

History of the Coast Guard Legal Program

The Coast Guard Legal Program Begins

The Coast Guard legal program began as the Military Discipline Branch in the Office of Operations after an Act of Congress of May 26, 1906, created a military discipline system for the Revenue Cutter Service. The branch remained in the Office of Operations following the creation of the Coast Guard on January 28, 1915, with the merger of the Revenue Cutter Service and the Lifesaving Service. The function of the branch during these early years was primarily to review the several types of Coast Guard courts, to prepare actions for the Secretary of Treasury, and to perform other matters of military discipline. Edward P. Harrington served as the head of the Military Discipline Branch after creation of the Coast Guard and held the title of chief legal officer, although contemporaneous vouchers refer to him as a law and contract clerk.

The Legal Division is Created

The Revenue Act of 1934 placed all legal duties and functions of the Department of the Treasury in the newly created Office of the General Counsel of the Treasury Department. As a result, a Legal Division was established as a part of the organization of Coast Guard Headquarters with the division chief designated chief counsel. Organizationally, the Legal Division was part of the commandant's staff, and the chief counsel worked under the direction of the assistant commandant. Joseph P. Tanney, who had succeeded the retiring Harrington in 1931, became the first chief counsel.

The Revenue Act of 1934 and the efforts of Herman Oliphant, the first general counsel of the Treasury Department, substantially enlarged the functions and responsibilities of the Coast Guard Legal Division that was created in 1934 by creating a legal advisory service to provide legal opinions, both formal and informal, to the Coast Guard administrative officers. Over time the General Counsel assigned regularly other legal work concerning contracts, real estate, legislation, regulation review, and other matters affecting the Coast Guard to the Legal Division.

Kenneth F. Harrison assumed the position of chief counsel in 1938 upon Tanney's resignation to enter the private practice of law. The General Counsel of the Department of the Treasury assigned Harrison to the Coast Guard by where he had been serving since his employment from the War Department in 1930.

Coast Guard Law Expands in World War II

The outbreak of war in Europe was swiftly followed by the Neutrality Act of 1939. This act, together with the transfer of the Lighthouse Service to the Coast Guard in the summer of 1939 resulted in a considerable increase in the functions and duties of the

Coast Guard and its Legal Division. These additional responsibilities required an increase in resources, and several attorneys, stenographers, and clerks were assigned to the Legal Division and the position of assistant chief counsel was created. When President Roosevelt declared a State of Limited National Emergency and activated the Espionage Act of 1917, a Port Security program was established with extensive organization, regulations, and responsibilities. The size of the Coast Guard continued to increase, and the passage of emergency legislation, such as the Coast Guard Reserve Act, added to the duties and responsibilities of the Legal Division.

The transfer of the Coast Guard to the Navy on November 1, 1941, created several legal challenges, particularly regarding the transition from the Coast Guard disciplinary system to that of the Navy under the Articles for the Government of the Navy. The sudden entry of the United States into World War II on December 7, 1941, resulted in a rapid expansion of the Coast Guard to carry out its war missions. Almost all of the attorneys in the Legal Division were civilians at the time. Most were commissioned in the Coast Guard Reserve during the war – including Harrison who, having served as an officer in the Army Reserve for sixteen years before World War II, was appointed as a lieutenant commander on May 30, 1942. He rapidly advanced in grade, first to commander sixteen days later, and then to captain in May 1943.

Coast Guard regulations in 1940 for the first time provided for a law officer as a member of the staff of each Coast Guard District. As these positions filled, law officers were also provided to captains of each major port and the major independent units such as Supply Depots and Training Stations. The Legal Division faced difficult problems during the first year of World War II. Besides the increased demands for opinions, legal advice, and other legal functions, the recruitment and indoctrination of law officers and the formation of a service-wide legal organization for the first time required considerable time and attention. The Legal Division was required to provide the full range of advice and opinion not only to the administrative officials at Coast Guard Headquarters but also to District Coast Guard offices.

Coast Guard commanders and officers, unaccustomed to having lawyers close at hand, did not know what to do with them or whether they could be trusted. Mr. Harrison took on this issue when he addressed the chiefs of staff of the districts who were assembled at Headquarters in the summer of 1942:

I regret to say that in some quarters there is a general antipathy against lawyers. They are looked upon as obstructionists and causes of delay when something is desired to be done. This is a mistaken viewpoint, gentlemen. The role of the lawyer, as a legal adviser, is to ascertain what his client wishes to do and the procedure he proposes to follow, and then advise the client whether there is any legal objection to such action. If the objective is legally permissible, but the procedure is faulty from a legal point of view, it is the role of the lawyer to advise his client in what manner the action may be taken without legal objection. He should exhaust every ingenuity

he possesses to support the action which his client wishes to take. ... The value of the district law officer ... depends upon the extent his services are utilized. ... Whenever a Coast Guard officer acts upon the legal advice given to him by the District law officer, the District law officer shares with him the responsibility for the action taken.

