

**REPORT OF THE
JUDGE ADVOCATE GENERAL
OF THE
UNITED STATES COAST GUARD**



PRESENTED TO THE AMERICAN BAR ASSOCIATION

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THE UNITED STATES COAST GUARD



From its beginning, the United States has been a maritime nation, tied to the seas for security, commerce, and resources. To sustain its strength, America must protect its maritime borders from unlawful intrusion and uphold its maritime sovereignty, ensure the safe passage of cargoes and people and rescue those in distress, and prevent the misuse of the oceans and preserve its marine resources for future generations. The Coast Guard's value to America is in executing its roles of maritime safety, security, and stewardship. These roles are enduring, long-standing responsibilities, assigned to the Coast Guard over time since it was established in 1790:

Maritime Safety: *The Coast Guard ensures safe operation of the Marine Transportation System and protects the lives and safety of those on the sea; it responds to maritime disasters, natural or manmade, to protect lives and ensure safety in United States communities.*

Maritime Security: *The Coast Guard protects the United States maritime domain and the Marine Transportation System, and denies their use and exploitation by terrorists as a means for attacks on United States territory, population, vessels, and critical infrastructure; it upholds United States maritime sovereignty and enforces United States law, international conventions, and treaties against criminal activities, including halting the flow of illegal drugs, aliens, and contraband, and illegal fishing in our Exclusive Economic Zone; and it defends United States national interests in the maritime domain against hostile acts through military action.*

Maritime Stewardship: *The Coast Guard facilitates the economical movement of goods and people through the Marine Transportation System and maximizes access for recreational boating activity; it safeguards U.S. marine resources, threatened and endangered species, and the ocean from unlawful acts and environmental degradation; and it conducts maritime recovery operations in the aftermath of incidents of national significance, including transportation security incidents, to ensure the continuity of commerce and other critical port and waterway functions.*

Today, the Coast Guard is a military, multi-mission, maritime force within the Department of Homeland Security. It is one of the armed forces, a law-enforcement and regulatory authority, a member of the U.S. Intelligence Community, and a collaborative response partner with federal, state, and local agencies. The Coast Guard conducts a number of distinct yet complementary missions in the maritime domain to fulfill its maritime safety, security, and stewardship roles—**search and rescue; marine safety; drug interdiction; migrant interdiction; defense readiness; ports, waterways and coastal security, protection of living marine resources, marine environmental protection, and other law enforcement, including protection of fisheries.** Its key strengths are broad authorities and an expansive network of partnerships; flexible, adaptable operational capability and presence that allow it to meet all threats and all hazards; and access and relevant expertise within the international community. Missions are executed by shore-based multi-mission forces assigned to 35 sectors in 9 Coast Guard Districts; surface and air maritime patrol and interdiction forces, both surface and air, that range thousands of miles beyond our shores; and specialized deployable forces that include the Maritime Security Response Team and Maritime Safety and Security Teams designed to respond to terrorist threats; Port Security Units intended to support deployed DoD organizations; Law Enforcement Detachments that deploy on board United States and partner country naval vessels to provide independent, flexible, law enforcement capability; and the National Strike Force that responds to pollution and hazardous substance incidents.

We Protect Those on the Sea...

We Protect the Nation from
Threats Delivered by Sea...

We Protect the Sea Itself.



Organization

Tracing its history to the Act of Congress of May 26, 1906, that established a military discipline system for the Revenue Cutter Service, CGJAG has evolved in step with the expanding missions of the Coast Guard. Today, CGJAG’s mission is to deliver high-quality legal advice and support to the people who carry out the varied functions of the Coast Guard to ensure their missions, operations and activities can be achieved within the spirit, as well as the letter, of the law.

Coast Guard legal services are provided by 276 attorneys (184 Judge Advocates and 92 civil service attorneys); 87 paralegals, legal technicians, and other support staff; and 25 Coast Guard Reserve judge advocates. Coast Guard legal professionals are located in 13 offices and staffs of the Judge Advocate General at Coast Guard Headquarters in Washington, D.C., and in 20 legal offices at major Coast Guard units. Out of the 184 Judge Advocates, 36 are currently performing out of specialty tours, such as the Seventh District Commander; Director, Joint Interagency Task Force South; and several Sector Commanders and Deputy Commanders. Currently three Judge Advocates are serving as Flag Officers. CGJAG has three distinct organizational groups:

Judge Advocate General. Offices and special staffs in the office of the Judge Advocate General exercise program oversight over activities within their practice areas. The Coast Guard Hearing Office adjudicates civil penalties for maritime safety and environmental violations. In addition, there are military attorneys assigned to the Department of Homeland Security and other government agencies. These include: Department of Justice, Department of State, and Department of Defense (U.S. Northern Command, U.S. Africa Command, Joint Interagency Task Force South, Naval Justice School, Naval War College, Defense Institute of International Legal Studies, and the Army Center for Law and Military Operations).

Office of the Judge Advocate General



Legal Service Command. The Legal Service Command (LSC), with offices in Norfolk and Arlington, Virginia, and Alameda, California, provides field-level legal support in environmental law, procurement law, employment and civilian personnel law, real property law, fiscal law, claims, collections, military justice for the Coast Guard's Mission Support commands and subunits, and legal assistance for the Fifth and Eleventh District geographic areas. The LSC is comprised of 90 active duty military members, reservists, civilians and Auxiliarists organized into four divisions covering the practice areas of military justice (criminal law); claims, collections, and litigation; contract and fiscal law; and mission support (property, environmental compliance, information law, ethics/standards of conduct, legal assistance).

Field Legal Offices & Staffs. Military and civilian attorneys are assigned to every Flag operational command, including the Atlantic and Pacific Areas located in Portsmouth and Alameda and the Coast Guard's nine Districts (Boston, Portsmouth, Miami, New Orleans, Cleveland, Alameda, Seattle, Honolulu, and Juneau). Staff judge advocates or other counsel support the Coast Guard Academy, Training Center Yorktown, Training Center Cape May, Training Center Petaluma, the National Pollution Funds Center, Personnel Service Center, Pay & Personnel Center (Topeka), and the Research & Development Center. These staffs and counsel report to the local commander but are under the technical supervision of the Judge Advocate General. The bi-coastal Legal Service Command, with elements in Norfolk and Alameda, reporting to the Deputy Judge Advocate General, supports the mission support community and provides support in depth to all other Coast Guard JAG activities, particularly in specialized practice areas, like environment and real property, procurement, and civilian personnel.

For additional information, <http://www.uscg.mil/legal/> provides public access to materials including opinions of the Coast Guard Court of Criminal Appeals (http://www.uscg.mil/legal/cca/court_of_criminal_appeals.asp), and the Coast Guard Legal Assistance Web Portal (<http://www.uscg.mil/legal/la/>). Recruiting information is at: http://www.uscg.mil/legal/recruit/Career_Home.asp.



How We Practice

CGJAG'S TOP TEN CORE VALUES

Legal Knowledge: Exercise a Mastery of the Law.

Ethics and Professional Responsibility: Uphold the highest ethical standards.

Responsiveness: Advise and counsel at the right place and right time.

Advocacy: Represent our clients zealously and skillfully by being both effective speakers and thoughtful listeners.

Partnering: Work with Coast Guard decision-makers at all levels, understand their business, and give them the capabilities they need to get their jobs done.

Leadership: Develop skills needed to lead in the world's best Coast Guard.

Adaptability: Look forward to change and the personal and professional challenges it creates.

Watch-Standing: Remain vigilant and ready to respond to known and unknown legal risks and operational contingencies.

Technology: Use technology to maximize the delivery of legal services.

Diversity: Include diverse opinions and backgrounds in shaping CGJAG and legal advice.

PRINCIPLES FOR THE DELIVERY OF LEGAL SERVICES

The effective, efficient and safe delivery of Coast Guard mission services is the ultimate purpose of the Coast Guard and the Coast Guard Legal Program.

- *We serve to support the Coast Guard's missions and people.*
- *Every member of CGJAG will endeavor to ensure that all Coast Guard programs are executed within the letter and spirit of the law.*

We all share responsibility for the delivery of legal services.

- *Legal services will be in time, right, and precise; they will be anticipatory and preventive, as well as responsive.*
- *Legal services will be aligned and consistent, and integrated across subject-matter areas and echelons.*
- *There is no "wrong" legal office for a client to call.*
- *We deliver ethical and responsible legal services.*

We serve the Coast Guard and our clients.

- *Any Staff Judge Advocate may communicate directly with other legal leaders, the Deputy Judge Advocate General, or the Judge Advocate General when necessary to protect Coast Guard interests.*
- *Judge advocates and civilian counsel may consult with higher authority when necessary to protect Coast Guard interests.*

All of CGJAG is available to support the Coast Guard and our clients.

Coast Guard Practice Areas

CGJAG is a “full-service” legal support organization with nine legal practice areas:

◆ Military Justice

As an armed force, members of the Coast Guard are subject to the Uniform Code of Military Justice. Coast Guard judge advocates serve as defense counsel and prosecutors for courts-martial and as military judges. Judge advocates assigned as appellate government and defense counsel brief and argue cases before the Coast Guard Court of Criminal Appeals, the Court of Appeals for the Armed Forces, and the U.S. Supreme Court. Coast Guard attorneys at field offices serve as Staff Judge Advocates providing advice on military criminal matters to field commanders.

Courts-martial and Non-judicial Punishment

<u>By Fiscal Year</u>	<u>2011*</u>	<u>2010</u>	<u>2009</u>	<u>2008</u>
General Courts-Martial	06	12	12	13
Special Courts-Martial	25	18	19	19
Summary Courts-Martial	16	06	14	28
Total Courts-Martial	47	36	45	60
Non-judicial Punishment	943	888	1,052	1,395

*As of 1 July 2011

Appellate Activity. As of July 1, 2011, the Coast Guard Court of Criminal Appeals issued 11 opinions for Fiscal Year 2011. The Court is composed of 1 full-time Chief Judge (civilian), and 5 collateral-duty appellate judges. Presently, the collateral duty judges consist of 3 active duty Coast Guard Judge Advocates and 2 civilian attorneys. On June 17, 2011, Colonel John Havranek, U.S.M.C. Retired, and Department of Homeland Security Assistant General Counsel for Operations & Enforcement, and Colonel Charlie Johnson, U.S.A.F., Retired, and a DHS Attorney-Advisor, were assigned by the Judge Advocate General to the Coast Guard Court after their appointment by the Secretary of Homeland Security.



◆ Maritime and International Law

As the nation's only armed force with domestic law enforcement authority, the Coast Guard is involved daily in enforcing federal law in the areas of drug interdiction, immigration, marine environmental protection, marine safety, fisheries, maritime security, and general federal laws applicable at sea. The Office of Maritime and International Law at Coast Guard Headquarters plays a prominent role in the development and implementation of Coast Guard policy in these areas and in providing real-time advice to Coast Guard operational commanders. The Office of Maritime and International Law also leads Coast Guard efforts in the international legal community as a fully participating member of the U.S. delegation to the International Maritime Organization. The Office of Maritime and International Law is divided into three branches, the Operations Law Group, which addresses issues related to law enforcement, living marine resources, search and rescue and defense operations; and the Prevention Law Group, which addresses issues concerning vessel safety, security and protection of the marine environment. Finally, there is an intelligence law branch that is embedded with our Intelligence program. In addition, the Office of Maritime and International Law oversees over a dozen "embedded" attorneys working directly in the offices of their clients that cover a broad range of issues ranging from intelligence to vessel documentation to oceans policy integration.

International Activities:

International Maritime Organization. Coast Guard attorneys serve as advisors or representatives of the United States at meetings of the International Maritime Organization (IMO), headquartered in London, England, including the Maritime Safety Committee, Subcommittee on Flag State Implementation, Subcommittee on Safety of Navigation, Legal Committee, the Marine Environmental Protection Committee, the Radio-communications and Search and Rescue Subcommittee, Legal Committee, and the Meeting of Contracting Parties to the London Convention and London Protocol.



IMO Legal Committee. At IMO's Legal Committee, the U.S. delegation shaped important international initiatives regarding piracy, fair treatment of seafarers, pollution enforcement, and liability and compensation for damage from trans-boundary oil pollution damage from offshore exploration. The Chief of the Office of Maritime and International Law serves as the Head of the U.S. delegation to the Legal Committee.

International Agreements. Coast Guard attorneys facilitated several international agreements this past year, including the binding U.S.-Canadian Great Lakes Icebreaking Agreement, which was renewed for an additional five years, effective December 5, 2010. There were four nonbinding agreements that were signed: Letter of Understanding between the British Antarctic Survey and the Coast Guard embark Coast Guard members to a BAS ship for ice navigation training (November 2010); U.S. Coast Guard and Canadian Coast Guard MOU for Professional Military Education (Nov 5, 2010); and

Japanese Coast Guard – U.S. Coast Guard Memorandum of Cooperation (signed at the North Pacific Coast Guard Forum on Sep 13, 2010).

