 13.28(A)(1)], and applies the same standard to employment agencies and job-training programs [BMC § 13.28(A)(3), § 13.28(A)(5)]; and

WHEREAS, these wars have produced catastrophic loss of human life, both civilian and military, as well as physically maiming and deforming and psychologically destroying countless numbers of civilians and military personnel; and

WHEREAS, the people of the City of Berkeley have long voiced their stand for peace and against unnecessary wars; and support people following their consciences to do what is morally and ethically right to resist illegitimate authority; and

WHEREAS, the United States Marine Corps is being used as one of the means of perpetrating and prolonging illegal, unconstitutional and unnecessary wars of the United States; and

WHEREAS, military recruiters are sales people known to lie to and seduce minors and young adults into contracting themselves into military service with false promises regarding jobs, job training, education and other benefits; and

WHEREAS, many enlisted persons never see the benefits they are promised and find out they are not eligible for the educational benefits due to loopholes and they did not receive the training promised or it did not qualify them for jobs outside the military; and

WHEREAS, the people of Berkeley should want the Marine Corps present near Berkeley High School, Berkeley City College, and University of California no more than they would want other violent influences downtown.

NOW THEREFORE, BE IT RESOLVED that the Peace & Justice Commission recommends that the Council of the City of Berkeley direct the City Attorney to investigate and report back to Council within 60 days on City options for enforcing Chapter 13.28 of the Berkeley Municipal Code, prohibiting discrimination on the basis of sexual orientation, with respect to military recruiting offices in Berkeley.

BE IT FURTHER RESOLVED, that the Council of the City of Berkeley direct the City Manager to send letters to the Marine Corps Recruiting Station at 64 Shattuck Avenue and to General James T. Conway, Commandant of the United States Marine Corps, advising them that the Marine recruiting office is not welcome in our city, and if recruiters choose to stay, they do so as uninvited and unwelcome intruders.

BE IT FURTHER RESOLVED, that the Council of the City of Berkeley encourage all people to avoid cooperation with the Marine Corps recruiting station, and applaud residents and organizations such as Code Pink, that may volunteer to impede, passively or actively, by nonviolent means, the work of any military recruiting office located in the City of Berkeley.

**Ayes:** Unanimous; **Absent:** Brody, Cohen, Litman, Seaton, Sherman.

CITY MANAGER

The City Manager takes no position on the recommendations of the Commission. However, it is unlikely that the City has the ability to enforce Chapter 13.28 against the United States military.

CONTACT PERSON

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