Executive Order 9083, which became effective on March 1, 1942, transferred the major functions of the former Bureau of Maritime Inspection and Navigation to the Coast Guard. This move resulted in an extensive field of new legal activity for the Legal Division. For the first time, the Coast Guard was vested with the authority to regulate certain phases of an industry - namely, the administration of vessel inspection and navigation laws. These statutes encompassed a system that had grown piecemeal for 150 years; they were difficult of construction and interpretation, particularly in view of the special considerations and adjustments resulting from the emergency conditions arising from the war. To handle this new workload, a special section in the Legal Division was created and designated the Admiralty and Maritime Section.

At this time the Legal Division at Coast Guard Headquarters was organized into eight sections reporting to the chief counsel. The sections were: Opinion, Port Security, Admiralty and Maritime, Contracts, Real Estate, Courts and Boards, Legislative, and Patent. In addition, there were several special assistants to the chief counsel who were assigned special projects and tasks not falling within the cognizance of any particular section.

The Office of the District Law Officer in each district was organized along the same lines as that of the Legal Division at Headquarters, except that in the small offices the work of several sections was combined. There were no legislative or patent sections on the district level. During World War II, the staff of the Legal Division was composed of approximately twenty-five non-lawyers assigned to legal work in the field offices that included law offices in fifteen Coast Guard districts.

With the end of World War II and the resulting massive demobilization, the civilians commissioned as reserve officers reverted to their civilian status and many returned to private practice. Captain Harrison returned to civilian status in April 1946, but retained his commission in the Coast Guard Reserve, eventually being appointed the Reserve's first permanent Rear Admiral on June 28, 1956.

The post-World War II period contained few legal billets for active duty Coast Guard officers with law degrees. In late 1947, for instance, of the twenty-one people assigned to the Legal Division in Coast Guard Headquarters only three were commissioned officers. The other eighteen were civilians. There were no field personnel whose time was fully devoted to the handling of the legal matters that arose in the various Coast Guard district offices. The legal section headed by the district law officer that had existed in each district office during World War II had been consolidated in July 1947 into an organizational component headed by the "Legal and Intelligence Officer." This office

was responsible to the district chief of staff for the performance of all duties other than those duties concerning legal matters, for which the Legal Officer reported to the chief counsel. In the performance of legal duties, he advised the district chief of staff, but was responsible to the Legal Division and the chief counsel at Coast Guard Headquarters. Coincidentally, a Coast Guard Reserve Voluntary Legal and Intelligence Unit 05-8 was established in 1949 and was commanded by Harrison in his Reserve capacity until 1960. During the late 1940's some lawyers returned to active duty in the Coast Guard after a brief period as civilians in private practice. Despite the scarcity of legal billets for military lawyers following World War II, many landed in quasi-legal billets, such as Marine Inspection and Investigation Offices, Captain of the Port Offices, and Port Security Units.

Uniformed Law Specialists Are Created

Enactment of the Uniform Code of Military Justice (UCMJ) in 1950 created an immediate need for legal officers and resulted in the establishment of a single legal billet in each Coast Guard district as the staff legal officer. To fill these billets, the Coast Guard used some of the lawyers commissioned during World War II. However, the service felt the need for career-oriented lawyers, so the Coast Guard instituted a program of postgraduate education in law for its regular officers. In 1949-1950, prior to the effective date of the UCMJ, five Coast Guard officers entered law school. Each year thereafter, varying numbers of officers received assignments to law schools, with the number stabilizing at two per year by the mid 1950's and continuing at that rate through 1969. The increased legal responsibilities and workload resulting from the UCMJ also caused a number of military lawyers to be added to the Legal Division at Coast Guard Headquarters as "Special Assistants to the Chief Counsel," who remained Rear Admiral Harrison. Enactment of the UCMJ also required a Judge Advocate General for the Coast Guard for the first time and Congress assigned that duty to the General Counsel of the Department of the Treasury, although many of the duties were subsequently delegated to the Chief Counsel.

The Legal Division Becomes the Office of the Chief Counsel & the First Military Chief Counsel is Appointed

When the Office of the General Counsel of the Treasury Department was created and the Legal Division in Coast Guard Headquarters was established in 1934, the chief counsel and his staff in the Legal Division operated under the supervision of the general counsel of the Treasury Department. The transfer of the Coast Guard to the newly created Department of Transportation in 1967 provided an opportunity to take a fresh look at the Legal Division.