Canadian Law Enforcement Detachment (LEDET) MOU. The Operations Law Group concluded a LEDET MOU with Canada in October 2010 that will allow for the deployment of Coast Guard LEDETs aboard Canadian vessels operating in the Joint Interagency Task Force South (JIATF-S) AOR. This concept serves as a tremendous force multiplier in that it allows Coast Guard LEDETs to operate seamlessly aboard Canadian warships that deploy to the JIATF South AOR to combat illicit drug trafficking.

Lead Multi-Lateral CD Summit. From March 14-17, 2011, members of the Operations Law Group attended the 9th Multi-Lateral Counter Drug Summit in Guayaquil, Ecuador (Multi-Lat) where they facilitated the “Emerging Legal Issues” working group. The goal of the working group is to serve as a forum for partner nations to discuss and address key emerging legal issues in the region. Most recently, the group has focused on developing country-specific case package checklists for use by Coast Guard law enforcement teams in handing off detainees to partner nations for prosecution. This Multi-Lat was by far the most successful engagement in recent years, attracting representatives from 10 Central and South American Countries. Interestingly, Maria Leonor Jimenez, President, Provincial Court of Justice for the Guayas Province in Ecuador was a surprise guest at the opening of the working group and requested a follow-on meeting between the Coast Guard and all of the Judges from the Guayas Province of Ecuador to discuss maritime cases.

Multilateral Arctic Search and Rescue Initiative. Operations Law Group Attorneys participated as part of an interagency delegation that completed the negotiation of a legally binding multilateral SAR agreement between the Arctic Council nations. The Arctic SAR Agreement formally delimited the SAR regions between adjacent nations in the Arctic region, determined the scope of application of the Agreement of each party, and set forth binding terms for cooperation consistent with the Maritime SAR & ICAO Conventions. The final text was signed by Secretary Clinton on May 12, 2011, at the Arctic Council Ministerial meeting in Nuuk, Greenland.

Increased Interaction with AFRICOM.

The Operations Law Group continues to work with AFRICOM to establish the bilateral framework and legal basis for the African Maritime Law Enforcement Partnership (AMLEP). As part of this effort, OLG completed a bilateral agreement with Senegal and continues to negotiate with Cape Verde, The Gambia, and Morocco. This support was crucial to support the deployment of Coast Guard Cutter FORWARD to West Africa.



CDR Tim Connors in Senegal with Ambassador to Senegal and NAVAF 5.

Prevention Law Activities:

Environmental Issues. Coast Guard attorneys have continued work on a variety of environmental issues including development of a Notice of Proposed Rulemaking for Ballast Water, Regulated Navigation Areas and Safety Zones to combat the threat posed by Asian carp to the Great Lakes, and with the Environmental Protection Agency on implementation of MARPOL Annex VI, and the Vessel General Permit under the Clean Water Act NPDES program for discharges from vessels. With the passage of Title X of the 2010 Coast Guard Authorization Act, Coast Guard attorneys have been actively participating in strategies for implementing the International Convention on the Control of Harmful Anti-Fouling Systems on Ships, 2001.

Outer Continental Shelf Issues. Coast Guard attorneys have focused on supporting regulatory initiatives governing activities conducted on the U.S. outer continental shelf. We have assisted a Coast Guard rulemaking team updating 33 C.F.R. Subchapter N on a wide variety of issues including regulation of large offshore supply vessels, vessels utilizing dynamic positioning systems, vessels providing accommodation services, mobile offshore drilling units, and vessels engaged in activities supporting alternative energy development on the outer continental shelf. This effort is expected to continue as the *Deepwater Horizon* Investigative reports are completed and the rulemaking initiatives continue to develop.

Arctic Developments. Coast Guard attorneys have been actively engaged in a number of issues involved with expansion of commercial maritime transportation along the Arctic border. Coast Guard attorneys advise Coast Guard leadership, as part of the United States delegation to the Arctic Council, on Law of the Sea matters as applied to emerging shipping areas as the ice recedes. This fall the Arctic Council will take up environmental protection issues in order to shape conventions on pollution prevention and response. At IMO, Coast Guard attorneys are working on the development of a Polar Code, which addresses shipping standards for operating in polar environments.



Environmental Crimes. While the first half of 2010 saw a significant uptick in the number of environmental crimes cases referred to the Department of Justice for prosecution, the remainder of 2010 and the first half of 2011 saw a more typical case load of referrals. These cases normally involve the intentional bypassing of pollution control equipment on ships, resulting in the discharge of oily wastes and other hazardous substances into the sea. Referrals normally average 12 cases per year (or about 1/4 of 1% of all port state control boardings conducted). Two notable cases involved the first

environmental crimes vessel case arising from American Samoa and the first known ban of an individual from operating a vessel in the U.S. during the 5 year period of the company's probation.

Japanese Earthquake, Tsunami, and Reactor Response. Coast Guard attorneys, working as part of the interagency legal network, worked on legal issues associated with vessels coming to the United States after transiting near the Fukushima Daiichi reactor.

National Ocean Council. Coast Guard attorneys are participating in a number of different aspects to implement the President's ocean policy as set forth in Executive Order 13547, *Stewardship of the Ocean, Our Coasts, and the Great Lakes*, which adopts the Final Recommendations of the Interagency Ocean Policy Task Force and created the National Ocean Council (NOC). A Coast Guard attorney is working as part of the NOC Legal Working Group on model agreements for the development of regional coastal and marine spatial plans. Coast Guard attorneys are also participating on a number of Strategic Action Plan working groups to development plans to implement each of the nine final recommendations.

Operational Law Activities:

Interdicting Self Propelled Fully Submersibles (SPFSs). The Operations Law Group is currently working with law enforcement counterparts to analyze authority to take law enforcement action against SPFSs. The issue is focused on international standards for communication and use of force as well as domestic authorities that enable use of force in the Coast Guard law enforcement mission areas.



This submarine, seized by Ecuadorean soldiers near the Colombian border, is believed to be capable of long-range underwater voyages to transport narcotics to the United States. (Photo courtesy of U.S. Drug Enforcement Agency).

18 U.S.C. § 2237 Enhanced Failure to Heave To Legislation. The Operations Law Group is currently working with field units and the Department of Justice to implement this most recent statutory change. This statute was amended pursuant to Coast Guard request to provide more effective penalties to persons engaged in migrant smuggling. Previously, under the Immigration and Nationality Act, the standard required for enhanced penalties was very difficult to prove. This statute helps address the problem by enhancing punishment for offenses involving transportation under inhumane conditions (defined as one or more persons in a confined space; at an excessive speed; a number of persons in excess of the rated capacity of the vessel; or intentional grounding) to 15 years. Previously, in order to get felony punishment, prosecution had to prove enrichment or inducement, which is difficult to do.

Support for Coast Guard Operations. The Judge Advocate General and Assistant Commandant for Operations established the Operations Law Group to provide expert, flexible, continuous, and close support to Coast Guard operations, and to train and develop operational lawyers. As part of this mandate, judge advocates stand an operations law duty watch on a 24x7 basis providing real time advice to operational units during the prosecution of Coast Guard cases including drug, migrant, fisheries, proliferation security, and piracy cases. Other judge advocates perform similar duties in Coast Guard operational units. Judge advocates provide close support to Maritime Operational Threat Response cases and play a key role in developing preferred national outcomes.

Intelligence Law Activities:

Intelligence Oversight Inspection. Coast Guard attorneys recently completed a Formal Intelligence Oversight Inspection of the Coast Guard National Intelligence Element (NIE). The Coast Guard became a member of the Intelligence Community (IC) in December of 2001 with the signing of the Intelligence Authorization Act for Fiscal Year 2002. The Coast Guard Intelligence and Criminal Investigations Enterprise (CG-2) are divided into two elements. The Law Enforcement Intelligence Element (LEIE) is the CG-2 element that plans, directs, collects, reports, processes, exploits, analyzes, produces and disseminates information pursuant to Coast Guard law enforcement and regulatory authorities. The NIE is the CG-2 element that conducts intelligence activities under the Coast Guard's authority as an IC member, which is codified in Section 1.7(h) of Executive Order 12333. The Coast Guard Judge Advocate General manages an Intelligence Oversight Program to ensure the NIE conducts intelligence activities in compliance with the law. As part of this program, The Judge Advocate General tasks Coast Guard attorneys to conduct a formal inspection of the NIE every two years. The inspection completed this year was the most extensive to date, because the NIE has grown substantially since the last inspection, with a presence in every Coast Guard District. In conjunction with this inspection, Coast Guard attorneys conducted an Intelligence Law Road Show to train Coast Guard personnel throughout the country on the legal authorities and policy that govern the activities of the NIE and the LEIE.

Cybersecurity. Coast Guard attorneys have been working closely with the Coast Guard's Intelligence staff and the Coast Guard Cyber Command Pre-commissioning Detachment to determine the roles and responsibilities of a future Coast Guard Cyber Command. The legal analysis has focused on Coast Guard legal authorities that have potential application to cybersecurity. Additionally, Coast Guard attorneys have collaborated with attorney counterparts in the Department of Homeland Security National Protection and Programs Directorate and U.S. Cyber Command to better understand how the Coast Guard can work with these partners to improve cybersecurity for public and private computer systems, including critical maritime infrastructure.

◆ Civil Advocacy, Claims and Litigation

Coast Guard attorneys actively manage an extensive claims program under several federal statutes. These involve not only adjudicating claims made against the agency, but also collecting monies owed the government due to penalties assessed for violations of federal law, for damage to Coast Guard property, and for cleanup & recovery costs. Coast Guard attorneys are actively involved in a wide variety of civil litigation, from simple tort defense to Constitutional challenges. Two Judge Advocates are assigned to the Department of Justice where they provide valuable Coast Guard experience to Department of Justice attorneys.

The Office of Claims and Litigation, in support of its partners from the Department of Justice and various United States Attorney Offices, continued to defend and assert the Coast Guard's legal interests in a panoply of cases related to its internal operations and 11 statutory missions. Notably, the Office handled cases related to: claims of negligence in carrying out search and rescue, law enforcement, and Aids to Navigation, defense of *Bivens* actions, military personnel pay and discharge matters, and matters arising from the *Deepwater Horizon* disaster. Examples of significant litigation are reported below.

Shipbuilders Council of America, Inc., v. Coast Guard, 578 F.3d 234 (4th Cir. 2009)

A competitor challenged under the Administrative Procedure Act a National Vessel Documentation Center decision that the SEABULK TRADER could retain its coastwise endorsement and thereby continue operation within US waters despite alterations at a foreign shipyard to convert cargo tanks into ballast tanks and “Jones Act” restrictions on rebuilding vessels overseas. This was one of two challenges to the Coast Guard’s interpretation of the Act. A district court ordered the Coast Guard to revoke the coastwise endorsement, and remanded the case for further proceedings. The Coast Guard appealed and the Fourth Circuit reversed a large part of the district court’s decision. It found that “the Coast Guard is the interpretive body best positioned to take account of the myriad factors involved at arriving at a reasonable construction for the complex regulatory scheme for coastwise endorsements; and its interpretation offers a way to harmonize the regulation so that each provision has independent significance.” It held that the district court had erred in “failing to defer to the agency’s persuasive interpretation of [its rebuild regulations].” The case was remanded to the district court, which then remanded to the Coast Guard for reconsideration of its conclusions regarding whether the work performed on the vessel violated the rebuild regulations as well as whether the foreign work resulted in the “installation” of “required” segregated ballast tanks in violation of the Jones Act. The National Vessel Documentation Center revisited but sustained its original decision. When the decision was challenged by a competitor again, the Eastern District of Virginia and ruled in favor of the United States on March 11, 2011.

Rogers v. Ingolia, 2011 WL 1664201 (C.A.5, May 2, 2011)

The Coast Guard is responsible for licensing merchant mariners and also for suspending or revoking the licenses of mariners for reasons such as misconduct or incompetence. Prior to the suspension or revocation of a merchant mariner's license, the mariner is entitled to an Administrative Procedure Act (APA) hearing on the record before an ALJ. Applicable laws provide for an appeal from the decision of the ALJ to the Commandant of the Coast Guard, then to the National Transportation Safety Board, and then to a Circuit Court. In this and two related cases, merchant mariners facing suspension or revocation actions attempted to avoid the normal administrative process and the prescribed path for appeals by bringing a *Bivens* action against the ALJs and their clerks, and asserting violations of due process alleging that the Chief ALJ sought to "fix" cases in favor of the Coast Guard by using his influence over subordinate ALJs. The district court in this opinion found that it did not have jurisdiction to hear the non-*Bivens* issues and dismissed them because the APA does not give district courts jurisdiction to review agency actions and related issues when there is a remedy in another forum. The mariner facing a suspension or revocation action must pursue the prescribed administrative process including appeals to the Commandant of the Coast Guard, the National Transportation Safety Board, and then Circuit Court if he or she wants a court to hear claims related to the suspension and revocation action. The *Bivens* actions were also dismissed because, as the Fifth Circuit stated in *Dresser v Ingolia* (a separate but related case), that those claims are inextricably intertwined with the administrative process. On appeal in *Rogers*, the Fifth Circuit upheld the district court's decision, reversing only that part of the decision that dismissed the case *with prejudice*.

