



Department of Defense

INSTRUCTION

NUMBER 1341.08
August 25, 2006

USD(I)

SUBJECT: Payment of Death Gratuity to Survivors of Certain DoD Personnel Assigned to Intelligence Duties

- References:
- (a) DoD Directive 1341.8, "Payment of Death Gratuity to Survivors of Certain DoD Personnel Assigned to Intelligence Duties," March 31, 1986 (hereby canceled)
 - (b) Acting Deputy Secretary of Defense Memorandum, "DoD Directives Review - Phase II," July 13, 2005
 - (c) Section 1489 of title 10, United States Code
 - (d) Sections 8101 and 8133 of title 5, United States Code
 - (e) through (g), see Enclosure 1

1. REISSUANCE AND PURPOSE

This Instruction:

- 1.1. Reissues Reference (a) as a DoD Instruction according to the guidance in Reference (b).
- 1.2. Updates policies and provides procedures to:
 - 1.2.1. Implement Reference (c).

- 1.2.2. Assign responsibilities to govern the payment of death gratuities to survivors of certain DoD personnel assigned to intelligence duties.

2. APPLICABILITY

This Instruction applies to the Office of the Secretary of Defense (OSD), the Military Departments, the Chairman of the Joint Chiefs of Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities within the Department of Defense (hereafter referred to collectively as the "DoD Components").

3. DEFINITIONS

3.1. In addition to the terms defined below, other terms used in this Instruction are defined in Sections 8101 and 8133 of 5 United States Code (U.S.C.) (Reference (d)).

3.2. Clandestine Intelligence Activities. As used in this Instruction, Clandestine Intelligence Activities collect foreign intelligence or counterintelligence by technical means or through personal contacts by persons whose affiliation with the U.S. Government or with a DoD intelligence component is classified or has otherwise not been publicly acknowledged.

3.3. Substantial Element of Risk. As used in this Instruction, the risk of bodily harm or physical danger in the particular context of the given intelligence activity.

4. POLICY

It is DoD policy that:

4.1. A gratuity shall be paid to the dependents of any member of the Armed Forces or of any employee of the Department of Defense assigned to duty with a DoD intelligence component, whose identity is disguised or concealed; or who is within a category of individuals determined by the Secretary of Defense to be engaged in clandestine intelligence activities; and who, after October 14, 1980, dies because of injuries (excluding disease) sustained outside the United States and whose death resulted from hostile or terrorist activities, or occurred in connection with an intelligence activity having a substantial element of risk.

4.2. The head of the organization to which the individual is assigned shall make a preliminary assessment as to potential eligibility and to initiate the necessary application if an Armed Forces member or civilian employee of the organization has been killed under circumstances the organization head considers should warrant gratuity payment. Procedures for submission and handling of such application appear in Enclosure 2. It is not possible to identify in advance among the wide variety of intelligence organizations in the Department of Defense which specific assignments or categories of individuals would come within the provisions of Reference (c).

5. RESPONSIBILITIES

5.1. The Under Secretary of Defense for Intelligence shall serve as the principal staff advisor and assistant to the Secretary of Defense for implementation of this Instruction and shall, as required or requested, provide guidance to the Heads of DoD Components.

5.2. The General Counsel of the Department of Defense shall provide such legal assistance as may be required to implement the terms of this Instruction.

6. PROCEDURAL GUIDANCE

6.1. Any payment authorized under Reference (c) shall be:

6.1.1. Equal to the annual basic pay or salary of the member or employee concerned at the time of death.

6.1.2. Considered a gift and shall substitute as payment of any lesser death gratuity authorized by law when such payment shall be in addition to pension, health insurance, or other death-related benefit.

6.1.3. Made, if the deceased is a DoD civilian employee, only if the survivor entitled to payment under this Instruction is also entitled to elect monthly compensation under Reference (d) because the death resulted from an injury (excluding disease) sustained in the performance of duty regardless as to whether such survivor elects to waive compensation under Reference (d).

6.1.4. Made only to the following categories of surviving dependents in the order listed: first, to the surviving spouse; second, to the child or children in equal shares if there is no surviving spouse; and third, to the dependent parent(s) in equal shares if there is no surviving spouse or child.