At the time, the Legal Division was under resourced and its organization had not appreciably changed over time. At the same time, there was no established office of the General Counsel in the newly created Department of Transportation. A call went out to all of the modal administrations to provide personnel to staff the new department until

permanent personnel could be hired. Captain William L. Morrison, a military attorney who was then serving as Deputy Chief of Staff for the Coast Guard following a number of command and legal tours, was assigned in April, 1967, as Assistant to the General Counsel. Captain Morrison's assistance in organizing the General Counsel's office, which included a study of other general counsel offices and the legal offices of the new modal administrations, provided him a unique perspective to assess the Legal Division. Coincidentally, the Administrative Management Division of the Coast Guard instituted a study of the Legal Division in 1968. Recommendations of the study led to reorganization and realignment of the Legal Division, including its elevation to office level and making the Office of Chief Counsel responsible directly to the Commandant. The Office of Chief Counsel now consisted of six divisions: Maritime and International Law, Regulations and Administrative Law, Procurement Law, General Law, Military Justice, and Claims and Litigation. The Regulations and Administrative Law Division also was responsible for the Coast Guard legislative program, but that function was later transferred to a new Legislation Division.

The 1968 reorganization also established the position of chief counsel as a military billet with the same rank as other office chiefs – rear admiral. On January 1, 1969, now Rear Admiral Morrison, who had been promoted in January 1968, and reassigned to the Coast Guard, was assigned as chief counsel in 1968, succeeding Mr. Harrison who retired in 1968 at the age of 68. The Chief Counsel would remain a military billet from that time forward. The Assistant Chief Counsel remained civilian.

The creation of the Office of Chief Counsel in 1968 was timely because it coincided with the Military Justice Act of 1968, which radically changed the military justice system, creating the Courts of Military Review, military judges, and greatly expanding the role of attorneys in the military justice system. As a result, the Coast Guard field legal corps expanded rapidly. Civilian attorneys were offered reserve commissions to fulfill short-term needs, and the post-graduate program was expanded from two to ten students per year to provide a larger cadre of career law specialists.

Although the need for additional attorneys to fulfill the mandates of the Military Justice Act of 1968 abated by the mid-1970's, the number of military lawyers assigned in the field and, to a lesser extent, in the Office of Chief Counsel, continued to rise.

This period also marked the accession of the first African-American law specialist, Merle James Smith, Jr., who graduated from the George Washington School of Law in 1974. Also the first African-American to graduate from the Coast Guard Academy in 1966, he served in Vietnam before attending law school. He left active duty in 1979 but remained in the Reserve, eventually retiring as a commander.

The continuing growth of law specialists in the mid-70's was principally due to two acts: the Magnuson Fisheries Conservation and Management Act in 1976, which established the 200-mile Fisheries Conservation Zone (precursor to the Exclusive Economic Zone) and expanded the Coast Guard's role in enforcing fisheries laws; and the Federal Water

Pollution Control Act of 1973, which greatly expanded the Coast Guard's role in environmental protection. The post-graduate training for career military attorneys continued, but the rate slowed to about six per year by the early 1980's.

In addition to implementing the reorganization of the Office of the Chief Counsel, Rear Admiral Morrison served as the legal advisor to the first United Nations Law of the Sea Conference. Other judge advocates would participate in the development of the United Nations Convention on the Law of the Sea, including future Judge Advocate General John E. Crowley, Jr. After Rear Admiral Morrison was assigned to district command in 1973, he was succeeded by Rear Admiral R.A. Ratti (1973-1976), Rear Admiral G.H.P. Bursley (1976-1978), Rear Admiral C.F. DeWolf (1978-1981), and Rear Admiral E.H. Daniels (1981-1986).

The Coast Guard Realigns

Rear Admiral J.E. Vorbach became Chief Counsel during Coast Guard "realignment" that began in 1987 to add 500 billets to meet the expanding "War against Drugs" when the Coast Guard was unable to obtain congressional approval to augment the force. The district offices in New York City and San Francisco were closed, and some support functions were withdrawn from the remaining ten districts and consolidated in two new Maintenance and Logistics Commands in New York City and Alameda, California. Among the functions transferred to the new commands were claims, defense advocacy, real property, contract law, and civilian personnel law; the personnel needed to perform these functions and support the legal needs of the Maintenance and Logistics Command commanders and their units nationwide were also transferred. As a result, the number of attorneys in the Coast Guard remained unchanged, although their distribution changed substantially. However, the number of legal support personnel declined by 15 percent, primarily at the district level.

The ultimate effects of realignment probably were not what anyone expected. The loss of clerical personnel meant that there were far fewer people to maintain the office law libraries, act as court reporters for courts and boards, or perform ordinary clerical tasks. As a result, the chief counsel successfully convinced the chief of staff to purchase computers for every lawyer and support staff assigned to the districts and Maintenance and Logistics Commands together with a suite of hardware and software that put the legal program at the forefront of the Coast Guard's office automation effort. Each attorney was given word processing, E-mail, and calendaring software. Every computer came equipped with the modem and software necessary to use both LEXIS and WESTLAW, and each office was equipped with a laser printer, color daisy wheel printer, and a scanner. All of the computers within each office were networked, and every legal office was linked via E-mail, giving attorneys from Boston to Honolulu and Juneau to Miami the ability to exchange documents and pleadings. In 1987, this was leading-edge technology, especially in the Coast Guard.

