



Recent Changes to Department of Navy Policy

Background

This Practice Advisory provides a brief summary of recent changes to Department of Navy policies effecting military justice practice within the Marine Corps. These policy changes are the result of two recent events. First, on August 26, 2019, the Judge Advocate General revised Section 0128 of the Manual of the Judge Advocate General to capture and document preferences of victims of sex-related offenses. Second, the Agriculture Improvement Act of 2018 deregulated the production hemp containing up to 0.3% tetrahydrocannabinol (THC). This has resulted in a sudden increase in the availability of hemp products. New Department of the Navy policy prohibits the use of hemp products regardless of the law applicable to civilians.

ALNAV 062/19 Revision of the Manual of the Judge Advocate General

The DoD Office of the Inspector General Report, “Audit of DoD Efforts to Consult with Victims of Sexual Assault Committed by Military Personnel in the United States Regarding the Victim’s Preference for Prosecution,” recommended the military take additional steps to document compliance with the requirement to solicit a victim’s preference for prosecution. Per the Secretary of the Navy’s direction, JAGMAN sec. 0128 has been revised to include standard procedures for obtaining and documenting a victim’s preference for jurisdiction in cases involving sex-related offenses. Notably, the JAGMAN requires the trial counsel to use a standard Victim Preference Letter found in Appendix A-1-q. The JAGMAN is available at <https://www.secnav.navy.mil/doni/JagInstructions.aspx>

ALNAV 057/19 Prohibition on the use of Hemp Products

As of 7 August 2019, the knowing use of products made or derived from hemp (as defined in 7 U.S.C. § 1639o), including cannabidiol (CBD), is prohibited. The prohibition extends to all hemp products meant for consumption, regardless of the claimed or actual concentration of THC in the product. Use is prohibited regardless of whether the product may be lawfully bought, sold, or used under the law applicable to civilians. Use means to inject, ingest, inhale, or otherwise introduce into the human body, including through the application of oils or transdermal patches designed to penetrate the skin. The ingestion, consumption, or application of Food and Drug Administration approved cannabinoid remedies for which a Service Member maintains a valid prescription is not prohibited. A prescription is valid if issued by the Service Member’s assigned Department of Defense medical service provider or a civilian provider to whose care the Service Member was referred or directed. Non-ingestible hemp products such as lotion, shampoo, and clothing may still be utilized. The mere possession of hemp is not prohibited. Hemp is limited to those products that contains less than 0.3% THC on a dry weight basis. The possession of a product containing greater than 0.3% THC may be treated as a possession of an unlawful controlled substance and prosecuted as a violation of Article 112a, UCMJ. Violations of ALNAV 057/19 for use of hemp may be prosecuted as violations of Article 92, UCMJ, or result in mandatory administrative processing. See: <https://www.public.navy.mil/bupers-npc/reference/messages/Documents/ALNAVS/ALN2019/ALN19057.txt>

Points of Contact

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