U.S. v. BP Exploration & Production, Inc., et al. 2:10-cv-04536-CJB-SS (E.D.L.A)

There are over two hundred cases and class actions pending in the Multi-district Litigation for *Deepwater Horizon* with Honorable Carl J. Barbier in the Eastern District of Louisiana. On August 4, 2010, the United States Coast Guard and the Environmental Protection Agency jointly referred to the Department of Justice Clean Water Act §311 civil penalties claims for *Deepwater Horizon* oil discharges. On December 15, 2010, the United States officially filed a Complaint in the MDL action against BP, Anadarko Exploration & Production LP, Anadarko Petroleum Corporation, Moex Offshore 2007 LLC, Triton Asset Leasing GMBH, Transocean Holdings LLC, Transocean Offshore Deepwater Inc., QBE Underwriting LTD., and Lloyd's Syndicate 1036. The United States alleges that Defendants BP, Anadarko, and MOEX as co-lessees, and MODU operator Transocean are each subject to a judicially assessed civil penalty of up to \$1,100 per barrel of oil that has been discharged or up to \$4,300 per barrel of oil that has been discharged, to the extent that the discharge of oil was the result of gross negligence or willful misconduct by such Defendant. Depositions and written discovery are currently underway with over 150 depositions scheduled between January and July 31, 2011. Expert and government witness depositions will most likely begin in August 2011. The first trial, which is likely to cover liability claims for pre-April 22, 2010 activities, is currently scheduled to begin in February 2012 and will last approximately three months.

U.S. v. Massachusetts Case No. 05-10112 (D. Mass.), on appeal at Case No. 10-1668 (1st Cir.) (consolidated with Case No. 10-1664)

The United States sued Massachusetts asserting that parts of the state's Oil Spill Prevention Act affecting the operation and manning of tank barges was preempted by Coast Guard regulation of tank barges. The District Court found that all of the challenged provisions were preempted. On appeal the First Circuit determined that with respect to three of the provisions the intent to preempt was insufficiently clear and remanded for the District Court for further review. On 3/31/10, U.S. District Court Judge Woodlock adopted the magistrate judge's Report and Recommendation and issued a permanent injunction as to the remaining provisions of the Massachusetts Oil Spill Prevention Act challenged by the U.S. Massachusetts appealed. On appeal, the First Circuit Court vacated the injunction and remanded the case without addressing the preemption issue. Industry intervenors as plaintiffs in this case with the US have filed suit against MA to seek preemption of subsequently enacted MA requirements for oil barges operating in Buzzards Bay. The U.S. has not joined this litigation, at this time.

◆ Procurement Law

Coast Guard procurement law attorneys enable the Coast Guard to acquire the products and services necessary for mission success. The legal counsel provided covers all aspects of the acquisition cycle, from acquisition planning through contract close-out. The procurement law attorneys also provide representation in contract litigation before the Government Accountability Office (GAO) and the Civilian Board of Contract Appeals (CBCA), and in federal courts in concert with the Department of Justice. Additionally, the practice includes legal advice and analysis about planned policies, laws and regulations which will affect Coast Guard procurements, and counsel on suspension and debarment, and contract fraud issues. Attorneys in the Headquarters Office of Procurement Law, Research and Development Center, and the Legal Service Command provide contract law advice to management, technical, and contracting officials at all levels. This ranges from daily advice to field level contracting officers to comprehensive procurement law counsel on approximately 20 currently underway major projects that are part of the Coast Guard's acquisition investment portfolio of over \$27 billion. Advice is provided from the earliest acquisition planning stages through contract administration.

Several on-going major and significant systems projects are supported by Procurement Law project counsel, including:

- **National Security Cutter (NSC).** The NSC is the largest and most technically advanced class of cutter in the Coast Guard, and will replace the aging 378' Secretary class cutters. Two NCS cutters have been built, a third is being finished, and the Coast Guard recently awarded a fixed-price contract for the fourth NCS cutter and Long Lead-time Materials for the fifth NSC cutter. Negotiations are currently underway for the production of the fifth NSC cutter.

- **The Maritime Patrol Aircraft (MPA).** The HC144A Ocean Sentry is the first all-new aircraft delivered to the Coast Guard as part of its recapitalization program. The HC-144A is based on the highly successful CASA CN-235 military airplane, already in use around the world as a patrol, surveillance and transport platform. The HC-144A will replace the Coast Guard's aging fleet of HU-25 Falcon jets as the service's medium range surveillance aircraft. In July 2010, three additional HC-144As were contracted for delivery with EADS-North America, with options for six more aircraft over the next four years.
- **Response Boat-Medium (RS-M).** This \$610M acquisition was established to procure 180 boats to replace the Coast Guard's aging 41-foot utility boats and other larger non-standard boats with assets that are more capable of meeting the Coast Guard's multi-mission operational requirements. Currently the project is on schedule for completion by the end of 2015 with 105 RB-Ms ordered and 28 delivered.
- **Fast Response Cutter (FRC).** The FRC is a multi-cutter acquisition also critical to the Coast Guard's recapitalization efforts. This effort currently is in Low Rate Initial Production, with builder's trial and acceptance testing scheduled for the latter half of 2011.

In addition, our attorneys support myriad "routine" supply, service, research and development, IT/C4ISR, construction and A/E support, and traditional platform acquisitions. Examples of contracts include those for: maintenance and cleaning services; uniform supply; construction for base facilities, buildings and training centers; utilities; dry dock and ship repairs; support for surface forces and aircraft logistics centers; complex surface and air systems; IT/communications/ and interoperability solution development and implementation.

Coast Guard Procurement Lawyers also actively litigate, representing the agency before the GAO and CBCA, and with Department of Justice counsel in cases brought in the federal courts. In all aspects of the exceptionally broad contract-focused practice, our Coast Guard Procurement Attorneys consistently ensure that transparent and competitive processes are correctly and appropriately used, while agency service and supply needs are fully satisfied without disruption.



◆ Environmental and Real Property Law

Attorneys located in the Office of Environmental Law and in the Legal Service Command provide specialized environmental law advice to other Coast Guard programs, particularly the engineering environmental compliance staffs. Attorneys in field offices provide "front-line" counsel to their commanders regarding their compliance obligations and responsibilities and advise environmental specialists on environmental cleanup necessary to ensure that all real estate conveyed to states and other non-federal entities is safe for the purpose the recipients intend to use the land and is done in a cost-effective manner. Our attorneys review plans for all major construction projects to ensure the Coast Guard builds new facilities in full compliance with real estate, environmental, and fiscal laws and provide advice and support for all Coast Guard real property matters including its management, acquisition and disposal. When issues arise, Coast Guard environmental lawyers work closely with their counterparts in enforcement agencies to reach acceptable solutions.

Deepwater Horizon Spill Response. The Office of Environmental and Real Property Law was intimately involved with the Coast Guard's response to this historic spill. In addition to sending two attorneys to the Unified Area Command in New Orleans to serve as counsel to the Federal On-Scene Coordinator (FOSC), the office served as agency counsel in litigation. When several non-governmental organizations challenged the use of in-situ burning as a spill-response technique, the office assisted Department of Justice attorneys in successfully litigating the temporary restraining order. The use of sub-surface dispersants also generated legal controversy and required close legal coordination with counsel representing other Federal agencies in the Unified Area Command. The office also assisted the FOSC in organizing Coast Guard staffs and private contractors to produce an emergency biological assessment required under the Endangered Species Act.

Alaska Spill Response Planning. Following receipt of a notice of intent to sue under the Endangered Species Act, Coast Guard District Seventeen sought assistance in assessing legal requirements for response planning in Alaska. The office worked with EPA Region 10 counsel (EPA serves as co-chair of the Regional Response Team) to interpret and implement legal obligations contained in a 2001 Memorandum of Agreement signed by the action agencies and the wildlife management services.

Protection of Sensitive Coral Resources. The Coast Guard Aids-to-Navigation (ATON) Program sought assistance in evaluating their legal obligations to protect coral reefs while conducting essential operations to designate safe navigational routing. Working with client program managers and pertinent wildlife management agencies, the office assisted in outlining essential steps to ensure that such operations are conducted within legal guidelines.

Coast Guard Real Estate Practice. The office assisted the Coast Guard real estate managers in updating a program-wide policy guidance manual instituting a real property "warrant" program delegating certain authorities to field personnel. This program will

enhance efficiency and provide for greater accountability across the Coast Guard real property management program.

◆ General Law

Coast Guard attorneys provide legal advice on issues including federal fiscal law, gift acceptance and standards of ethical conduct for government employees, military and civilian personnel law, civil rights, intellectual property, health care, privacy and information law. In addition, Attorneys at the Office of General Law at Headquarters and at the Legal Service Command provide advice and represent the Coast Guard on matters involving the Merit Systems Protection Board, Equal Employment Opportunity Commission, and labor relations.

Fiscal Law Practice Area. Attorneys in the Fiscal Law practice group provide advice and legal services on the financial aspects of Coast Guard operations. The Fiscal Law group worked myriad issues associated with the Coast Guard's response to the *Deepwater Horizon* oil spill in the Gulf of Mexico, including reimbursement to the Oil Spill Liability Trust Fund by the Responsible Party, ensuring an adequate funding stream to support the Coast Guard led multi-agency response to the worst oil spill in United States history. The Fiscal Law group advised Coast Guard leadership and programs through a series of Continuing Resolutions beginning in September 2010, culminating in a Full-Year Continuing Appropriations Act (P.L. 112-10). Coast Guard Fiscal attorneys played a key role in addressing the fiscal issues implicated in several major projects with nationwide and international impact, including funding National Security Cutter (NSC) 5, funding improvements to Aids to Navigation (ATON) facilities, and authority to decommission vessels and establish activities during a Continuing Resolution. Finally, the Fiscal Law group continued to assist in coordinating the repair and alteration of bridges, partially funded by the American Recovery and Reinvestment Act (ARRA), and provided oversight to prevent fraud, waste, error, and abuse of government funds. The completion of these repair facilitates safe and efficient navigation along the Nation's waterways.

Information Law. The Information Law practice group is one of the most dynamic, challenging and evolving practice groups in the Office of General Law. The growth of new social media devices, including Facebook, Twitter and the Blogosphere continue to present a wide range of challenging legal issues. These issues implicate provisions within the Privacy Act, elements of First Amendment and Contract Law and information-security concerns. As these forms of social media and communication tools garner increased popularity, Coast Guard attorneys continue to address new situations in this developing area of law. Information Law also handles requests made to the Coast Guard under the Freedom of Information Act (FOIA), which requires disclosure of information held by the U.S. government. Requests for legal review of information are in high demand and Coast Guard attorneys are determined to uphold the Coast Guard's commitment to transparency in government.

Personnel Law. For the period of July 2010 through present, Coast Guard Employment and Labor Law attorneys handled 62 Equal Employment Opportunity (EEO) Commission, Merit Systems Protection Board (MSPB), and Military EEO cases, as well as assisting the Department of Justice with cases in Federal District and Appellate Courts. In addition, Coast Guard Employment and Labor Law attorneys provided command advice in over 200 cases.

Ethics. For the period of July 2010 through present, the Coast Guard's Ethics attorney handled over 800 significant ethics matters, including advice on matters of misuse of position, lobbying, gifts, conflicts of interest, outside employment/activities, and fundraising. The Ethics attorney manages the Coast Guard's decentralized Confidential Filer Disclosure Report (CFDR) program (over 1100 filers) as well as the Coast Guard's Public Filer Disclosure Report (PFDR) program.

◆ Regulations and Administrative Law

The Coast Guard is charged with developing and enforcing regulations to ensure the safety of marine navigation, protect the environment, conduct search and rescue, enforce laws & treaties, and increase marine security. Coast Guard attorneys draft new regulations based on those mandates and also provide advice to field commanders on the implementation of all existing regulations and their enforcement and applicability. The Office of Regulations and Administrative Law also manages the Coast Guard regulatory agenda, oversees regulatory initiatives, works with field attorneys on local field regulations, provides advice about the Federal Advisory Committee Act, and responds to recommendations and complaints of Coast Guard rulemaking actions filed by the public.

The Coast Guard's rulemaking program continues to balance the need for increased national security measures with its traditional maritime safety and environmental protection functions. Since last year's report, the Coast Guard published 634 field regulations, 4 Headquarters proposed rules, 2 Headquarters notices of intent to finalize a rule, 2 Headquarters interim rules, and 15 Headquarters final rules.

Administrative Conference of the United States. The Coast Guard is a member of the newly reconstituted Administrative Conference of the United States (ACUS) and has participated in its recent plenary sessions and recommendation work. ACUS is an independent federal agency dedicated to improving the administrative process through consensus-driven applied research, providing nonpartisan expert advice and recommendations for improvement of federal agency procedures. Its membership is composed of innovative federal officials and experts with diverse views and backgrounds from both the private sector and academia. ACUS was originally created in 1964, but closed its doors in 1995 after Congress terminated its funding. In 2004 and 2008, Congress reauthorized ACUS, but did not appropriate funds for its operation until 2009. The reconstituted ACUS Council has 11 members and functions as ACUS's board of directors, and is headed by Chairman Paul Verkuil. The ACUS Assembly consists of voting members -- 50 government members and 40 public members -- and nonvoting members -- 29 liaison representatives and 18 senior fellows. ACUS will do most of its

recommendation work through committees chaired by ACUS Council members. The Coast Guard serves as a liaison representative to the ACUS Assembly and as a voting committee member on the Committee on Rulemaking. The Coast Guard has additional representation on ACUS through the DHS General Counsel, Ivan Fong, who is a voting government member to the ACUS Assembly and serves on the Committee on Adjudication. ACUS meets twice per year in plenary session that brings together the ACUS Council and the ACUS Assembly. The first Plenary Session of the reconstituted ACUS (the 53rd Plenary Session since ACUS inception in 1964) was December 9-10, and the 54th Plenary Session was held June 16-17, 2011. More information about ACUS and its work is available at www.acus.gov.

