



# **The United States Coast Guard Judge Advocate General's Report to the American Bar Association**

**August 2024**

## Table of Contents

Coast Guard Missions .....	2
CGJAG Workforce .....	4
CGJAG Program Development .....	5
CGJAG Spotlight: New CGJAG Insignia.....	6
Prevention Law .....	7
CGJAG Spotlight: Francis Scott Key Bridge Collapse .....	11
Environmental Law.....	12
Response Law .....	14
CGJAG Spotlight: GRANDE COSTA D’AVORIO .....	16
Maritime and International Law .....	17
CGJAG Spotlight: Palau Embedded Advisor .....	20
Information, Intelligence, and Cyber Law .....	21
Federal Prosecution Support.....	23
Military Justice.....	24
Legal Assistance, Defense Services, and Member Advocacy .....	26
Civil Advocacy, Claims and Litigation .....	28
General Law .....	29
Regulations and Administrative Law.....	32
Procurement Law .....	34
CGJAG Spotlight: Intellectual Property Law .....	37
Legal Services Provided by USCG Training Centers.....	38
Legal Service Command – Contingency Response .....	39
Legal Service Command – Detachment at Personnel Service Center .....	40
Legal Service Command – Command Services Division.....	41



# Coast Guard Missions

One of the great strengths of the United States Coast Guard is the broad suite of legal authorities that underpins its eleven statutory missions. The Coast Guard is at all times an armed service and the principal federal agency responsible for maritime safety, security, and environmental stewardship in U.S. ports and waterways. The Coast Guard protects and defends more than 100,000 miles of U.S. coastline and inland waterways and safeguards an Exclusive Economic Zone (EEZ) encompassing 4.5 million square miles stretching from North of the Arctic Circle to South of the equator, from Puerto Rico to Guam, encompassing nine time zones. The Coast Guard also exercises broad authorities on the high seas. At its core, the Coast Guard is always ready, resilient, and capable of enhancing America's maritime safety, security, and prosperity. CGJAG, including judge advocates, civilian counsel, reserve attorneys, and enlisted and civilian support staff, are involved in every facet of Coast Guard operations and mission support.

When the Coast Guard joined the Department of Homeland Security, its statutory authorities were codified under 6 U.S.C. § 468 with a distinction between homeland and non-homeland security missions. These missions are described below.

## Homeland Security Missions

**Drug Interdiction.** Drug Interdiction supports national and international strategies to deter and disrupt the market for illegal drugs, dismantle Transnational Organized Crime and Drug Trafficking Organizations, and prevent transnational threats from reaching the U.S. The Coast Guard is the lead federal agency for drug interdiction on the high seas.

**Defense Readiness.** The Defense Readiness mission exercises the Coast Guard's authorities and capabilities as an armed service to support the National Military Strategy. Lawyers advise both afloat and ashore commands on the authority to conduct Coast Guard, DoD, and joint operations; adherence to proper use of force and the standing rules of engagement; and the legal risk for conducting interdictions and boardings in support of domestic and international missions.

**Ports, Waterways, & Coastal Security.** The Ports, Waterways, and Coastal Security (PWCS) mission protects people and property in the Marine Transportation System by preventing, disrupting, and responding to terrorist attacks, sabotage, espionage, or subversive acts. Activities under PWCS include preparedness planning and exercises; initiatives to enhance the resilience of maritime Critical Infrastructure and Key Resources as well as the Marine Transportation System (MTS); the execution of antiterrorism and counterterrorism activities; and initial recovery efforts after attacks.

**Migrant Interdiction.** Migrant Interdiction operations provide effective law enforcement presence at sea and achieve three main objectives: deter undocumented migrants and transnational smugglers from using maritime routes to enter the U.S.; detect and interdict undocumented migrants and smugglers far from the U.S. border; and expand Coast Guard participation in multi-agency and bi-national border security initiatives. Coast Guard lawyers provide real-time advice to operational commands on Migrant Interdiction operations in South Florida and Caribbean areas of operation.

**Other Law Enforcement.** Other Law Enforcement involves the enforcement of marine resource regulations on foreign fishing vessels. This takes two forms. The first aspect involves the deterrence, detection, and interdiction of illegal foreign fishing vessel incursions into the U.S. Exclusive Economic Zone (EEZ), which represent a threat to the nation's renewable natural resources and a violation of United States sovereignty. The second aspect involves ensuring compliance with international agreements for the management of living marine resources.



## **Non-Homeland Security Missions**

**Aids to Navigation.** The United States operates the largest Aids to Navigation (ATON) constellation in the world. Coast Guard navigational aids include not only traditional floating buoys, fixed structures such as pilings, day boards, ranges, and lighthouses, but also electronic systems like the Global Positioning System and the Nationwide Automatic Information System, which is required on most commercial vessels operating in U.S. waters. In addition to federally owned ATON, waterways are marked by thousands of privately owned aids, which are permitted by the Coast Guard and must comply with Coast Guard regulations. Coast Guard lawyers work closely with the Office of Navigation Systems to develop regulations and policy consistent with statutory authority to establish and maintain ATON. This work also includes advice on regulation and policy required navigational safety equipment on commercial vessels.

**Search & Rescue.** The Coast Guard is the lead federal agency for maritime search and rescue in U.S. waters. Coast Guard personnel render aid to those in distress in the maritime environment and elsewhere when interdiction can influence the outcome of life-threatening incidents. Search and rescue efforts of afloat and airborne Coast Guard Units are coordinated with those of other federal, state, and local responders. These operations rely on Captain of the Port authorities and responsibilities to synchronize response efforts on waterways after an incident or disaster. Coast Guard lawyers provide organizational and operational advice on the execution of the Coast Guard's authority and obligations, both domestically and internationally.

