



DEPARTMENT OF THE NAVY
OFFICE OF THE SECRETARY
1000 NAVY PENTAGON
WASHINGTON, DC 20350-1000

SECNAVINST 5430.25E
OGC
27 Dec 2005

SECNAV INSTRUCTION 5430.25E

From: Secretary of the Navy

Subj: THE GENERAL COUNSEL OF THE NAVY; ASSIGNMENT OF
RESPONSIBILITIES

Ref: (a) SECNAVINST 5430.7N

1. Purpose. Title 10 of U.S. Code, Section 5019, establishes the position of General Counsel, Department of the Navy (DON), and provides that the General Counsel shall have such duties as are prescribed by the Secretary of the Navy (SECNAV). This instruction prescribes and defines in part those responsibilities and duties.

2. Cancellation. SECNAVINST 5430.25D.

3. Responsibilities of the General Counsel

a. The General Counsel is the principal legal advisor to SECNAV. As the principal legal advisor he provides legal advice and counsel to the SECNAV, Under Secretary of the Navy (UNSECNAV), the Civilian Executive Assistants and the Staff Assistants (other than the Judge Advocate General) and their respective staffs (See reference (a)) on any matter or issue that they may direct to him. The General Counsel may, in addition, volunteer his advice and counsel to these same officials on any matter that he determines should be brought to their attention.

b. The General Counsel shall perform such other duties as the Secretary may direct.

4. Chief Legal Officer of the Department of the Navy

a. The General Counsel of the Navy is the chief legal officer of the DON and is the head of the Office of the General Counsel (OGC). The legal opinions issued by the

General Counsel are the controlling legal opinions within the DON.

b. The responsibilities assigned to the General Counsel by this instruction are not intended to infringe in any way upon or interfere with the responsibilities of the Judge Advocate General or the Staff Judge Advocate to the Commandant for those matters as may be assigned to the Judge Advocate General or Staff Judge Advocate to the Commandant by statute or by SECNAV, or determinations required by law to be made by the Judge Advocate General or the Staff Judge Advocate to the Commandant.

c. The General Counsel's duties include:

(1) Providing or supervising legal advice and services to SECNAV, the Civilian Executive Assistants and the Staff Assistants (other than the Judge Advocate General) on all matters affecting DON;

(2) Providing or supervising the provision of legal services in subordinate commands, organizations, and activities in the areas of acquisition, business and commercial law, real and personal property law, intellectual property law, fiscal law, civilian personnel and labor law, environmental law, standards of conduct and ethics, intelligence law, and such other legal services as may be required to support the mission of the Navy and the Marine Corps, or the discharge of the General Counsel's responsibilities and duties as described in this instruction;

(3) In coordination with the Judge Advocate General of the Navy, ensuring that all intelligence activities, intelligence-related activities, special access programs, sensitive activities and special activities within the DON are conducted in a legal manner, and referring reports of questionable intelligence activities conducted by or on behalf of DON components to the Naval Inspector General, Deputy Naval Inspector General for Marine Corps matters/IGMC or Director, Naval Criminal Investigative Service, as appropriate, for investigation. The General Counsel shall discharge these responsibilities in part as a principal member of the Senior Review Board (SRB) and the Special Access Program Oversight Committee (SAPOC), and by designating his deputy as a member of the Special Programs Review Group (SPRG) and the Sensitive Activities Review Board (SARB);

(4) Conducting litigation involving the areas enumerated above and oversight of all litigation affecting the DON.

(5) In coordination with the Judge Advocate General of the Navy, providing or supervising legal advice and services with respect to legislation.

(6) The General Counsel is also responsible for:

(a) Supervising attorneys within the OGC, including the authority to appoint, assign, promote, evaluate the performance of, and remove attorneys in the OGC;

(b) Training and professional development opportunities for attorneys within the OGC;

(c) Exercising position management authority;

(d) Serving as the qualifying authority for DON career civilian attorneys.

5. Program Responsibilities. The General Counsel of the Navy has the following program responsibilities:

a. Serving as the Designated Agency Ethics Official of the DON;

b. Managing the DON Acquisition Integrity Program, including responsibility for the suspension and debarment of contractors;

c. Managing the DON Alternative Dispute Resolution Program;

d. Assisting the UNSECNAV in the oversight of NCIS;

e. Assisting the UNSECNAV in the oversight of all DON intelligence activities (including foreign intelligence and counterintelligence), intelligence related activities, special access programs, sensitive activities, and special activities; and

f. Assisting the UNSECNAV in the oversight of all DON law enforcement, security and related investigative activities.