Executive Order 13563. On January 18, 2011, President Obama issued Executive Order 13563, Improving Regulations & Regulatory Review. Much of the content of the order focused on reiterating requirements for cost and benefit analyses and public participation in the regulatory process, already found in Executive Order 12866, Regulatory Planning and Review. However, one significant addition was the requirement for all agencies to “develop and submit to the Office of Information and Regulatory Affairs a preliminary plan under which the agency will periodically review its existing regulations.” The Coast Guard, under the leadership of the Department of Homeland Security’s Office of the General Counsel, participated in a workgroup and drafting the DHS preliminary plan for retrospective review, which included identifying potential regulations for the initial round of retrospective review and analysis. That plan was released by the White House, along with many others, on May 26, 2011.

More information about the Executive Order, the DHS preliminary plan, and other agency plans is available at www.whitehouse.gov/21stcenturygov/actions/21st-century-regulatory-system.

Passenger Weight and Inspected Vessel Stability Requirements (Final Rule; December 14, 2010). The Coast Guard published a final rule amending its regulations governing the maximum weight and number of passengers that may safely be permitted on board a vessel and other stability regulations, including increasing the Assumed Average Weight per Person (AAWPP) to 185 lb. The Coast Guard determines the maximum number of persons permitted on a vessel using several factors, including an assumed average weight for each passenger, which needed an update because the average American weighs significantly more than the assumed weight per person utilized in regulations prior to the effective date of the final rule. Updating regulations to more accurately reflect today’s average weight per person will maintain intended safety levels by accounting for this weight increase.

This regulation stemmed from an incident that occurred on March 6, 2004, when the small passenger pontoon vessel *Lady D*, carrying 25 persons, capsized in high winds in Baltimore harbor while a small craft warning was in effect. Five persons died and four others suffered serious injuries. Both the Coast Guard and the National Transportation Safety Board (NTSB) launched investigations into the cause of the accident.

On December 20, 2004, the NTSB issued Safety Recommendation M-04-04, which stated that the then-140 pound per person weight allowance did not reflect actual loading conditions. The NTSB recommended that the Coast Guard revise its guidance to marine safety inspectors for determining the maximum passenger capacity of small pontoon passenger vessels by more accurately accounting for the actual cumulative weight of passengers and crew.

In correspondence to the NTSB dated April 7, 2005, the Coast Guard concurred that the average weight per person used in passenger vessel stability tests needed to be updated, and noted that an internal Coast Guard study identified the same issue. This final rule addressed the NTSB's concern about an obsolete AAWPP for small passenger pontoon vessels and also updated the out of date AAWPP applicable to other passenger vessels.

◆ Legislative Support



The Office of Legislation works closely with Coast Guard directorates, the Department of Homeland Security, the Office of Management and Budget, and other federal departments and agencies to develop the Coast Guard's legislative proposals and with the Coast Guard's Office of Congressional Affairs to secure enactment of the proposals.

On October 15, 2010, the President signed the Coast Guard Authorization Act of 2010 (Pub. Law No. 111-281). The Authorization Act, the Service's first in four years, modernizes the Coast Guard's flag-level command structure, provides for improvements to military housing, reforms the Service's acquisition structure and processes, and bolsters port security. Implementation of the Authorization Act, including the 29 provisions that require the promulgation of regulations, is ongoing.

Looking forward, the Coast Guard's legislative agenda for the 112th Congress includes three initiatives: (1) the "Sport-fishing and Recreational Boating Safety Act," a proposal to reauthorize and amend the various uses of the Sport Fish and Restoration and Boating Trust Fund; (2) the "Coast Guard Authorization Act," an omnibus proposal to facilitate mission execution; and (3) the "Coast Guard Preparedness and Response Capacity Act of 2011," an initiative to augment the Service's oil spill preparedness and response program.

Of note, the “Authorization Act” initiative includes a proposal that would enhance the Secretary’s ability to call reservists to service while providing Title 14 reservists the same credit and benefits as those recalled under Title 10. Another proposal would permit the Service to expend funds, appropriated by Congress from assessments levied by the courts against vessel owners/operators found guilty of violating federal environmental laws, for the relief of mariners who are abandoned in the United States.

◆ **Legal and Defense Services**

The Judge Advocate General is responsible for providing various legal services directly to Coast Guard members and other eligible beneficiaries. These services include physical disability advice and representation, legal assistance relating to personal civil matters, representation for criminal defendants and appellants, and representation for respondents before administrative boards.

Legal Assistance. In the past year, legal assistance attorneys provided counsel to over 8,000 clients, helping them with estate planning, family law, consumer law and myriad other issues. Additionally, our offices maintained a vibrant VITA program. Employing attorney and non-attorney personnel, volunteers filed over 2,000 federal returns at twenty one different sites, which resulted in substantial tax preparation savings to Coast Guard personnel, retirees, and dependents.

The legal assistance attorneys recently held their bi-annual conference to discuss current trends and issues in the practice. Among other accomplishments, the conference served as a springboard for an initiative to assist all members who wish to naturalize. The ambitious goal is to have 100% of the personnel who wish to become citizens either naturalized or in the process by the end of the fiscal year.

Physical Disability Evaluation program. Coast Guard disability cases continued to increase this past year. Approximately 98% of all members in the Physical Disability Evaluation System elected counsel, resulting in a 4% increase from last year.

The Coast Guard joined other services in establishing a Disability Evaluation System (DES) pilot program this year. The pilot program was initiated to improve the speed and consistency of disability evaluations in the service member compensation program. The 2008 National Defense Authorization Act provided a mandate for the DES pilot program which seeks to minimize the time and number of evaluations a service member must endure when they are separated from the service as a result of condition that renders them unfit for service.

Military Justice and Member Representation. The Office of Legal and Defense Services oversee the Navy and Coast Guard Memorandum of Understanding on Mutual Support in Military Justice Matters. Under this cross-service agreement, Navy judge advocates provided defense services to over 100 Coast Guard members. Legal and Defense Services detailed both Navy and Coast Guard judge advocates to represent Coast

Guard members at courts-martial and other proceedings such as administrative boards (competency, separation, or retention) boards of inquiry, and relief for cause proceedings.

Coast Guard appellate defense counsel currently represents 44 Coast Guard members before the Coast Guard Court of Criminal Appeals, the Court of Appeals for the Armed Forces, and the United States Supreme Court. In the Fall of 2008, the Judge Advocate General established a new initiative designed to increase opportunities for first tour judge advocates to represent service members so that they better understand the perspective of advocates and clients who find themselves arrayed against the government. To date, over 25 judge advocates, not otherwise assigned to defense counsel or member representation duties, have been detailed to participate as member's counsel in military justice and administrative proceedings.

Field Legal Operations

The Coast Guard legal program includes attorneys and legal support staff in 20 offices located throughout the United States. These legal staffs work in close cooperation with the Judge Advocate General's legal staff and offices to insure the consistent and responsive delivery of legal services in support of Coast Guard missions. Following are highlights of practice from some of these offices.

◆ Legal Service Command

The Legal Service Command (LSC), with offices in Norfolk and Arlington, Virginia, and Alameda, California, provides field-level legal support in environmental law, procurement law, employment and civilian personnel law, real property law, fiscal law, claims, collections, military justice for the Coast Guard's Mission Support commands and subunits, and legal assistance for the Fifth and Eleventh District geographic areas.

The LSC is comprised of 90 active duty military members, reservists, civilians and Auxiliarists organized into four divisions covering the practice areas of military justice (criminal law); claims, collections, and litigation; contract and fiscal law; and mission support (property, environmental compliance, information law, ethics/standards of conduct, legal assistance).

This was a dynamic year for the LSC. As the Coast Guard's Modernization program progressed, the number of LSC client commands grew to more than 120 major commands and sub-units. At the LSC's change of command ceremony in June 2011, the unit was formally recognized for its many achievements in its two-year history as the first-ever Coast Guard unit dedicated solely to the delivery of legal services. Prominent in the cited accomplishments is LSC's lead role in the Coast Guard's response to the *Deepwater Horizon* offshore oil rig explosion and oil spill. As the lead federal agency in responding to the *Deepwater Horizon* explosion and spill, the Coast Guard worked closely with state, local and private entities to plan, resource and execute a response that encompassed thousands of miles and many months. The operational and political

complexities of each passing day highlighted the need for skilled attorneys in the field. The LSC recognized this need and spearheaded the Coast Guard's deployment of legal personnel to the many incident command posts quickly emerging in the Gulf Coast states. Within days of the spill, the LSC had identified all available attorneys in the Coast Guard – active duty, reserve, civilian – and implemented a phased deployment system and a technical chain of command to provide consistent on-scene support to Coast Guard officials throughout the Gulf Coast region. Deploying nearly 50 volunteers -- attorneys and support personnel – for 30 days at a time over a nine-month period, LSC's own staff constituted the bulk of the deployed force that provided expert advice on extremely complex issues such as evidence collection and preservation, finance and procurement for the response operations, and information-sharing with the Responsible Party and state and local governments.

The LSC also took the lead in the daunting arena of information disclosure. For months following the *Deepwater Horizon* oil spill, global media outlets and concerned public citizens requested many thousands of pages of federal records pertaining to the response. Many of the more sensitive records required legal review prior to their release under the Freedom of Information Act. LSC personnel reviewed approximately 20,000 pages and calculated standard processing fees for each information request. Remarkably, the LSC's diligence and professionalism in working with the requesters ensured that there were no appeals filed by requesters who were denied access to certain records.



Beyond *Deepwater Horizon*, the LSC remained at the vanguard of Coast Guard capital and system improvements. The LSC developed national and regional multiple-award contracts that dramatically streamlined the construction contracting process; 8 national contracts acquiring \$4 billion of goods and services; 79 regional awards valued at a total of \$2.76 billion with no protests. The LSC also pioneered the federal government's development of an "energy service agreement" to use renewable energy in powering Coast Guard shore infrastructure.

◆ LANTAREA

Headquartered in Portsmouth, Virginia, LANTAREA is responsible for Coast Guard operations that include the Eastern half of the United States, as well as migrant and counter-drug operations in the Caribbean and international partnership and

crisis/contingency/recovery operations around the world. Established as an independent Staff Judge Advocate office in April 2009, LANTAREA legal is a high operational tempo, high visibility office, providing comprehensive advice & counsel to the LANTAREA Commander and his staff, field units and cutters on a wide range of comprehensive legal matters including operational law, Ports, Waterways and Coastal Security (“PWCS”), marine safety, military justice, personnel actions, ethics, regulatory projects, administrative investigations & legal assistance to Coast Guard members.

Highlights over the past year include:

Emergency Response. LANTAREA legal was deeply involved in the response to the devastating Haitian earthquake in January 2010. Lawyers participated in the Operations Planning Group to advise on overall response actions. In addition, one of the legal team members deployed to District Seven to assist that legal office as it was unexpectedly overwhelmed with Haitian response, while still supporting continuing operations throughout the District and the Caribbean.

DEEPWATER HORIZON oil spill response. LANTAREA legal was involved in the planning and response to the DEEPWATER HORIZON explosion and subsequent oil spill response providing real time legal advice to the Atlantic Area Commander and units. Many of the lessons learned as Legal Advisor to the National Incident Commander for the Spill of National Significance Exercise, SONS 2010, were put into practice in the response. One LANT attorney was selected to serve on the Joint Investigation Team, participating in the hearings and contributing greatly to the production of the final report.

International Engagement. The LANTAREA legal office is heavily involved in an African partnership mission and has been advising the LANT staff on issues encountered while developing U.S. maritime partnerships in West Africa to enhance maritime security in that region. Over the course of the last year, LANTAREA has conducted 2 separate engagements in the region, and the 2011 evolution has recently begun. In addition, the Deputy SJA recently attended the AFRICOM SJA Conference, in Stuttgart, where military law representatives from Combatant Commands, National Guard, and Federal/State government agencies met to share information on their respective organizations and seek ways to maximize partnership opportunities. In addition, LANTAREA legal participates annually in joint Staff Talks with Canada, as well as OP Nanook, which is a joint exercise in the Eastern Arctic.



Exercises. LANTAREA has been engaged in multiple exercises to prepare for the challenges the organization expects to face over the coming years, with the legal office advising on the legality of proposed actions and responses in each respective situation. Examples include the National Level Exercise, which involves partners from federal, state, and local agencies responding to a national emergency, and annual Spill of National

Significance exercises that ensure the Coast Guard is well prepared to address real world concerns of large magnitude oil spills.

