



DEPARTMENT OF THE NAVY
OFFICE OF THE JUDGE ADVOCATE GENERAL
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IN REPLY REFER TO

JAGNOTE 5450

Code 05

MAY 24 2010

JAG NOTICE 5450

Subj: MISSION AND FUNCTION OF ASSISTANT JUDGE ADVOCATE GENERAL,
CHIEF JUDGE OF DEPARTMENT OF THE NAVY

Ref: (a) 10 U.S.C. Sec. 5149
(b) JAG memo of 18 Dec 07
(c) JAG ltr 5817 Ser 00/0123 of 1 Sep 09
(d) JAGINST 5400.1A
(e) JAGINST 5814.1
(f) JAGINST 5803.1C
(g) JAGINST 5817.1C
(h) JAGINST 1150.2
(i) COMNAVLEGSVCCOMINST 5530.2B
(j) JAGINST 5813.4G

1. Purpose. Pursuant to references (a) through (c), and pending revision of affected references (d) through (j), this Notice promulgates policy, prescribes procedures and assigns responsibilities for the position of Chief Judge of the Department of the Navy, and when so designated, as Assistant Judge Advocate General (AJAG-CJ).

2. Background. On 18 December 2007 the Secretary of the Navy established the AJAG-CJ whose principal duties include supervision and management of the trial and appellate judiciary enterprises within the Department of the Navy.

3. Primary Duties. The AJAG-CJ oversees the Department of the Navy judicial enterprise, including the following duties and responsibilities:

a. Judicial Supervision

(1) AJAG-CJ is the senior supervisory jurist in the Department of the Navy, and shall comply with the 2007 American Bar Association Code of Judicial Conduct (Code of Judicial Conduct). Consistent therewith, the AJAG-CJ will monitor the timeliness and productivity of the trial and appellate judiciaries and adjust, provide, or request resources needed to maintain fair, impartial, and timely disposition of courts-martial by the trial and appellate judiciaries. Additionally, the AJAG-CJ will take such administrative action consistent with

the Code of Judicial Conduct and other governing regulations as are necessary to ensure all judges perform their duties timely and effectively.

(2) The AJAG-CJ is the reporting senior for the Chief Judge of the Trial Judiciary (TRIJUDACT), the Chief Judge of the Navy-Marine Corps Court of Criminal Appeals (NMCCA) and all other judges of the NMCCA, active and reserve components. Whenever the AJAG-CJ evaluates a judge from a different Service, the AJAG-CJ will forward that fitness report for administrative review to the Judge Advocate General or to the Staff Judge Advocate to the Commandant of the Marine Corps, as appropriate.

(3) The AJAG-CJ shall conduct any second-level review required by governing fitness report instructions for judges evaluated by the Chief Judge TRIJUDACT.

(4) The AJAG-CJ is the higher level reviewer for the Clerk of Court, NMCCA, and any other civilian rated by either Chief Judge NMCCA or Chief Judge TRIJUDACT.

(5) In the event the AJAG-CJ develops a conflict of interest in the evaluation of any subordinate, the Judge Advocate General will be the reporting senior.

(6) Reports to the Judge Advocate General required by references (d) through (j) shall be made to the AJAG-CJ. The AJAG-CJ shall report at least quarterly to the Judge Advocate General regarding the status of courts-martial pending with military trial judges for authentication, or docketed by the NMCCA, with specific comment on any administrative impediment, such as a lack of judicial resources, which might cause any case to fail to be processed within the standards set forth in *United States v. Moreno*, 63 M.J. 129 (C.A.A.F. 2006). In addition, the AJAG-CJ will report the status and administrative needs or other judicial resource short-fall of any case docketed at NMCCA for longer than one year, in panel for longer than six months, or in which corrective or other action has been directed by NMCCA, when such action has not been completed by the date specified.

(7) The AJAG-CJ will ensure there are rules of practice and procedure, including internal operating procedures, for the trial and appellate judiciaries that will provide timely and efficient trial and post-trial processing of courts-martial, consistent with applicable law, and in the interests of justice. Rules promulgated by the chief judges of the TRIJUDACT and NMCCA shall be provided to the Judge Advocate General via the AJAG-CJ.

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b. Judicial Misconduct. The AJAG-CJ is designated Rules Counsel for all inquiries into judicial misconduct involving judges of the NMCCA and TRIJUDACT. All complaints of judicial misconduct or unfitness will be submitted to the AJAG-CJ. In the case of complaints against a Marine Corps judge, the AJAG-CJ will notify the Staff Judge Advocate to the Commandant of the Marine Corps in addition to notifying the Judge Advocate General. The AJAG-CJ will appoint any necessary preliminary inquiry officer or ethics investigating officer from among current or former judges belonging to the Service of the judge to be investigated, unless impractical to do so. The Deputy Chief Judge, TRIJUDACT, is designated to respond to inquiries regarding matters of judicial ethics.

c. Judicial Screening. The AJAG-CJ is the Chair of the Judicial Screening Board. The AJAG-CJ is responsible for scheduling and conducting periodic boards to select the best qualified candidates for future judicial service.