Another effect was that the Maintenance and Logistics Command Pacific Legal Staff, believing that its defense advocacy branch was understaffed, entered into a memorandum of agreement in 1988 by which the Navy Legal Services Office (NLSO) on Treasure Island assumed responsibility for Coast Guard defense advocacy needs in exchange for the detail of two Coast Guard law specialists. In 1991, the next chief counsel, Rear Admiral Paul E. Versaw, entered into a similar agreement with the Norfolk NLSO. This later ripened into an agreement with the Judge Advocate General of the Navy to provide all trial defense services for the entire Coast Guard in return for the detail of four law specialists to Naval Legal Services Offices and/or Trial Services Offices in Seattle, Norfolk, and Washington, D.C. In 2015 and 2016, four additional judge advocates were assigned to Navy Defense Service Offices.

The Coast Guard retained responsibility for the appellate defense function and, in 1987, Lieutenant Commander Robert Bruce became the first uniformed judge advocate of any service to argue before the Supreme Court in *Solorio v. United States*, the first direct appeal of a military justice case to the Supreme Court after 1983 amendments to the Uniform Code of Military Justice. Lieutenant Commander Allen Lotz would later argue *Ryder v. United States* in 1995, in addition to serving as co-counsel in *Edmond v. United States* in 1997, a case in which Lieutenant Richard Beyer also served as co-counsel.

In 1991, Rear Admiral Versaw made other changes to the post-realignment legal program in order to “re-level” the workload in the district and legal offices. He moved the Maintenance and Logistics Command Atlantic Advocacy Branch to the Fifth District Legal Office in Portsmouth, Virginia. Second, he centralized the household goods claims processing function in the Second District Legal Office in St. Louis. Third, he added attorney billets to several district offices to bring their complement of law specialists to at least three, which had been found to be the districts and Maintenance and Logistics Commands partly to put a necessary second clerical person at the smaller districts, and also to revitalize the Legal Assistance Program which had very nearly died due to realignment.

Two other significant changes occurred in the early 1990’s. First, as a result of the Exxon Valdez oil spill, Congress passed the Oil Pollution Act of 1990 which greatly added to the Coast Guard’s regulatory responsibilities. Additional attorneys were added to the Coast Guard to write more than eighty major regulatory packages needed to implement the Act, and a legal division was established at the National Pollution Fund Center, which was created to administer the fund set up by the Act. Second, in response to increasingly complex legal issues related to compliance with environmental laws, the chief counsel created the Environmental Law Division at Headquarters.

On February 18, 1996, Mr. Robert Horowitz became Deputy Chief Counsel, replacing Mr. Rue Helsel, who, after serving over a decade in the position, retired on September 30, 1995. Mr. Horowitz would serve in the position until November 19, 2000, when he was detailed as Director of Finance and Procurement.

The Coast Guard Streamlines

The 1996 Coast Guard streamlining and reorganization had its impact on the legal program. Organizationally, the Office of the Chief Counsel became just the Chief Counsel as the existing legal divisions at Coast Guard headquarters became Offices. The Second District Legal Office was disestablished along with the district with the legal responsibilities moving to the Eighth District in New Orleans. With the closure of Governors Island, the Maintenance & Logistics Command Atlantic Legal Division moved with the command to Norfolk, Virginia and established an Atlantic Area Operational Law Branch in Portsmouth. Perhaps the most significant change was the elimination of the Fifth and Eleventh Districts, along with their legal staffs. With the Atlantic and Pacific Area commands assuming responsibility for the Fifth and Eleventh Districts' functions, the legal staffs at both Maintenance and Logistics Commands expanded their duties to include service to the district commands. During this same period, the legal program added five new billets located at Marine Safety Offices in New York, Hampton Roads, New Orleans, Houston and Los Angeles/Long Beach. A result of work between the legal, marine safety, and Administrative Law Judge programs, these billets will provide needed, on site legal services to the investigations and suspension and revocation process.

Rear Admiral John E. Shkor, the only officer to serve two tours as Chief Counsel, from 1993 to 1996, and 1998 to 1999, and the only officer who, having served as Chief Counsel, was promoted to vice admiral, presided over the dramatic changes following enactment of the Oil Pollution Act, and shepherded the legal program through the difficult changes of streamlining. Rear Admiral Paul M. Blayney, who served from 1996-1998, also played a significant role during this turbulent time. During this period Mr. Robert S. Horowitz became Deputy Chief Counsel.