6.1.5. Made according to the procedures set forth in Enclosure 2.

6.2. The automatic death gratuity for deceased military members, as provided in the Missing Persons Act (Sections 5561-5568 of 5 U.S.C. and Sections 551-558 of 37 U.S.C.) (Reference (e)) shall continue to be paid under existing procedures, even though an application for payment of the death gratuity under Reference (c) and this Instruction has been or is expected to be submitted by the Head of the DoD Component to which the deceased was assigned. If the Head of the DoD Component determines that a survivor is entitled to the death gratuity authorized by Reference (c), this payment shall be reduced by the amount necessary to compensate for any earlier payments under Reference (e). That amount shall be reimbursed to the Military Service that initially paid the automatic death gratuity.

6.3. Any case in which payment of the death gratuity under Reference (c) depends on a prior presumptive finding of death, such finding shall be made according to provisions of Section 1475-1480 of 10 U.S.C. (Reference (f)).

6.4. All interpretations, rulings, and legislative history applying to gratuity payments under authority of Section 3973 of 22 U.S.C. (Reference (g)) to State Department employees, that are consistent with the provisions of Reference (c) or with other legislation applicable to the Department of Defense, shall apply to eligibility determinations and to payments made under the authority of Reference (c).

7. EFFECTIVE DATE

This Instruction is effective immediately.

A handwritten signature in black ink, appearing to read "S. Cambone". The signature is fluid and cursive, with a large initial "S" and a long, sweeping underline.

Stephen A. Cambone
Under Secretary of Defense for Intelligence

Enclosures – 2

E1. References, continued

E2. Guidance On Payment of Death Gratuity to Survivors of Certain DoD Personnel Assigned to Intelligence Duties

E1. ENCLOSURE 1

REFERENCES, continued

- (e) Missing Persons Act (Sections 5561-5568 of title 5, United States Code; and Sections 551-558 of title 37, United States Code)
- (f) Sections 1475-1480 of title 10, United States Code
- (g) Section 3973 of title 22, United States Code

E2. ENCLOSURE 2

GUIDANCE ON PAYMENT OF DEATH GRATUITY TO SURVIVORS OF CERTAIN DoD PERSONNEL ASSIGNED TO INTELLIGENCE DUTIES

E2.1. The head of the organization to which the deceased was assigned at the time of death who considers the death to fall within the circumstances described in Reference (c), as set forth in section 4.1., shall forward a written application for approval of payment of the death gratuity to:

E2.1.1. The Director, the Defense Intelligence Agency (DIA), if the deceased was assigned to a DIA Component,

E2.1.2. The Director, the National Security Agency (NSA), if the deceased was assigned to an NSA Component,

E2.1.3. The Director, the National Geospatial-Intelligence Agency (NGA), if the deceased was assigned to an NGA Component,

E2.1.4. The Director, the National Reconnaissance Office (NRO), if the deceased was assigned to an NRO Component, or

E2.1.5. The Military Service intelligence chief if the organization concerned is not an element of the DIA, NSA, NGA, or NRO. Notice of the application shall be simultaneously sent to the surviving dependent(s). The surviving dependent(s) may initiate an application through the organization to which the deceased was assigned. This application shall describe pertinent information in sufficient detail to permit determination as to the appropriateness of the gratuity payment.

E2.2. The Military Service intelligence chief shall forward a recommendation for approval or disapproval of the application to the Secretary of the Military Department concerned.

E2.3. Each Secretary of a Military Department, the Directors, DIA, NSA, NGA, or NRO are authorized to approve applications submitted to them and to direct payment of the gratuity.

E2.4. Within 30 days of receipt, the head of the organization from which the application originated and any eligible survivor(s) shall receive a written decision concerning the application from the Secretary of the Military Department, the Directors, DIA, NSA, NGA, or NRO, as appropriate. If the application is disapproved or if there is a delay in making the final determination, as in the case of presumed death, the reasons for such disapproval or delay shall be provided in writing to the organization from which the application originated and to eligible survivor(s).

E2.5. Payment to the eligible survivor(s) shall be made from appropriations available to the DoD Component to which the deceased was assigned according to section 5.1.

E2.6. If the application is disapproved, the head of the organization to which the deceased was assigned, or the dependent potentially eligible to receive the gratuity payment, may appeal in writing to the DoD General Counsel who shall make a recommendation to the Secretary of Defense whose decision shall be final.