Military Justice. Attorneys of the LANTAREA legal office provide comprehensive legal advice to the Area Commander and subordinate field unit and cutter Commanders as they pursue just resolution of criminal allegations under the Uniform Code of Military Justice (UCMJ). Recently, LANTAREA convened seven Courts-Martial to address hazing aboard a cutter, reinforcing the Coast Guard policy that hazing is absolutely unacceptable.

International Port Security. LANTAREA's newly hired civilian International Port Security attorney has been hard at work ensuring the Coast Guard complies with a government mandate to review the security of ports across the globe and assist partner nations with efforts to comply with the International Ship and Port Facility Security Code (ISPS Code). He has qualified as Head of Delegation for international visits, and has participated in several IMO and other partnership meetings around the globe.

Operations Law. The Coast Guard seeks to enforce all applicable Federal laws in its role as a leader in maritime law enforcement. Attorneys of the LANTAREA legal office stand a rotational duty schedule to provide 24x7 legal advice to our cutters and other operators throughout the LANT area of responsibility. Duty attorneys responded to well over 1000 after-hours calls from LANT clients in 2010.

Legal Assistance. Leveraging limited in-house resources and through close partnering with the Coast Guard Legal Service Command attorney dedicated to legal assistance and the Fifth District Legal Office ensured that clients received comprehensive assistance with a wide variety of legal concerns, including estate planning, landlord-tenant issues, creditor issues, housing matters, and more.

◆ PACAREA

Coast Guard Pacific Area (PACAREA), with its 20,000+ active duty, reserve and civilian employees, is responsible for Coast Guard operations across 74 million square miles, ranging from South America, north to the Arctic Circle and west to the Far East. The vast region is patrolled by 18 large Coast Guard cutters, including three ice breakers, in



addition to the sea, air and shore resources of the four Coast Guard Districts within Pacific Area. Like the operations of PACAREA, the practice of law in the PACAREA Legal Office is extremely diverse. Located in Alameda, California, the Legal Office consists of two permanently assigned Judge Advocates and one support Yeoman,

augmented by three judge advocates on rotational assignment from the Legal Service Command.

PACAREA Legal Office Responsibilities.

The PACAREA Legal Office is responsible for assisting the District Legal Offices within PACAREA by ensuring alignment of legal support through all echelons of command, from Coast Guard Headquarters to field units.

Deepwater Horizon Response.

Coast Guard judge advocates from the Pacific Area Legal Office deployed as legal advisors to the federal on-scene coordinators during the DEEPWATER HORIZON incident, the largest spill of national significance in United States history. These deployed judge advocates identified and analyzed legal issues in numerous practice areas, including environmental law, international law, pollution law, fiscal law, among others.

Japanese Nuclear Disaster.

In the aftermath of the March 11, 2011, Japanese earthquake and Fukushima Daiichi nuclear facility breach, Coast Guard judge advocates assisted in assessing the radiation threat to international maritime activity and preparing recommendations to mariners transiting heightened-risk areas. These recommendations included measures designed to safeguard United States ports through contamination avoidance procedures and pre-arrival notifications.



Cruise Ship SPLENDOR Assistance.

In November of 2010, a serious fire in the engine room of the Cruise Ship SPLENDOR resulted in the loss of all propulsion capabilities, leaving the ship adrift in the Pacific Ocean. The Coast Guard Cutter MORGENTHAU arrived on scene to provide specialized assistance in the areas of medical treatment, food preparation, and law enforcement and security. Coast Guard judge advocates contributed to this successful mission addressing necessary legal authorities allowing for an efficient response and coordinated effort between the U.S. Coast Guard and U.S. Navy.

Re-establishment of Three-Party Talks.

The Three Party Staff Talks (TPST) took place February 22 – 24, 2011, at the Chiefs and Petty Officer’s Mess (C&PO’s), HMC Dockyard (Canadian Forces Base Esquimalt), Victoria, BC. The participants consisted of three formal workgroups (Plans/Ops/C4I) and two subgroups (PA/Legal). TSPT legal subgroup participants included the Canadian Maritime Forces Pacific, U.S. Coast Guard - Pacific Area, and U.S. Navy - Third Fleet. Coast Guard judge advocates contributed to this successful event by providing several

informative briefings on the Coast Guard's organization and mandates for legal services, the Coast Guard's obligations concerning environmental laws/regulations, migrant vessels and assistance to law enforcement, and joint investigations of maritime incidents. This inaugural session of legal advisors representing the three services on the Pacific Coast was a great success.

Major Asset Commissioning & Decommissioning.

The Coast Guard continued its plan of modernizing its fleet this year with the commissioning of Coast Guard cutter WAESCHE (WMSL-751) and the decommissioning of the Coast Guard cutter HAMILTON (WHEC 715) and Coast Guard cutter CHASE (WHEC-718) after 44 years of dedicated service, and the Coast Guard cutter ACUSHNET (WMEC-167) after 67 years of dedicated service. Coast Guard judge advocates have been instrumental in this modernization effort contributing legal advice on policy, procedures, planning and oversight concerning the commissioning/decommissioning of these cutters from service.



Force Readiness Command (FORCECOM) Transition.

FORCECOM transferred to the Deputy Commandant for Mission Support organization effective January 21, 2011. Coast Guard judge advocates contributed to this smooth hand-off by providing a variety of legal services to those units and personnel associated with accomplishing the transition and transitioning legal support from PACAREA to the Legal Service Command.

◆ First Coast Guard District Legal Office

The First Coast Guard District, headquartered in Boston, Massachusetts, is comprised of the eight state area from Maine to northern New Jersey and eastern New York, and includes over 2,000 miles of shoreline and ten of the busiest ports (by tonnage) in the country. The First District is one of the Coast Guard's most operationally diverse Districts, having a hand in every major Coast Guard mission, from the regulation of industry in the ports of New York and Boston to fisheries enforcement off the coast of Massachusetts, search and rescue in Long Island Sound, and ice breaking in Maine. The practice of law for the six active duty, three Reserve, and one civilian Coast Guard attorneys assigned to the First District Legal Office is likewise diverse, ranging from providing real-time operational law advice, to facilitating the administration of military justice while ensuring the delivery of legal assistance to the more than 4,000 active duty, reserve, and civilian member First District workforce. Several areas of emphasis during the past year merit specific mention:

Environmental. In February 2011, the First Coast Guard District and the United States Attorney for the Eastern District of New York announced the filing of a settlement agreement in a civil environmental lawsuit against Bouchard Transportation Company, Inc. (“Bouchard”) and the B. No. 125 Corporation for the illegal discharge of over 50,000 barrels of gasoline into the Arthur Kill Waterway, in Staten Island, New York. Pursuant to the Stipulation and Order of Settlement, the defendants will pay a \$4,000,000 civil penalty – the largest civil penalty ever collected by the Coast Guard in a federal Clean Water Act case. The civil penalty will be deposited into the Oil Spill Liability Trust Fund and used, among other things, to clean up future oil spills and to fund other government expenses related to oil pollution. The civil complaint alleged that on February 21, 2003, over 50,000 barrels of gasoline were discharged into the Arthur Kill Waterway as a result of a catastrophic explosion and fire on the B-125 barge, which was operated by Bouchard and owned by the B. No. 125 Corporation. The explosion and fire occurred while the barge was in the process of unloading a cargo of gasoline at the ExxonMobil Port Mobil Facility in Staten Island. Two Bouchard employees were killed in the fire, and an ExxonMobil employee suffered severe burns and injuries. The government’s case was prosecuted with assistance from First District attorneys.

Environmental Crimes Seminars. In March 2011, the First Coast Guard District Legal Office hosted two Maritime Environmental Crimes seminars in both New Haven, Connecticut and New Castle, New Hampshire. Over 160 Coast Guard active duty, reserve, and civilian personnel throughout the First District were in attendance. The Department of Justice (Environmental Crimes Section), Coast Guard Investigative Service, and various Coast Guard subject matter experts presented material on the fundamentals to building a case against violators of MARPOL and the Act to Prevent Pollution from Ships. The topics and discussion included: interviewing witnesses on foreign-flag vessels; evidence identification and collection; technical assistance and other inter-agency cooperation mechanisms; legal authorities; and post-boarding operations.

NH U.S. Attorney Environmental Crimes Working Group. The First Coast Guard District legal staff participated in New Hampshire’s U.S. Attorney Environmental Crimes Working Group and provided a presentation on the status of the Deepwater Horizon Oil Spill response and litigation, including an analysis of the legal framework governing the Coast Guard’s efforts. The purpose of the NH Environmental Crimes Working Group is to enhance and develop the cooperation and capabilities of member agencies in the effective enforcement of their respective environmental laws. The U.S. Attorney for the District of New Hampshire was in attendance along with various state officials and state and federal law enforcement officers.

Marine Casualty Investigations. First District Judge Advocates continued to be fully immersed in high profile marine casualties and their resulting investigations and Freedom of Information Act (FOIA) responses. In January 2009, the F/V PATRIOT, a 54-foot vessel, sank off the coast of Gloucester, MA with the loss of two crewmembers onboard. The First District’s Legal office took the lead on answering the multiple ensuing FOIA requests, coordinating a unified response on behalf of the Coast Guard. The sinking led to a marine casualty investigation (MCI) which was completed in August, 2010. Over

the course of the MCI, the First District Legal Office was instrumental in ensuring the investigation's accuracy, while working with Coast Guard Headquarters to ensure consistency between the MCI and the FOIA responses.

◆ **Fifth Coast Guard District Legal Office**

Established April 23, 2009, the Fifth District SJA provides in-house legal advice to the Fifth Coast Guard District, headquartered in Portsmouth, Virginia. The Fifth Coast Guard District is responsible for Coast Guard operations on 156,000 square miles of the mid-Atlantic region from central New Jersey south to the North Carolina-South Carolina state line, including all of the Chesapeake Bay, the National Capital Region, the port of Baltimore, and the Hampton Roads region. With missions ranging from search and rescue throughout that region, marine environmental protection in the critical Chesapeake Bay watershed, national security missions protecting US Navy assets at the world's largest naval base in Norfolk, Virginia, and exercising port state control over a non-stop flow of commerce to the busy ports in Delaware, North Carolina, and along Chesapeake Bay, the Fifth District has a significant role in every Coast Guard mission area. The practice of law for the Coast Guard attorneys assigned to the Fifth District legal office is equally diverse, serving the more than 10,295 active duty, reserve, civilian and volunteer Auxiliary members of Team Coast Guard. The office recently added a fourth attorney in Fall 2010. Despite its small size, the office has a reputation for excellent service to Coast Guard clients, and outstanding teamwork with State and Federal partners throughout the Fifth Coast Guard District.

Environmental Crimes. Recent activity includes support to several U.S. Attorneys for criminal prosecution of the crew members and owners/operators of the M/V CAPITOLA for allegations that oily water was illegally discharged directly to the sea, and that official ship's documents were falsified to hide the discharges. The vessel's operator pled guilty to two charges (violating the APPS/inaccurate ORB and obstruction) and was sentenced to three years probation subject to an Environmental Compliance Plan and \$2.4 million fine. The vessel's chief engineer also pled guilty and was sentenced to six months confinement and two years supervised release. Prosecution of this case provides a significant deterrent to future willful pollution.

Operations Law. In the past year, the primary focus for the Fifth District has been on protection of living marine resources, improvement of commercial fishing vessel safety, and prosecution of hoax callers. The office provided an attorney to serve as a part time Special Assistant U.S. Attorney (SAUSA) for prosecution of a number of criminal cases with Coast Guard interests. These included the conviction of an individual for conspiracy to cause the Coast Guard to attempt to save lives and property when no help is needed and communicating a false distress signal to the Coast Guard. The individual made the false distress signal in an attempt to fake his own death to evade sentencing for a probation violation following his state court conviction for theft in connection with a burial plot scam. He was located after appearing on "America's Most Wanted."

Military Justice. Attorneys of the Fifth District Legal Office provide comprehensive legal advice to the District Commander and subordinate field unit Commanders as they pursue just resolution of criminal allegations under the Uniform Code of Military Justice (UCMJ).

Legal Assistance. Leveraging limited in-house resources and through close partnering with the Coast Guard Legal Service Command attorney dedicated to legal assistance, the Fifth District Legal Office ensures that clients receive comprehensive assistance. Fifth District attorneys helped coordinate services to over 3,500 active duty and reserve Coast Guard members and their dependents, and provided direct legal assistance service to thirty-eight clients.

Other Matters. On July 7, 2010, a 250-foot sludge barge collided with a 33-foot amphibious passenger vessel called a DUKW boat, which was giving a waterborne tour of Philadelphia. The DUKW boat sank and of the 35 passenger, 26 suffered minor injuries and two were fatally injured. The Fifth District Legal Office coordinated efforts between the Coast Guard, NTSB and other government agencies to conduct a thorough investigation into the causes of the accident



and to ensure safe operations in the future. NTSB recently released their findings at a public hearing on June 21, 2011. A synopsis of the NTSB findings can be found at: http://www.nts.gov/news/events/2011/philadelphia_pa/synopsis.html

The Fifth District Legal Office has been advising on a project proposal for the expansion of the Mid-Town Tunnel, one of the major crossings between Portsmouth and Norfolk, Virginia. Traffic congestion, especially at the area's bridges and tunnels, has long been a problem for the Hampton Roads region. In order to complete this project the contractor will need to close part the Elizabeth River for extended periods of time, which will affect the transit of large commercial and naval vessels. The office has been working to come up with a plan to minimize the effect on navigation and still allow the project to proceed on-schedule. This expansion project will be on-going at least until 2014.