Among his many other accomplishments, Rear Admiral Jay S. Carmichael, who served as Chief Counsel from 1999 to 2001, and was assigned in 2003 as the first Military Assistant to the Secretary of Homeland Security, created the seal of the Chief Counsel that has remained unchanged since.

Coast Guard Law Responds to 9/11 & the Judge Advocate General is Designated

On September 11, 2001, Rear Admiral Robert F. Duncan was serving as Chief Counsel during the attacks on New York and Washington. In the immediate aftermath of the attacks, Coast Guard attorneys drafted and published essential orders and rules, including requirements for 96-hour advance notice of vessel arrivals and naval vessel protective zones. Coast Guard attorneys joined Department of Defense attorneys in assisting families of the victims of the Pentagon attack and were assigned to a Department of Defense task force that began assembling evidence to support the trial of terrorists before

military commissions. Rear Admiral Duncan led the Homeland Security Strategic Task Force established by the Commandant to pave the way for fundamental doctrinal changes.

Coast Guard attorneys played a leading role at the twenty-second Assembly of the International Maritime Organization which convened in November 2001. At the urging of the United States delegation, led by the Commandant, the Assembly adopted Resolution A.924 (22), Review of Measures and Procedures to Prevent Acts of Terrorism which Threaten the Security of Passengers and Crews and the Safety of Ships. The resolution called on IMO committees to review, on a high priority basis, existing instruments to determine whether other maritime security measures were appropriate. This resolution, adopted in record time, led to a variety of other actions by the IMO. In April 2002, the IMO began a review of the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, 1988, and its Protocol. In December 2002, a Diplomatic Conference on Maritime Security adopted amendments to the International Convention for the Safety of Life at Sea (SOLAS) to enhance maritime security, including a new chapter on ship and port facility security and a complementary International Ship and Port Facility Security (ISPS) Code.

On November 25, 2002, Congress enacted the Maritime Transportation Security Act of 2002 which created a comprehensive regime for ship and port security. Coast Guard attorneys played an integral role in drafting the legislation, synchronizing many of its provisions with international measures that would be adopted the following month at the IMO. The Maritime Transportation Security Act triggered the most ambitious and extensive in Coast Guard history; the rulemaking was also adopted in the most abbreviated period in our history: interim rules were published in seven months; the final rules were published on October 22, 2003, becoming effective on November 1. This rulemaking, begun by the Maritime Safety and Security Council under Rear Admiral Duncan, was concluded by Rear Admiral John E. Crowley, Jr., who became Judge Advocate General in 2003.

The Homeland Security Act was enacted on the same day as the Maritime Transportation Security Act. Coast Guard counsel played an important behind-the-scenes role during negotiations on Capitol Hill concerning the transfer of the Coast Guard to the Department of Homeland Security, ensuring that the Coast Guard transferred intact and that its military maritime multi-mission character would be preserved.

The Homeland Security Act also amended the Uniform Code of Military Justice to afford the Secretary discretion to designate any official to serve as Judge Advocate General of the Coast Guard. On March 1, 2003, the date on which the Coast Guard transferred to the new department, Tom Ridge, Secretary of Homeland Security designated the Chief Counsel and Deputy Chief Counsel as the Judge Advocate General and Deputy Judge Advocate General of the Coast Guard. Rear Admiral Duncan became the first military Judge Advocate General of the Service. Mr. Calvin M. Lederer, who succeeded Mr. Robert Horowitz as Deputy Chief Counsel in June 2002, became Deputy Judge Advocate

General. On July 12, 2006, Coast Guard law specialists became judge advocates when the Coast Guard Maritime and Transportation Act of 2006 became law.

Another dramatic development affecting the Coast Guard after 9/11 was passage of the Intelligence Authorization Act of 2002, which amended the National Security Act of 1947, to place the intelligence element of the Coast Guard within the Intelligence Community. Commander Kevin D. Lunday was assigned to advise Ms. Francis Townsend who later was appointed the first Assistant Commandant for Intelligence (and who would later become Assistant to the President for Homeland Security and Counterterrorism). As the intelligence program would grow, so would the number and sophistication of military and civilian counsel supporting it. In 2014, Kevin Lunday, who by then had commanded the Maritime Intelligence Fusion Center Atlantic, would be promoted to rear admiral, and in 2015, another judge advocate, Rear Admiral Steven J. Andersen would be assigned as Assistant Commandant for Intelligence.

In June 2002, the Integrated Deepwater System contract was awarded to Integrated Coast Guard Systems, a joint venture of Lockheed Martin and Northrup Grumman. This contract was intended to launch a recapitalization of Coast Guard vessels, aircraft, and command, control, communications, computers and intelligence valued then at \$24 billion. Although the award followed 9/11, the Deepwater program had been planned since the mid-1990's. Coast Guard procurement counsel participated in every aspect of the program design and the award process. Subsequently they would participate in the sweeping revision of the program to accommodate post 9/11 requirements, downstream procurements, and the Coast Guard's response to reverses that would occur in the program.