6. Liaison with Judge Advocate General

a. The General Counsel will maintain a close working relationship with the Judge Advocate General and the Staff Judge Advocate to the Commandant on all matters of common interest. He will be kept informed by the Judge Advocate General of the status of all litigation under the latter's cognizance, including all proposed DON appeal recommendations to the Department of Justice.

b. Nothing in this instruction is intended to limit in any way the ability of the Judge Advocate General or the Staff Judge Advocate to the Commandant to provide and volunteer their advice to the SECNAV on any matter that they determine should be brought to the SECNAV's attention.

7. Organizational Structure. The General Counsel of the Navy is the head of OGC. The OGC comprises the following:

a. The Central Office is that portion of the organization that is organizationally within the Office of the Secretary of the Navy. The Central Office is comprised of the General Counsel, the Deputy General Counsels, the Associate General Counsel (Management), the Associate General Counsel (Litigation), the Assistant General Counsel (Ethics/FOIA), the Assistant General Counsel (Acquisition Integrity), the Assistant General Counsel (Alternative Dispute Resolution) and the attorneys and staff assigned to those offices;

b. The Assistant General Counsels, who provide advice and legal services to the Assistant Secretaries of the Navy;

c. Counsels who provide advice and legal services to the Staff Assistants (other than the Judge Advocate General) to the SECNAV, and Counsel, Naval Criminal Investigative Service;

d. Counsels to the Naval Sea Systems Command, the Naval Air Systems Command, the Naval Supply Systems Command, the Space and Warfare Systems Command and the Naval Facilities Engineering Command;

e. Counsel to the Commandant of the Marine Corps;

f. Counsel to Commander, Naval Forces Europe-Commander, US Sixth Fleet, and Commander, Pacific Fleet; and

g. Counsel to Commander, Naval Installations;

h. Counsel and Deputy Counsel (Intellectual Property) to the Chief of Naval Research. The Deputy Counsel (Intellectual Property) is also Patent Counsel of the Navy;

i. Counsel to Commander, Military Sealift Command; and

j. Counsels to Navy and Marine Corps activities and such branch or regional offices that have been or may hereafter be established when it is mutually agreed between the General Counsel and the head of that activity that such legal services are required.

8. Organization of the OGC; Appointment and Supervision of OGC Attorneys

a. For the Marine Corps and each Navy organizational activity supported by the OGC, there shall be an Office of Counsel responsible for providing all of the legal services that the General Counsel provides in accordance with this Instruction. Each such Office of Counsel shall be headed by an Assistant General Counsel or Counsel, who shall be selected by the General Counsel with the concurrence of the Commandant of the Marine Corps, Civilian Executive Assistant or Staff Assistant, or the head of the Navy activity concerned.

b. In addition to reporting directly to the General Counsel, and via the General Counsel to the SECNAV, such counsel shall report directly to the Commandant of the Marine Corps, Civilian Executive Assistant or Staff Assistant, or the head of such Navy activity, as appropriate.

c. The General Counsel shall prepare, or assign responsibility for the preparation of, performance rating reports for all OGC attorneys and shall review all such reports. In preparing such performance reports, the General Counsel or his designee will seek input from the client organization to which the attorney is assigned, where applicable.

d. All personnel actions involving OGC attorneys, such as changes in grade, transfers or terminations of services, and the establishment, revision or elimination of position descriptions, shall be subject to the approval of the General Counsel.

e. Budgeting, billets, personnel services and other administrative support for OGC personnel shall be the responsibility of the command/activity to which those personnel are assigned.

9. Uniformity and Supervision. The legal services to be rendered by all OGC attorneys, both departmental and in the field, shall be coordinated and supervised by the General Counsel. The General Counsel shall also be responsible for maintaining uniformity in the application of legal principles with regard to matters for which the General Counsel is assigned responsibility by this instruction.

10. Acquisition of Outside Legal Services. Except when obtained pursuant to 10 U.S.C. § 1037 and SECNAVINST 5820.4G, legal services within or relating to the DON shall not be obtained by any source outside the DON without the concurrence and the assistance, as appropriate, of the General Counsel.

Dionel M. Aviles
Under Secretary of the Navy

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