d. Judicial Training. The AJAG-CJ is responsible for the initial training of all judicial candidates, as well as the continuing education of current TRIJUDACT and NMCCA judges. The AJAG-CJ will prescribe the minimum training standards for all judges, requirements for continuing legal education for judges, and represent the Navy-Marine Corps judiciaries at the flag and general officer level regarding matters of judicial training and qualifications, when those policy decisions are coordinated with the other Services. In discharging these responsibilities, the AJAG-CJ will coordinate with other Service chief judges to create and maintain a standard military judges training symposium that incorporates the courses of the National Judicial College, and other similar programs, improving the profile of the military judiciary by providing a cost-effective means of post-graduate and continuing education specifically oriented towards the judiciary.

e. Judicial Assignments. The AJAG-CJ shall make recommendations to the Judge Advocate General and the Staff Judge Advocate to the Commandant of the Marine Corps on billet structure, including the number and geographic location of judiciary billets. The AJAG-CJ is also the Judge Advocate General's principal advisor on the assignment of officers to positions within the trial and appellate judiciaries, active and reserve components, including officers to be nominated for duty under the Department of Defense as military commission trial or appellate judges. The AJAG-CJ will coordinate closely with the Staff Judge Advocate to the Commandant of the Marine Corps regarding the nomination and appointment of Marine Corps judges.

Once active and reserve judges are appointed, the AJAG-CJ is responsible for supervising their utilization, and that of all judicial resources, to best serve the interests of justice within the Department of the Navy.

f. Judicial Representative. The AJAG-CJ is the principal advisor to the Judge Advocate General regarding the Article 146, UCMJ, Code Committee, on matters affecting the judiciary, and will represent the Judge Advocate General on the Code Committee when so designated.

g. Community Sponsor. When the AJAG-CJ is a Navy judge advocate, the AJAG-CJ serves in the capstone billet of the military justice litigation career track for judge advocates of the Navy. As such, the AJAG-CJ is the principal strategic planner and community sponsor for the military justice litigation career track. The AJAG-CJ will affirmatively lead that community by overseeing execution of reference (h) by which the Navy JAG Corps will identify, develop, and retain litigators and judges. In overseeing execution of reference (h), the AJAG-CJ will coordinate with, and be supported by, the other AJAGs.

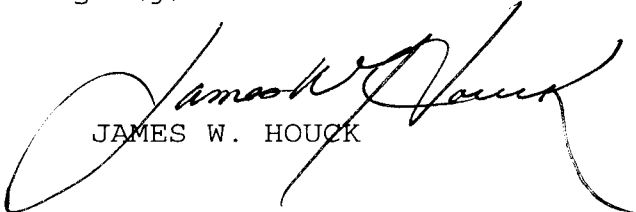
h. Judicial Process Improvement. The AJAG-CJ is responsible for the continuous monitoring and assessment of judicial quality and efficiency, including methods of decreasing error rates and the cost of providing judicial services in the military justice process. In carrying out these responsibilities, the AJAG-CJ will coordinate with other Service chief judges, as well as the civilian judiciary, to identify and implement best judicial practices, including in such areas as standardization of judicial forms and court filings, efficient and effective case management and tracking systems, and other advances in courtroom technology and judicial practice. To the extent advances in judicial practice and procedure necessarily implicate changes in court-martial practice, such as changes in the trial script or pretrial agreement format, development of cutting-edge technology, including electronic records of trial, or other trial practices, the AJAG-CJ will coordinate with the other AJAGs and make recommendations to the Judge Advocate General and the Staff Judge Advocate to the Commandant of the Marine Corps.

i. Judiciary and Courtroom Security. The AJAG-CJ shall advise the Judge Advocate General, Commander, Naval Legal Service Command, and the Staff Judge Advocate to the Commandant of the Marine Corps, regarding judiciary and courtroom security. In this capacity, the AJAG-CJ shall monitor and report on the status of courtroom and judicial security, develop guidelines and best practices, and coordinate their implementation.

j. Succession. The AJAG-CJ shall serve in succession as the Judge Advocate General of the Navy when so directed by the Secretary of the Navy, the Judge Advocate General, or their designees, and as set forth in governing regulations.

k. Other Duties. The AJAG-CJ shall discharge such other duties as assigned by the Judge Advocate General, consistent with the Code of Judicial Conduct and judicial independence. Other duties may include, but are not limited to, serving as a member of the United States Court of Military Commission Review, a member of the Naval Justice School Board of Advisors, a member of the Office of the Judge Advocate General Awards Board, and as a member or manager of civilian personnel management and pay committees. Additionally, the AJAG-CJ is authorized to detail himself or herself to preside over any general court-martial or military commission upon the request of the Department of Defense, the Chief Judge TRIJUDACT, or any other Service Judge Advocate General or designee pursuant to the Inter-Service Memorandum of Understanding on cross-service detailing of military judges. The Navy Judge Advocate General shall be notified of the circumstances attending the detailing of the AJAG-CJ to any court-martial, and the impact such detailing will have on the discharge of the AJAG-CJ's other duties. The AJAG-CJ will serve simultaneously as the Chief Judge NMCCA only when so appointed by the Judge Advocate General.

4. Cancellation Contingency. This Notice shall be effective on 1 June 2010, and shall be retained until incorporated into revisions of references (c) through (j).



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