The year 2002 also saw appointment of Vice Admiral Thomas J. Barrett as the first judge advocate to serve as Vice Commandant of the Coast Guard, and the second judge advocate after Vice Admiral Shkor to serve as a vice admiral. In 2014, Charles D. Michel, became the third judge advocate to become a vice admiral when he became Deputy Commandant for Operations and the second judge advocate to become Vice Commandant in 2015. In 2016, his promotion to admiral made him the first career judge advocate in any of the armed services to reach four-star rank. Air Force General Russell E. Dougherty, promoted in 1972, had been a judge advocate but terminated his judge advocate status in 1952 to retain his pilot rating. Other judge advocates have served in other flag positions throughout the Coast Guard. Many other judge advocates have served in command at sea in small and large cutters, including Captain Jason R. Hamilton who commanded Coast Guard Cutter Healy when it became the first United States surface vessel to reach the North Pole without assistance, and command ashore, as well as in staff positions at all levels of the Coast Guard.

In August 1, 2003, the Judge Advocate General established Legal and Defense Services as a staff element to manage the legal assistance program and provide legal assistance in the National Capitol Region, and provide all physical disability counsel representation and criminal appellate defense, as well as manage trial defense billets and oversee other

criminal defense services provided to the Coast Guard by the Navy. This moved the appellate defense function out of the Office of Military Justice and responsibility for legal assistance out of the Office of Legal Policy and Program Development. Over time, the number of appellate defense counsel increased and a Chief of Legal Assistance for the Coast Guard was created to support civilian legal assistance attorneys who had been hired for all district and Maintenance and Logistics Command offices.

Professional development of attorneys was enhanced from 2004 through 2006, with the first Coast Guard military attorneys attending the Army Judge Advocate General's Legal Center and School in Charlottesville, Virginia, to earn a master of laws (LLM) degree and serving year-long follow-on fellowships at the Center for Law and Military Operations. The decision to invest in the Charlottesville LLM rather than a subject-matter specific LLM was intended to provide a broader experience for officers to better prepare them for future leadership positions and exposure to judge advocates in other services. A Missions Law Course for operations law judge advocates and attorneys was run for the first time in 2006, followed in later years by creation of an Advanced Missions Law Course held in alternate years with the Missions Law Course.

CGJAG Responds to Hurricane Katrina

On 29 August 2005, Hurricane Katrina devastated the Gulf Coast region and more than fifty Coast Guard attorneys – active, reserve, and civilian – from across the nation deployed to support the Coast Guard response to Katrina, and later, Hurricane Rita. Attorneys assigned the 8th Coast Guard District, now commanded by former Judge Advocate General Robert F. Duncan, supported the initial lifesaving and pollution response. In succeeding days and weeks, a Coast Guard attorney deployed as the legal advisor the Vice Admiral Thad Allen, the Principal Federal Official.

Other Coast Guard attorneys from a variety of disciplines provided real time on-demand advice and supported Coast Guard, DHS and federal interagency actions in response to a wide range of issues, including authority for inland search and rescue operations; law enforcement and force protection while escorting convoys of supplies; authority for removal of debris and pollutants; authority for forcible evacuations; facilitating the waiver or extension of certification, manning and licensing requirements for crews of commercial vessels; waiver of user fees associated with vessel inspection and licensing applications; applicability of the Federal Water Pollution Control Act to floodwater removal operations; execution of a temporary waiver to the Jones Act allowing foreign-flagged vessels to supplement U.S. vessel movement of petroleum products in the Coastwise trade; interpretation of the applicability of the Outer Continental Shelf Lands Act to foreign vessels chartered to assist in the survey and repair of damaged oil and gas platforms; advising on the use of the Oil Spill Liability Trust fund or the Stafford Act to pay for pollution response; and evaluating the safety and security regulations applicable to cruise ships utilized to provide temporary housing.

Legal assistance and claims teams fanned out across the Eighth and Seventh Coast Guard Districts to support Coast Guard people, 60 percent of whom in Louisiana, Alabama, and Mississippi suffered catastrophic losses. Legal teams provided legal assistance to over 1000 clients and assisted with approximately 600 personal property claims. Attorneys in the field and at headquarters supported Congressional, Government Accountability Office, and Inspector General investigations, and creatively resolved numerous operational issues.

In this same period, Captain William D. Baumgartner, who would become Judge Advocate General in 2006, led efforts at a diplomatic conference from October 10-14, 2005, to finalize amendments to the maritime terrorism convention: the 1988 Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation. Coast Guard judge advocates deployed to Iraq to participate in the prosecution of terrorists in the Criminal Court of Iraq and one judge advocate served as a member of the command cadre of Patrol Forces Southwest Asia.