◆ Seventh Coast Guard District Legal Office

The Seventh Coast Guard District is headquartered in Miami, Florida. This District covers all Coast Guard operations in the Southeast United States and the Caribbean Basin including Florida, Georgia, South Carolina, Puerto Rico, the U.S. Virgin Islands and over 15,000 miles of coastline. In addition, the Seventh District shares operational borders with 34 Foreign Nations and Territories.

Prevention Law. Prevention Law judge advocates render advice to the Seventh District staff and field units on environmental, regulatory, administrative, marine safety and

security, and ethics and standards of conduct issues. Prevention Law judge advocates also provide support to local U.S. Attorney Offices and the Department of Justice Environmental Crimes Section (DOJ-ECS) in ongoing criminal investigations and maritime environmental crimes prosecutions. In the past year, Prevention Law judge advocates processed over 83 field regulations to establish limited access areas and rendered 57 ethics determinations.

In conjunction with DOJ-ECS and local Assistant U.S. Attorneys, Prevention Law judge advocates developed and coordinated maritime environmental crimes training for Coast Guard personnel throughout the Seventh District. The training enhanced critical thinking, increased information sharing, and improved case package preparation skills of Coast Guard personnel handling maritime environmental crimes cases.

In the past year, the Seventh District referred five maritime environmental crimes cases to the Department of Justice for prosecution. All five cases resulted from Coast Guard investigations that uncovered evidence of illegal discharges. Four of the five cases resulted in guilty pleas, and sentences that included fines and community service payments of \$2.5 million dollars. All four plea agreements required environmental compliance plans, with two plea agreements requiring fleet-wide environmental compliance plans. The fifth case is ongoing.

Response Law. Response Law judge advocates analyze law enforcement and search and rescue issues to enhance mission execution, render real-time advice in mission support, and ensure the Coast Guard operates within its authorities and policies. For example, the Response Law judge advocates, by providing direct legal guidance on all United States maritime drug law enforcement boardings in the Caribbean, has provided advice on the applicability and enactment of bilateral counter-drug agreements, guided the District Commander in authorizing airborne use of force in time-compressed go-fast chases, and reviewed the factual predicate to support lawful use of drug detection enhancement technologies (e.g., IONSCAN, drug dogs, etc.) and intrusive searches in appropriate cases. These efforts were instrumental in managing 26 successful drug interdiction cases, including the seizure of 25,023 pounds of cocaine and 6,437 pounds of marijuana in 2010. District Seven judge advocates have also provided legal advice for 6 drug interdictions to date in 2011.

Response Law judge advocates also support federal criminal prosecutions resulting from at-sea migrant interdictions, and actively participate in the Southern District of Florida Anti-Migrant Smuggling Task Force, which is led by the U.S. Attorney's Office for the Southern District of Florida. One Response Law judge advocate is assigned as a full-time Special Assistant U.S. Attorney (SAUSA) to the U.S. Attorney's Office in Miami. This judge advocate was involved in 68 indictments related to maritime alien smuggling in 2010, and 32 to date in 2011. Another full-time judge advocate is detailed as a SAUSA in the U.S. Attorney's Office for the District of Puerto Rico. This judge advocate was involved in 44 indictments related to alien smuggling in 2010, and 28 to date in 2011.

In addition, Response Law judge advocates participated in four international and interagency conferences in Florida, California, Ecuador, and Guatemala. These conferences were attended by civilian attorneys, military judge advocates, and federal judges from countries in Central and South American and the Caribbean region. The focus of these conferences was to discuss national laws and constitutional constraints regarding the illegal transport of narcotics throughout the region. Finally, Response Law judge advocates assisted the Seventh District staff in developing procedures and policies when Coast Guard assets enact various provisions of the Agreement Concerning Cooperation in Suppressing Illicit Maritime and Air Trafficking in Narcotic Drugs and Psychotropic Substances in the Caribbean Area, a Caribbean Regional Agreement with seven current signatories.



Military Justice/Personnel Law. The Seventh District legal office provides legal and prosecutorial support to field commands and the District staff on issues ranging from general courts-martial through non-judicial punishment under Article 15 of the UCMJ, as well as personnel issues such as relief for cause and administrative discharge. All Seventh District judge advocates participate in military justice actions, primarily as trial counsel.

Over the last year the Seventh District legal office has seen a doubling in the number of courts-martial convened. The majority of the cases have involved sexual assault. Other cases have involved fraud, misuse of government property, as well as drug use. Many of the offenses had, as the root or as a contributory factor, alcohol abuse.

Legal Assistance Section. The legal assistance office currently has one civilian attorney, and a paralegal. In 2011 the Seventh Coast Guard legal assistance office opened 1,224 new legal assistance cases, and assisted 1,294 individual clients. The legal assistance staff visited 20 Coast Guard units within the D7 area of responsibility. During these visits the legal assistance team worked to ensure members had the powers of attorney, wills, and other legal documents needed to ensure their legal readiness for deployment. These efforts made the D7 legal assistance office the most productive legal assistance team in the Coast Guard. In recognition of her prodigious results, the D7 civilian legal assistance attorney, Ms. Cary Mitchell, was awarded the Judge Advocate General of the Coast Guard's "Spirit of Excellence" Award.

Coast Guard units are very appreciative of the tireless efforts of the legal assistance team on their behalf. The Officer-in-Charge of Law Enforcement Detachment (LEDET) 404 was extremely grateful for the team's efforts during their 2010 pre-deployment workup. What began as a routine, pre-deployment legal readiness work-up turned into multiple visits. The D7 legal assistance team's adeptness at resolving the complexity of various LEDET 404 members' personal legal readiness issues directly contributed to the LEDET's mission effectiveness during a high operations tempo deployment.

◆ **Eighth Coast Guard District Legal Office**

The Eighth Coast Guard District Legal Office is located in New Orleans, LA. Its area of responsibility includes twenty-six states encompassing the U.S. Western Rivers from the Great Lakes to the Gulf of Mexico and the shorelines of the Gulf of Mexico from the Texas-Mexico border to the panhandle of Florida.

The Eighth Coast Guard District Legal Office is multifaceted, full service legal office; providing a broad range of legal advice and counsel to numerous clients on a daily basis. For example, this year it advised on six significant marine environmental crimes cases; reviewed 230 field regulations that were later published in Federal Register; prosecuted 6 courts-martial; and processed well over 100 requests under the Freedom of Information Act. While the Eighth District Legal Office provided legal advice in over 5,000 instances this year, it highlights its successes in three distinct areas: Military Justice; Environmental Crimes prosecutions; and Legal Assistance services.



Military Justice.

The office successfully prosecuted four General Courts-Martial involving charges such as sexual assault, maltreatment, larceny, and assault with a means likely to cause death or grievous bodily harm. In addition, attorneys tried two Special Courts-Martial relating to domestic assault & battery, false official statements, and larceny of military property.

Environmental Crimes.

Eighth District attorneys also continued to work in concert with the Department of Justice in the enforcement of environmental laws and regulations. Six cases resulted in over \$2.5-million in fines and other penalties.

One case involved incident aboard the *M/T Wilmina* in May 2010. A concerned crewmember alerted Coast Guard investigators to suspected offenses and provided video evidence of apparent criminal conduct. In lieu of criminal prosecution, the Coast Guard utilized its authority under 33 U.S.C. § 1228 to administratively ban the tank vessel from operating in U.S. ports for three years.

Another case arose from a Coast Guard port state control inspection aboard the *M/V Doric Glory* in May 2010. Because of the in-depth investigation by Coast Guard personnel and the Coast Guard Investigative Service, the Owner/Operator ultimately pled guilty to multiple violations of the Act to Prevent Pollution from Ships and the Clean Water Act. The guilty plea resulted in a \$525,000 fine and three years of probation for the owners.

Finally, a very complex case involved the *M/V Americana*. Operated by the same company that operated the *M/V Doric Glory*, this case presented unique legal challenges to the Coast Guard and the Department of Justice concerning crewmember rights, owner/operator obligations under International Law, and reportedly the first-ever probation violation in an marine environmental crimes case. After nearly six months of intense legal and investigative work, the owner/operator pled guilty to a total of thirty-two felony counts for violations of the Act to Prevent Pollution from Ships, the Ports and Waterways Safety Act, and obstruction of justice. Sentencing is scheduled for July, 2011. In addition to a \$1-million fine, the penalty will likely result in six corporations being prohibited from conducting further business in the United States during the a five year period of probation. Moreover, the owner of one of the corporations will also be banned - in his personal capacity - during the period of probation.

Legal Assistance.

The Eighth District legal office continued its dedication to military service members and their families by responding to approximately 1300 legal assistance issues. Demonstrating a breadth of knowledge and experience, the office provided advice and counsel in the following areas: 100 cases on consumer advocacy; 360 cases on estate planning projects; 250 cases on family law; 40 cases on immigration; 125 cases on landlord/tenant issues; 350 cases on notary assistance; 20 cases on individual rights protections; and 80 cases on real property.

Of particular significance was this office's involvement with the Volunteer Income Tax Assistance (VITA) program. Under VITA, the Eighth Coast Guard District Legal Office filed 177 returns on behalf of their clients, many of which involved complex elements such as diverse investments, private businesses, and rental properties, resulting in nearly \$300,000 in refunds. Volunteer preparers, working extra hours and weekends, saved clients nearly \$43,000 in preparation fees that they might have paid to commercial preparers.

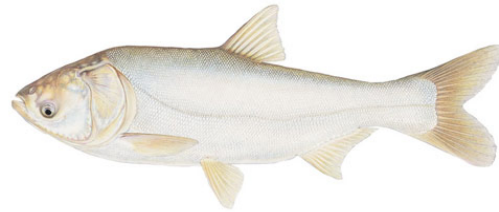
◆ Ninth Coast Guard District Legal Office

This office of four military attorneys, one civilian legal assistance attorney and two support staff supports Coast Guard operations throughout the Great Lakes and along 1500 miles of international border from Massena, New York, to Duluth, Minnesota. The Ninth District Legal Office provides legal support and services to approximately 1968 active duty, 556 Reserve, 97 civilian and 3191 Coast Guard Auxiliarists.

Legal Assistance. In FY 2011, the office opened more than 547 legal assistance cases executing more than 513 wills, Power of Attorneys and notary documents, assisting more than 50 landlord tenant clients, 89 family law clients, 39 consumer law clients, 39 cases involving the protection of individual rights such as the Servicemembers Civil Relief Act, 16 real property clients, 5 immigration cases, and 13 tax law cases. The office also published numerous preventive law newsletters for military personnel as well as several articles published in nationally distributed journals. During the past year, the Ninth District Legal Assistance Attorney spear-headed a special working group to develop a new online legal resource for military families. This legal resource had been requested of the American Bar Association (ABA) by First Lady Michelle Obama's office. The Ninth District Legal Assistance attorney contributed his significant expertise and creativity to shape the project. Specifically, he played a key role in the substantive review of the website's legal content. Moreover, relying on a network established through his current practice, he recruited and pulled together legal experts from various disciplines to develop and review the content. Because of his efforts and leadership, the ABA, consistent with the First Lady's objectives, is now better prepared to provide military members and families with greater access to high-quality, web-based legal information regardless of their location in the world. The Ninth District Legal office staff and Legal Assistance Attorney also prepared, in concert with the Supreme Court of Ohio, a Servicemembers Civil Relief Act (SCRA) online educational program. This includes preparing an instructional guide, identifying faculty, and building a judge's bench book. Through these collective efforts, the Ninth District legal office has greatly improved Ohio's legal system and maximized the competency of those within it.

Canada/U.S. Law Institute. The legal office has continued its strong partnership with the Canada/US Law Institute, an entity jointly supported by Case Western Reserve - School of Law and the University of Western Ontario Faculty of Law. In addition, this was the fifth year of a Memorandum of Agreement (MOA) between the Ninth District and Case Western Reserve School of Law -Institute for Global Security Law and Policy (IGSLP). Under the MOA, the IGSLP holds a Coast Guard/Homeland Security course annually. Ninth District attorneys provide a block of instruction on authorities and jurisdiction and submit research topics for the course. The capstone of the course is preparation of memoranda of law for the benefit of the Coast Guard on topics relating to Coast Guard missions, homeland security or international law. A strong relationship has been forged with Case Western Reserve – School of Law allowing the Ninth District Legal Office to have twelve summer law interns to assist in operational law, military justice and legal assistance.

