

Ask the lawyer

Lt. Daphne L. Putzier, JAGC, USNR, is the Staff Judge Advocate for Naval Construction Battalion Center, Gulfport, and 20th Naval Construction Regiment. If you have a question that might benefit others, please write the Staff Judge Advocate, Code 16, CBC Gulfport, MS 39501-5000, or call 871-2626.

What is the current Navy policy on fraternization?

In keeping with Navy tradition, the rule has gone from clear to muddy. The old rule drew a firm line preventing any "unduly familiar" relationships between an officer and an enlisted member and those between members in the same chain of command, regardless of uniform color.

The new rule has two parts. First, it prevents any relationships between an officer and an enlisted member. At least that part is clear. Second, it forbids any relationship between officer members or between enlisted members if the relationship is

prejudicial to good order and discipline.

I am sure you are wondering who's going to decide when a relationship satisfies this test. Sounds similar to the question, "Who's going to decide what behavior is in the yellow or red zone of sexual harassment." You'll be happy to know that the fraternization policy does not give the deciding vote to the reasonable man. The rule does, however, give some examples.

Prejudice to good order and discipline may result under circumstances which: Call into question the senior's objectivity; result in actual or apparent preferential treatment; undermine the authority of a senior; compromise the chain of command.

Now, I thought for a while and the only type relationship I could come up with which fit the examples was a relationship within the chain of command. So I called the Navy Justice School, where rules are made and inter-

preted; the only type they could come up with was one within the chain of command. But, here on this base, UT1 Steve Hinds, 20th NCR career counselor, came up with some good cases. He said, "What about a relationship with your PRT coordinator?" He or she is not in your chain of command, but such a relationship could result in actual or apparent preferential treatment. Check those PRT scores. The same problem could arise by dating the command DAPA. What DUI conviction? Basically, look at the relationship and see if a party could gain something from it. If so, it could violate the new policy.

In summary, the new rule gives the commanding officer discretion to protect the integrity of the command by examining individual relationships for the concerns which caused the creation of the rule. Those concerns are set forth in the examples of prejudice discussed in the regulation.

Lawyer, from pg. 2

violation of Article 134 (disorderly conduct). Conduct is considered disorderly if it affects the peace and quite of someone who witnesses it and may provoke that person to resentment. One sailor was found guilty of disorderly conduct at a court-martial for a Skinhead tattoo on

his head.

Lastly, the master chief is right! A tattoo of a naked lady would fall into the Yellow Zone of sexual harassment just like your Playboy calendar. If this tattoo offends someone in your work place then it qualifies as sexual harassment. If you have such a tattoo, how about adding

a flannel nightgown to the picture.

The artwork you display must be neat and professional as required by the uniform regulations and it must not violate other Navy regulations by its content. If you are concerned about a particular tattoo, feel free to call me to discuss it.

Ask the lawyer

Lt. Daphne L. Putzier, JAGC, USNR, is the Staff Judge Advocate for Naval Construction Battalion Center, Gulfport, and 20th Naval Construction Regiment. If you have a question that might benefit others, please write the Staff Judge Advocate, Code 16, CBC Gulfport, MS 39501-5001, or call 871-2626.

Question: What are the rules and regulations for Navy personnel, male and female, officers and enlisted, in regards to tattoos? And where can those rules/regulations be found?

Answer: I have been curious about this issue for a while, so I was glad to have a reason to look into it. I started the search with the U.S. Navy uniform regulations. The word "tattoo" is not anywhere in the entire manual. I then turned to CNET Inst. 5400.2B which addresses area regulations, including local uniform rules — nothing. Next, I turned to the index of Navy Instructions — nothing. Feeling a little incompetent, I called a lieutenant commander JAG type for advice. He supported my re-

search; he does not believe specific guidance exists. He explained that an obscene tattoo would probably violate the general uniform regulations. He also suggested I call a master chief. So, following his advice, I went to see a respected master chief. He suggested that a naked lady tattoo could be sexual harassment, and maybe a rebel flag would be against the Navy's EEO program. He also referred me to medical due to the risk of infection from tattoos. So, following his advice, I contacted Branch Medical. An esteemed member of that staff informed me that there was nothing in medical directives against tattoos; however, he referred me to Navy regulations. Hence I am back where I started.

The answer is: There are not specific directives governing tattoos. However, the subject matter of a particular tattoo might violate some rule or regulation. Look at the general language of the uniform regulations. Chapter one states that "Naval personnel must present

a proud and professional appearance that will reflect positively on the individual, the Navy and the United States." Enforcement of these regulations is left in the hands of the command. One could easily argue that a neat tattoo of an eagle on your arm expresses pride in the Navy. While a tattoo across your forehead obscenely derogatory to the Navy is clearly unprofessional.

In addition, certain tattoos might violate punitive articles of the Uniform Code of Military Justice (UCMJ). The above discussed tattoo might be considered a violation of Article 134 (Disloyal statements). Disloyal statements are those communicated to another person with the intent to promote disloyalty or disaffection toward the United States. The words here would be those written on your body rather than verbalized and they can clearly display disloyalty.

A grotesque tattoo of a murder scene might be considered a

See Lawyer, pg. 3

Your comments and opinions are welcome, and will be printed on a space-available basis. Address your comments to: Editor, Seabee Center Courier, Public Affairs Office. The opinions expressed are not necessarily that of the Department of Defense, the Navy or the command. Names will be withheld upon request, but all correspondence must be signed.