Modernization of Legal Services

One of Admiral Thad Allen's principal initiatives when he became Commandant in 2006 was to critically examine Coast Guard operational and mission support functions and organization and initiate far reaching organizational changes that included dissolution of the two Maintenance and Logistics Command whose functions would be merged in a Mission Support organization, creation of a Force Readiness Command (FORCECOM) and an Operations Command (OPCOM) in place of the two Areas, and creating two new vice admiral billets to serve as Deputy Commandant for Operations and Deputy Commandant for Mission Support, while doing away with the Chief of Staff. CGJAG was intimately involved in all aspects of the complex Modernization effort, including drafting legislation that became law that authorized appointment of four vice admirals, besides the Vice Commandant. When Admiral Robert Papp became Commandant, he modified Admiral Allen's concept, adopting the Mission Support concept but preserving the two Areas, while retaining FORCECOM in a different and smaller form.

Rear Admiral Baumgartner initiated parallel Legal Modernization, under the leadership initially of Captain Gary Felicetti. Legal functions and structure were examined in the context of principles for the organization of legal services, resulting in Principles for the Delivery of Legal Services from which flowed a number of changes during the tenure of Rear Admiral Baumgartner and Rear Admiral Frederick Kenney, who became Judge Advocate General in 2011. Among the changes were insertion of the Judge Advocate General in the rating chains of staff judge advocates, creating a Senior Executive position to lead the Procurement Law practice, and creation of the Legal Service Command (LSC). LSC was resourced by the legal divisions of the former Maintenance & Logistics Commands, and was designed to support the Mission Support organization, provide matrixed counsel to support the staff judge advocates for the two Areas and the 5th and 11th Districts, provide specialized practice area support to staff judge advocates, manage contingency planning and execution, and otherwise support all of CGJAG. LSC was

activated on April 23, 2009, under the command of Captain Beth Pepper. She was succeeded by Captain Steven J. Andersen who, during his tenure, led the CGJAG response to Super Storm Sandy in 2013.

Rear Admiral Kenney continued execution of Legal Modernization with a number of initiatives, including more direct involvement in and control of judge advocate assignments, rebranding the Legal Program as CGJAG, and initiating “CGJAG 2.0” that, among other changes that occurred in 2013, including creation of the Office of Intelligence and Information Law, merger of the Office of Environmental Law into the Office of Maritime and International Law, moving Property Law back into the Office of General Law from the Office of Environmental and Property Law from which it came in 2004, creating an integrated and centrally managed Reserve CGJAG program, and in connection with a number of Coast Guard initiatives to combat sexual assault, the Coast Guard’s Special Victim’s Counsel program, which, in 2014, was subsumed in an Office of Member Advocacy and Legal Assistance which replaced the Office of Legal and Defense Services.

CGJAG Responds to Deepwater Horizon

In January, 2010, Coast Guard attorneys supported Coast Guard forces that deployed to provide humanitarian support after the devastating earthquake in Haiti. Their efforts called up reservists, prepared Coast Guardsmen for deployment, and provided legal support to deployed forces. Not long after Haiti, on the evening of April 20, 2010, the Transocean-owned, BP chartered, Marshall Islands-flagged Mobile Offshore Drilling Unit, Deepwater Horizon, located approximately 72 miles Southeast of Venice, Louisiana, reported an explosion and fire onboard. After an intense search and rescue operation led by the Coast Guard that saved 115 of the 126 crewmembers, the Deepwater Horizon sank on April 22, severing the riser that connected the MODU to the Macondo wellhead, triggering the largest oil spill response operation in United States history, and declaration of the first “Spill of National Significance.”

While the 8th District Staff Judge Advocate provided initial support to the Federal On-Scene Coordinator, Cal Lederer, who became Acting Judge Advocate General after Rear Admiral William Baumgartner was reassigned as Commander of the 7th Coast Guard District just before the blowout, designed a legal support structure that drew on CGJAG-wide resources spanning operations at all levels of the response. Coast Guard attorneys deployed to the Incident Command Posts in Houma, Louisiana and Mobile, Alabama, and attorneys from the 7th District Staff Judge Advocate supported the Incident Command Post in Miami. A legal staff, typically numbering five attorneys, supported the Unified Area Command, with the legal advisor seated literally at the right hand of the FOSC while the UAC operated in Robert Louisiana in the first several weeks of the response. Legal advisors were also assigned to Admiral Thad Allen, the National Incident Commander. The Acting Judge Advocate General, the Legal Service Command, and other offices provided support in depth to deployed attorneys. Coast Guard attorneys advised the NIC and FOSC regarding their authorities under the Oil Pollution