Environmental Stewardship. The Ninth District Legal Office continues to play a significant role in environmental stewardship and compliance issues. The legal office is at the forefront of developing novel regulations designed to protect mariners who transit the navigable waters adjacent to, or over an electric dispersal barrier located on the Chicago Sanitary and Ship Canal. The barrier, constructed and operated by the Army Corp of Engineers, generates a low-voltage electric field across the canal to block the passage of Asian Carp, an aquatic nuisance species between the Mississippi River basin and the Great Lakes. The electric current in the water poses a safety risk to commercial and recreational boaters transiting the area, which necessitated establishing navigational and operational restrictions on all vessels transiting the area. In the past year, the Ninth District has issued several new safety and security zones in the Chicago Sanitary and Ship Canal due to the increase in voltage of the electric dispersal barrier and the shutdown of the Canal for several days. The legal office also promulgated regulations to control the carriage of water on board vessels that potentially could contain non-indigenous species from one side of the barrier to the other. Finally, the legal office directly assisted in successfully defending challenges in the Supreme Court of the United States to permanently close this same waterway.



Great Lakes Maritime Strategy. Ninth District attorneys played a pivotal role in the development of the Great Lakes Maritime Strategy (GLMS). The strategy is the cornerstone document that will shape D9 missions for the next 5-10 years. The legal office directly assisted in the development of the six strategic objectives (Mission, People, Canada, Resources, Partnerships, Share our Story) as well as ancillary documents including a Commander's Intent, the Ninth District mission ethos, and a framework for action centered on the six strategic objectives. The GLMS was shared with numerous DHS partners including the Secretary of Homeland Security, congressional members, Governors and other state leaders, as well as individuals and companies in the Great Lakes AOR that rely daily on the Coast Guard.

Great Lakes and Mississippi River Inter-basin Study. Ninth District attorneys negotiated and drafted several important MOAs this year, including agreements with the U.S. Army Corps of Engineers for participation in the Executive Steering Committee as well as for Cooperating Agency Support for the Great Lakes and Mississippi River Inter-basin Study (GLMRIS). GLMRIS will provide a thorough and comprehensive analysis of aquatic nuisance species controls. Additionally, GLMRIS will analyze the affects each alternative plan would have on the current uses of the Chicago Area Waterway System, including the Chicago Sanitary Ship Canal, and other identified aquatic pathways between the Great Lakes and Mississippi River basins.

The Ninth District Legal Office deployed over 60% of the office staff including active duty members and reservists in support of the *Deepwater Horizon* response.

The Ninth District Legal Office continues to use and expand its efforts in the Federal Ticket program in conjunction with US Attorney's Office offering an additional tool for Boarding Officers.

The Ninth District Legal Office continues to work closely with U.S. Attorney offices and state prosecutors to prosecute several hoax/mayday cases throughout the AOR. During the past year, three cases have been successfully prosecuted for the Coast Guard resulting in restitution to the Coast Guard for a total sum of \$225,000.

◆ **Eleventh Coast Guard District Legal Office**

The legal office is located on Coast Guard Island in Alameda, California, providing legal support to three Sectors, one Group/Air Station, three other Air Stations, seventeen Cutters, thirteen Small Boat Stations and four Aids to Navigation Teams, as well as the District Commander and Staff. The 2,600+ active duty, reserve, and civilian employees of the Eleventh District conduct or support missions over 3.3 million square miles of water. This area of responsibility includes the Eastern Pacific Ocean from South America to the Northern California border with Oregon as well as three of the five busiest commercial container ports in the United States. The legal office consists of the Staff Judge Advocate and a Deputy with support from three additional Judge Advocates and one support Yeoman on rotational assignment from the Legal Service Command.

Counter Drug Operations Support. Eleventh District counter-drug operations resulted in more than 30 individual federal prosecutions with over 13,800 pounds of illegal drugs seized or disrupted from Eastern Pacific interdictions. The legal office provided evidence handling and case package preparation training to most of the boarding team members involved in these interdictions. Additionally, Coast Guard Air Stations and Department of Defense aviators benefitted from District Eleven legal briefings on how to successfully develop evidence of Drug Trafficking Vessel Interdiction Act of 2009 (DTVIA) violations. Judge Advocates also supported conferences in Guatemala and Ecuador furthering the development of strong international agreements to combat the flow of illicit substances across national boundaries. Many Latin American countries participated in these conferences and have engaged in officer exchanges to better understand each nation's legal regime.

Significant Pollution Cases. At different time periods of the *Deepwater Horizon* (DWH) response, District Eleven Legal provided three attorneys to assist with advising the National Incident Commander, and Federal On-Scene Coordinator and their respective staffs to address a wide range of legal issues, including international law (e.g. when there was concern DWH oil might reach Cuba), handling offers of assistance from foreign governments, Jones Act/cabotage law issues, and environmental law requirements (Clean Water Act, Oil Pollution Act of 1990, Resource Conservation and Recovery, National Contingency Plan). The legal office also partnered with the US Attorney's Office in San Francisco to prosecute a maritime pollution case originating from the U.S. Flagged M/V HORIZON ENTERPRISE.

Significant Search and Rescue (SAR) Case.

In November 2010, C/S CARNIVAL SPLENDOR (Panama Flag), with over 4,000 (3,299 passengers and 1,167 crew) people on board, reported a fire/re-flash fire in the engine room and then experienced a loss of power while about 150 NM South of San Diego and about 50 NM off the coast of Mexico. Back-up generators allowed water but no propulsion in international waters. In coordination with PACAREA Legal and Legal staffs at Coast Guard Headquarters, District Eleven Legal staff provided legal advice through-out the SAR as the course of actions shifted and the hours progressed based on changes in the situation. Legal advice included addressing topics of the most prudent manner in which to coordinate the investigation of the marine casualty with the Foreign Flagged vessel, Jones act/cabotage issues, and resolving funding issues. By quickly rendering legal advice, the Coast Guard conducted a successful SAR response uninterrupted by legal concerns. All the passengers and crew on board were ultimately brought safely back to a U.S. port.

◆ Thirteenth Coast Guard District Legal Office

The Thirteenth District Legal Office, headquartered in Seattle, Washington, supports Coast Guard operational units within Washington, Oregon, Idaho, and Montana. These units cover more than 460,000 square miles of Pacific Ocean, and operate in some of the harshest maritime environments in the country. The Thirteenth District provides maritime safety and security to the largest passenger ferry system, the third largest commercial port and third largest U.S. Naval homeport in the Nation. The legal staff includes five active duty attorneys, one civilian attorney, two reserve attorneys, and three support personnel.

The legal office played a critical role in \$16,000,000 environmental remediation efforts related to the M/V DAVY CROCKET, a World War II liberty ship abandoned by its owners on the shoreline of the Columbia River after the owner's attempts to turn the vessel into scrap metal resulted in the release of massive amounts of oil and significant quantities of asbestos.

The legal office successfully defended Coast Guard Safety and Security Zones that were established for the protection of Naval Vessels and spectators during Seattle's 2010. "Seafair" fleet week from claims that those same zones were in violation of protestors 1st Amendment rights.

Between January and April of 2011, the legal office worked with Coast Guard Sector Puget Sound, the Army Corps of Engineers, the Environmental Protection Agency, and the Port of Seattle to clear the potential legal obstacles associated with the removal and remediation of unexploded ordinance found at Pier 90 and 91 in Seattle, two of the Port's most frequently visited cruise ship terminals.



The legal office worked closely with the U.S. Attorney's Office for the Western District of Washington to facilitate the prosecution of the master of a Korean merchant vessel who was operating his vessel under the influence of alcohol when he brought the ship into the Straits of Juan de Fuca.

The legal office assisted 750 personnel on over 1,100 legal issues and drafted over 2200 documents, including; wills, powers-of-attorney, appointments of medical agent, Washington State child support documents, and orders dividing military retired pay. This was accomplished through extensive travel of the legal assistance attorney, conducting 18 on-site visits, providing in-person consultation for all members along the remote Washington and Oregon coasts.

◆ **Fourteenth Coast Guard District Legal Office**



The Fourteenth Coast Guard District is the largest District in terms of geographic size, including nearly 12.2 million square miles of the Western and Central Pacific Ocean, an area more than two and a half times larger than the Continental United States, including approximately 42% of the United States' entire Exclusive Economic Zone. The Fourteenth District staff is headquartered in Honolulu, Hawaii, and supports Coast Guard operations within the main Hawaiian Islands, Guam, Saipan, American Samoa, Japan, Singapore and Korea. The legal office is staffed by three judge advocates, one civilian legal assistance attorney, one paralegal, and one legal yeoman.

Enforcement of Laws & Treaties:

Combating Transnational Crime in the Western & Central Pacific.

The Fourteenth District staff works closely with colleagues at the Department of Defense, Department of State and the Department of Commerce to develop the legal frameworks necessary to implement effective and efficient interagency and bilateral operations throughout vast under-resourced and unregulated areas of the Pacific Ocean. The Fourteenth District spearheaded the development and implementation of bilateral shiprider agreements with six Pacific Island Nations (PIN), drastically increasing the United States' strategic presence throughout Oceania and enhancing the PIN's capacity to combat illicit activity, including illegal fishing as well as narcotics and human trafficking. With additional bilateral agreements in various stages of development, the Coast Guard and our regional partners are poised to provide a greater enforcement capability, improved fisheries management efforts, and greater stability to the Island Nations that make up Oceania.

Western and Central Pacific Fisheries Commission (WCPFC).

The Western and Central Pacific Fisheries Convention (WCPFC) is an international fisheries agreement that seeks to ensure, through effective management, the long-term conservation and sustainable use of highly migratory fish stocks (i.e. tunas, billfish, and marlin) in the western and central Pacific Ocean. Since the United States is a member of the convention, the Fourteenth District is heavily involved in developing the policies and procedures to ensure compliance through a robust high seas international vessel boarding program.

Commercial Fishing Vessel Manning – Addressing the ‘Paper Captain’.

U.S. Law requires that U.S. flagged fishing vessels (engaged in commercial service) must at all times be under the command of a U.S. citizen. The Fourteenth District contains some of the most remote operating areas and fishing grounds in the world. To that end, enforcement operations often reveal that U.S. citizens are hired just to meet the letter of the manning requirements and are not actually serving as the functional master on board these vessels, hence referred to in the field as “Paper Captains.” Fourteenth District attorneys have worked closely with enforcement and prevention counterparts to develop a more robust enforcement strategy to achieve increased compliance within the distant water fishing community through the civil penalty and vessel documentation process.

Environmental Crimes:

Shipboard Pollution in American Samoa.

Fourteenth District attorneys facilitated the investigation and federal prosecution of a shipboard oil pollution case from the M/V SYOTA MARU in the territory of American Samoa. A comprehensive case package was developed and referred to the Department of Justice, Environmental Crimes Section for prosecution in the fall of 2010. Koo’s Shipping Company S.A., a Taiwanese corporation, pleaded guilty in federal court to



charges of making false statements, knowingly failing to fully and accurately maintaining an oil record book as required by international treaty and U.S. law, and for knowingly discharging oily bilge waste into Pago Pago Harbor, American Samoa, without using proper pollution prevention equipment. The company was sentenced to pay a \$750,000 criminal fine and pay \$250,000 towards community service projects in American Samoa, and was placed on probation for three years. The community service payment was split equally between the National Marine Sanctuary Foundation and the National Fish and Wildlife Foundation for environmental restoration and protection projects in American Samoa. This case represents the first successful vessel pollution case in American Samoa.

Administrative Law.

The Fourteenth District Legal Office in conjunction with the Coast Guard Office of Law Enforcement submitted a Legislative Change Proposal (LCP) to revise the venue provision of the Magnuson-Stevens Fishery Conservation and Management Act to make the U.S. District Court responsible for prosecuting U.S. Pacific EEZ incursions in that District Court, which is geographically closest to the respective EEZ. This change will allow fisheries case to be brought within the District of Hawaii and the District of Guam and the Northern Marina Islands, depending on where the fisheries violations occurred.

Military Justice.

Over the past year Fourteenth District attorneys have participated in a variety of military justice activities including summary and special courts-martial, Article 32 investigations, and advice and counsel to field commanders regarding the Article 15 process. This year an E-7 was taken to Special Court Martial for growing and distributing marijuana, among other charges. He was reduced to E-1, received a Bad Conduct discharge from the service, and is serving one year of confinement with a forfeiture of 2/3 pay for 12 months. A Summary Court-Martial was held for an E-8 charged with dereliction of duty, false official statements, and adultery. This resulted in findings of guilt, a reduction to E-7 and a reprimand. Several instances of Non-Judicial Punishment occurred throughout the District, but most notably, the District Commander, conducted an Article 15 proceeding against an O-2 in the Coast Guard for Violation of a Lawful General Order and Fraternization. The Fourteenth District Legal Office maintains a strong working relationship with the Staff Judge Advocate's Office at Marine Corps Base Hawaii. The two offices support each other with judge advocate training opportunities, opportunities to enhance advocacy skills, and by providing Article 32 investigative support.

Legal Assistance Program.

The Fourteenth District Legal Assistance Office provided client services to approximately 2,500 Coast Guard personnel, while also administering to the legal assistance needs of the large O'ahu based active duty community from the Army, Navy, Air Force, and Marine Corps, including their respective dependents and retirees.

Among the noteworthy accomplishments of the past year, the Fourteenth District's Volunteer Income Tax Assistance (VITA) program provided assistance to 172 taxpayers and saved military tax clients an estimated \$15,513.00 in preparation fees while processing \$569,335.00 in tax refunds. When compared to 2009 returns, this year the VITA program observed an 8% increase in the number of filings processed, testifying to the exceptional benefit our members receive through this all volunteer program.