and the Clean Water Acts, and on a wide range of novel issues, including the decision to direct BP to fund the construction of \$360 million of barrier islands, protection of endangered species including sea turtles and other marine life, air quality monitoring relating to in situ burns, worker safety for responders on the beach and in wetlands, public safety, and international implications of the spill. Increasing response assets in the Gulf led to development of an expedited process to waive the “Jones Act”, which limits coastwise trade to U.S.-flagged vessels, to introduce additional response vessels, and promulgation in ten days of an emergency regulation reducing response requirements in other part of the United States to permit the movement of oil skimmers. Coast Guard attorneys were active on Capitol Hill, briefing members and staffs, and led drafting and advocacy of legislation to ensure adequate funding for the response, increasing draws on the Oil Spill Liability Emergency Fund and lifting the cap on funding to \$1.5 billion. In the first week of the response, CGJAG drafted the charter for a joint Minerals Management Service (which later became the Bureau for Ocean Energy Management, Regulations, and Enforcement) and Coast Guard investigation into the disaster. Coast Guard lawyers were also detailed to a Department of Justice criminal investigation and the Coast Guard’s Incident Specific Preparedness Review. Then Captain Frederick Kenney, who, as Chief of Maritime and International Law, played a significant role in all aspects of the CGJAG response, took the lead role in referring the Deepwater Horizon incident to the Department of Justice for litigation against the responsible parties. Coast Guard counsel helped draft the complaint and litigate the case. They also responded to litigation challenging aspects of the response. Throughout the response, CGJAG response documentation specialists preserved response documentation and later established a repository for digital and printed data. Judge Advocates played other significant roles in the response. In the early days, Captain David Nichols, 8th District Staff Judge Advocate, served as the first chief of staff for the UAC. Captain Steven Poulin, who became Judge Advocate General in 2014, but was Mobile Sector Commander when Deepwater Horizon began, served as the Incident Commander for the eastern part of the Gulf.

CGJAG in the Global War on Terror and Defense Operations

Beginning in 2003, Judge advocates supported the effort to try terrorists before military commissions, including preparation of cases for prosecution in the Army’s Criminal Investigation Task Force, design of military commissions in the Office of the Department of Defense General Counsel, and managing the process in the Office of Military Commissions. Between 2006 and 2016, fifteen Coast Guard judge advocates deployed in support of military operations in Iraq and Afghanistan, some in conjunction with their fellowship at the Center for Law and Military Operations, and some in cooperation with the Navy or at the request of the Department of Defense. A number of judge advocates participated in the prosecution of terrorists in the Criminal Court of Iraq. Rear Admiral Steven J. Andersen, who became Judge Advocate General in 2016, served a year in the NATO Training Mission-Afghanistan and Combined Security Transition Command-Afghanistan from 2010 to 2011. One judge advocate was Executive Officer of the Patrol

Forces Southwest Asia, the squadron of six patrol boats deployed in the Northern Arabian Gulf since Operation Iraqi Freedom began.

In 2012, Captain Timothy Connors became the first Coast Guard judge advocate to be selected to be a combatant command staff judge advocate, at NORTHCOM. By 2014, Coast Guard judge advocates were assigned to all combatant commands except EUCOM. In 2017, Captain William Dwyer became the second Coast Guard judge advocate to serve as a combatant command staff judge advocate when he was assigned to SOUTHCOM. Judge advocates have also served in the Organization of the Joint Chiefs of Staff and been assigned to or supported the Defense Institute for International Legal Studies.

CGJAG Today

Coast Guard legal services are provided by 270 attorneys (163 Judge Advocates in legal specialty billets and 107 civil service attorneys); 87 paralegals, legal technicians, and other support staff; and 48 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. The Coast Guard has approximately 225 Judge Advocates serving on Active Duty in both legal and non-legal assignments. Of the Judge Advocates, approximately 60 are currently performing out-of-specialty tours such as Commanding Officers of Coast Guard Cutters and as Coast Guard Sector Commanders and Captains of the Port. In 2019, six Judge Advocates are flag officers and a seventh has been selected for flag rank. Rear Admiral Andersen serves as the Judge Advocate General. Former Judge Advocate General and 1st District Commander Rear Admiral Steven Poulin serves as Director of Operations at SOUTHCOM. Former Commander of Coast Guard Cyber Command and Assistant Commandant for Command, Control, Communications, Computers, and Information Technology Rear Admiral Kevin Lunday serves as 14th District Commander. Rear Admiral Melissa Bert, former Deputy Director of Operations at NORTHCOM, serves as Director of Governmental and Public Affairs. Rear Admiral Laura Dickey succeeded Rear Admiral Bert at NORTHCOM. Captain Andrew Sugimoto was selected in 2018 for promotion to rear admiral. This will be the largest number of Judge Advocates to serve as flag officers at one time since 2004 when there were six.