◆ Seventeenth Coast Guard District Legal Office

The Seventeenth Coast Guard District, headquartered in Juneau, Alaska, supports the District Commander and subordinate operational units throughout Alaska, the Coast Guard's most environmentally diverse and unique geographic region. Alaska is a maritime state, encompassing 3,853,500 square miles of water and over 33,000 miles of coastline which provides unique environmental and operational challenges distinct from every other district. Alaska is also the true embodiment of the state motto, "the Last Frontier," with its limited transportation infrastructure. The vast majority of the state consists of small communities and villages which are often accessible only by sea or air. There is no more formidable and unforgiving physical environment for Coast Guard operations, both for air and surface assets. The District Seventeen legal staff consists of three judge advocates and two legal technicians in Juneau and one civilian legal assistance attorney and a paralegal located in Kodiak. Throughout the past year, the office advised clients on a wide variety of administrative law, environmental law, civilian and military personnel, claims and litigation, and military justice matters and has provided the legal support necessary to ensure the effective execution of search and rescue, maritime safety, marine environmental protection, fisheries enforcement, and defense readiness missions throughout the North Pacific Ocean, Bering Sea, and the Arctic.



Arctic Engagement. As the "Gateway to the Arctic," Alaska is the forefront of the United States' interest in a matter rapidly growing in importance, both politically and economically. As environmental conditions in the Arctic region evolve, maritime commerce through the Northern Shipping Route is being established as an increasingly viable route for international maritime commerce. Establishing an increased Coast Guard presence and

continuing to strengthen relationships with the native communities in the North Slope, including the communities and native corporations of Barrow, Prudhoe Bay, Nome, Kotzebue, among others is a constant point of emphasis.

Environmental Law. One of the reasons for increased focus on the Arctic is the increased commercial interest in developing natural resource production in the Beaufort Sea. District Seventeen is constantly engaged with representatives from commercial energy organizations to ensure that any exploration activities are conducted in accordance with federal requirements. The legal office continues to ensure the proper precautions are taken to minimize the risk and enhance the response to a potential spill or release of oil during any future offshore exploration activities. Additional issues also include the challenges associated with disposing of the Coast Guard property where six LORAN C stations were located prior to the disestablishment of the LORAN program. One of the more notable issues addressed by the legal office pertains to a number of Endangered

Species Act issues, most recently exemplified by District Seventeen's involvement in development of Coast Guard wide evaluation standards for Alternative Planning Criteria submissions.

Operations Law. This year was highlighted by the response to M/V GOLDEN SEAS, a 738-foot cargo vessel suffering from the loss of steerage in the Bering Sea. Quick coordination and support from state & industry partners ensured a rapid response which helped to prevent the vessel from grounding and the subsequent discharge of cargo on the environmentally sensitive shoreline of Atka Island.

Alaskan Native Tribal Relationships. Alaska is home to 231 of the 567 federally recognized Indian tribes. Tribal relationships play a key role in operations since tribal influence is prevalent in every town and community within the District Seventeen AOR. The importance of these relationships is indicated by the presence of the Coast Guard's only tribal liaison representative, who is responsible for managing and assisting with all of the various native tribal issues. Significant events within the last year include a recent gift donation of a custom built totem pole constructed by the Tlingit tribe in Sitka, AK, to memorialize the passing of three service members recently killed in the line of duty. Additionally, the Coast Guard provided assistance to the Sun'aq tribe by facilitating a memorial ceremony for tribal members killed in a maritime incident during World War II off the coast of Kodiak, AK. The Coast Guard has also played a key role in education of tribal communities on the North Slope, engaging numerous tribes indigenous to the North Slope region to educate the population on boating/personal safety.

Military Justice. District Seventeen Attorneys provide real-time comprehensive legal advice to the District Commander and field commands in resolving and/or disposing of a variety of military justice issues. Notable military justice action in the previous year includes coordinating and facilitating summary courts-martial, UCMJ Article 15 non-judicial punishment, reliefs for cause, and processing members for administrative discharge.

Legal Assistance. While Legal Assistance services is primarily based out of Kodiak, legal assistance services are delivered to small communities through regular and frequent travelling road shows. These road shows enable active duty members and their families, many of whom are assigned to remote locations, to receive professional legal services and advice. A highlight of the legal assistance program was a multi-month "will-a-thon" in Sitka, AK, which recently suffered from an incident resulting in the deaths of three service members. Further, due to the challenges created by distances between Kodiak and the communities in Southeast Alaska, the judge advocates in Juneau have the unique and excellent opportunity to deliver a significant amount of legal assistance services to the military members, retirees, and families in this area.

◆ **Coast Guard Academy New London, Connecticut**



Coast Guard attorneys are assigned to the Academy in two capacities. First, three judge advocates staff the Academy Staff Judge Advocate's (SJA) office which provides a range of legal services and advice to nearly all Academy elements. Secondly, three judge advocates serve on the Academy's faculty where they teach a number of undergraduate law courses as part of the cadet curriculum.

The SJA and his staff furnish all legal advice to the Superintendent, Assistant Superintendent, and all other Academy divisions. The two Assistant SJAs serve as trial counsel for Academy courts-martial and may be periodically detailed to serve as Summary Courts-Martial or Article 32 Investigating Officers. One ASJA serves as a Special Assistant United States Attorney (SAUSA) by the U.S. Attorney for the District of Connecticut for criminal cases arising on Academy grounds and administers the Federal Magistrate Program at the Coast Guard Academy. Under the Magistrate Program, the SAUSA may prosecute civilians that commit offenses on Academy grounds (assault and drunken driving are examples). Additionally, the ASJAs provide legal assistance to eligible beneficiaries, client support to staff elements, and in partnership with the IRS, supervise the Volunteer Income Tax Assistance (VITA) Program. In 2011, the Coast Guard Academy's VITA program filed a total of 505 federal and state returns, helped clients recover over \$502,000.00 in refunds, and saved clients over \$125,000.00 in tax preparation fees.

All three judge advocates of the SJA's office serve as law instructors to over 13 different courses throughout the year, including various Leadership Development Center (LDC) courses and introductory military justice and standards of conduct briefings for the Corps of Cadets. The staff trained more than 400 LDC students and 500 cadets, providing approximately 250 hours of classroom instruction. The Coast Guard Academy law programs continue to grow and thrive, with this past year's events exposing cadets to an ever-increasing variety of places, perspectives, and legal practice areas. The faculty taught courses in Maritime Law Enforcement, Criminal Justice, Trial Advocacy, International Law, and Constitutional Law to hundreds of cadets.

Faculty members were quoted or published in several scholarly and news venues, including Seton Hall's law review, the National Review, the New York Times online, the Providence Journal, the San Francisco Chronicle, and National Public Radio. In addition,

a senior faculty member, whose book was recently published by Oxford University Press, continued to earn national recognition for his expertise on the law of terrorism while being featured on several panels (including one sponsored by the ABA's own Standing Committee on Law and National Security) and numerous others speaking engagements.

The Law Section sponsored the Fourth Annual Guardian Invitational Intercollegiate Mock Trial Competition at the Academy. More than 58 attorneys and legal professionals volunteered to judge 210 college competitors representing 13 prestigious institutions of higher education from all over the country. For its part, the Academy's own Mock Trial Team had its best performance in the program's history, advancing for the first time to the opening round of the American Mock Trial Association's National Championship Series.

Six cadets enrolled in the Academy's International Law course attended the International Institute of Humanitarian Law's Law of Armed Conflict Competition in San Remo, Italy. This annual event included cadets and midshipmen from 18 military academies from across six continents. An internationally mixed team with Coast Guard Academy members placed second overall in the competition and one Coast Guard cadet was awarded individual honors for his personal achievement.

The Law Section provided cadets with numerous other opportunities for exposure to the law in varied contexts, including visits to the Carr Center for Human Rights Policy at Harvard's Kennedy School of Government and participation in a conference on Gender Justice sponsored by the U.S. Military Academy's Center for the Rule of Law. Additionally, members of the Academy's legal faculty and staff hosted a cadet trip to observe an oral argument at the U.S. Supreme Court, where several members of CGJAG (including four stationed aboard the Academy) were admitted to the bar of the High Court.

Beyond academic endeavors of the faculty and the furnishing of legal advice by the Staff Judge Advocate's office, faculty and staff attorneys volunteered for duties away from the Academy. One member of the law faculty was temporarily assigned as legal counsel to Admiral Thad Allen (Coast Guard Ret.), the National Incident Command for the *Deepwater Horizon* oil spill response, while another attorney in the Staff Judge Advocate's office served as Defense Counsel for a high publicity court-martial in San Diego, CA. Several of the judge advocates on both staffs also served as an Article 32 officer for several cases and as a Summary Court-Martial officer.

◆ **Coast Guard Training Center Yorktown, Virginia**



Coast Guard Training Center Yorktown is the largest training center in the Coast Guard; one of three Coast Guard commands where legal advice is provided by a single independent duty attorney. This active duty SJA, assisted by an active duty legal assistant, provides advice on a broad range of legal issues that cover the full spectrum of the training center's operations. The principal job of the training center's attorney is to advise the commanding officer and command staff on a broad range of legal issues, including military and criminal justice, real property, ethics, environmental law and fiscal and contract law.

In addition to being the legal counsel for the commanding officer, the SJA serves as a legal assistance attorney for all of the command's students and permanent party members, as well as several outlying units and provided assistance to more than 150 members last year. The training center is home to 16 separate schools, including the National Search and Rescue School, the International Maritime Officers School, the National Aids to Navigation School, the Coast Guard's Operational Intelligence, Marine Inspections and Investigations, and Port Operations Schools. The assigned attorney provides instruction during these courses on a variety of legal subjects including the 4th and 5th Amendments. The Training Center SJA also provides instruction on Coast Guard legal issues during the Coast Guard's Sector Department Head and Sector Commander courses.

◆ **Coast Guard Training Center Cape May, New Jersey**

One Coast Guard attorney is assigned as the SJA for the Coast Guard's 5th largest base and only Recruit Training Center. Coast Guard Training Center Cape May is the home of the Coast Guard enlisted corps -- it is the Coast Guard's sole enlisted accession point and basic training center. Thousands of the finest young men and women in service to the United States of America pass through the gates each year. The Training Center's goal is to graduate Coast Guardsmen who are morally, mentally and physically ready to serve the citizens of the United States.



The SJA advises the Commanding Officer in all legal matters involving the Training Center. Major areas requiring advice include community relations, real property management, licenses, recruit separations, government contracts, acquisitions, environmental matters, philanthropic support, claims and litigation, ethics regulations, fiscal law, personnel law and labor/management relations, and Freedom of Information Act and Privacy Act. The SJA is directly responsible to the Commanding Officer for all

military justice matters, and provides local liaison with Coast Guard Investigative Service, the U.S. Attorney's Office, and the Cape May County Prosecutor. In addition, the SJA assists the Training Center's 14 tenant commands. As the sole military legal assistance attorney in southeastern New Jersey, the SJA also provides counsel on personal civil affairs to recruits, active duty personnel, dependents, local retirees, and various local commands throughout the region.

◆ Coast Guard Training Center Petaluma, California

Training Center Petaluma's legal office is staffed by a single independent duty attorney who acts as the center's SJA. The base has 47 schools for introductory and advanced training for enlisted personnel with more than 5,600 students each year, 300 staff, plus more than 500 residents in family housing. The SJA advises the commanding officer and staff regarding military and criminal justice, administrative law, real property/installation law, ethics, claims, environmental law, procurement/fiscal and contract law, and protects the U.S. government from liability in all legal practice areas.

During the past year, the SJA volunteered for six weeks of duty at the Unified Area Command (UAC) in New Orleans to advise responders handling the *Deepwater Horizon* oil spill. While there, the attorney helped develop the vessel-decontamination plan, including procedures, job aids, and inspectors' qualifications, for the largest vessel-decontamination operation in Coast Guard history. The attorney was a key developer of the UAC's plan to preserve electronically-stored data consistent with the Department of Justice's stringent guidelines in anticipation of litigating multi-billion dollar claims. The attorney also ensured that evidence-preservation rules were written into all plans to recover *Deepwater Horizon's* blowout preventer and guarded its chain of custody during forensic testing. The attorney's review of local demobilization plans protected Federal authority from infringement. The attorney advised the Federal On-Scene Coordinator regarding delegations to subordinates and proposals to use the Oil Spill Liability Trust Fund. At Training Center Petaluma, the SJA applied the UCMJ to cases of DUI, abandoned watch-standing duties, and indecent acts. The SJA also joined a team prosecuting crewmembers in a high-profile vessel collision case and devised a settlement plan that ultimately saved an estimated \$122,000 in litigation costs. The SJA negotiated and secured aid agreements with California Highway Patrol for mutual assistance in law enforcement, with Sonoma County for their response to on-base emergencies, and with two local hospitals for student training. The SJA also acted as a personal legal-assistance attorney and provided emergency estate planning for a Coast Guard member who suffered a stroke, handled a child-custody dispute for a *Deepwater Horizon* responder, and helped six students gain U.S. citizenship.