**Living Marine Resources.** Living Marine Resources Law Enforcement is an obligation under the Magnuson-Stevens Fishery Conservation and Management Act, the Endangered Species Act, and several other federal laws focused on the protection of marine resources. The core objective of these efforts is to provide effective and professional enforcement to advance national goals for the conservation, management, and recovery of living marine resources, marine protected species, and national marine sanctuaries and monuments.

**Maritime Environmental Protection.** The Coast Guard works with a variety of groups and organizations to protect the marine environment. There are five areas of emphasis in the Marine Environmental Protection mission: (1) prevention—stopping pollution before it occurs through training, equipment, and procedures; (2) enforcement—providing civil and criminal penalties for illegal acts; (3) surveillance—protecting the marine environment by conducting pollution over-flights, vessel examinations, harbor patrols, transfer monitoring, and facility inspections; (4) response—removing and mitigating spills of oil and hazardous substances; and (5) in-house abatement—ensuring that Coast Guard vessels and facilities comply with federal environmental laws and regulations.

**Marine Safety.** The focus of the Coast Guard's marine safety mission is the prevention of deaths, injuries, and property loss. Marine safety responsibilities include ensuring the safe and environmentally sound operation of millions of recreational vessels and thousands of U.S. flagged commercial vessels. The Coast Guard develops and enforces Federal marine safety regulations, certifies and provides credentials to more than 218,000 mariners, documents U.S. vessels, investigates marine casualties and shares its findings, and conducts compulsory inspections as well as voluntary safety exams. Coast Guard attorneys provide legal advice to program elements within the Coast Guard to interpret existing laws and regulations to determine the extent of Coast Guard authority to act in the safety realm, both with respect to safety equipment required on vessels and the qualifications of those individuals working aboard.

**Polar, Ice, & Alaska Operations.** The Polar Regions are a focal point of maritime interest in shipping, living marine resources, mineral and oil exploration, and scientific research domains. As a result, Coast Guard presence in the Polar Regions is growing as operational demands expand. Coast Guard polar icebreakers support national security and sovereignty, and national science missions in the Polar Regions.

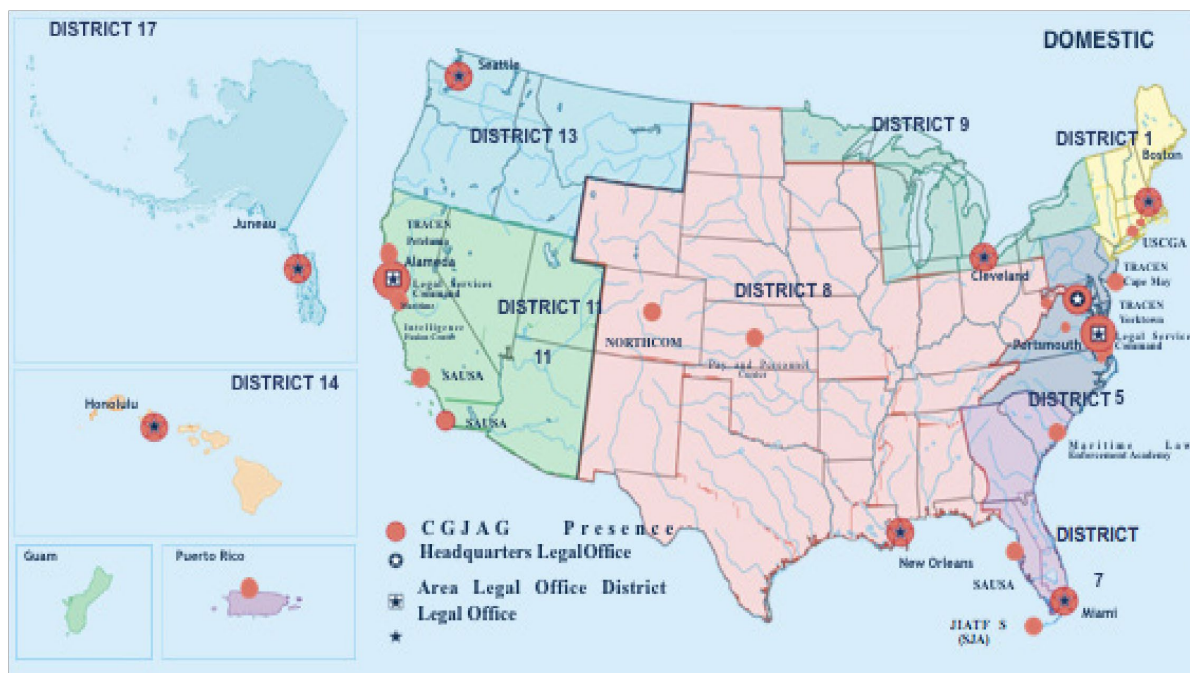


# CGJAG WORKFORCE

CGJAG supports all nine Coast Guard districts (Districts 1, 5, 7, 8, 9, 11, 13, 14, and 17); the Coast Guard's Atlantic and Pacific Areas headquarters; in Coast Guard Headquarters in Washington, DC; and in several other operational locations including Coast Guard Cyber Command, the Service's first operational command with worldwide responsibility. CGJAG counsel at the Legal Service Command, principally located in Norfolk, VA, and Alameda, CA, serves the Mission Support Community and provides specialized legal services to the rest of the Coast Guard. In addition, CGJAG assigns personnel to five DoD Combatant Commands.

Currently, five Judge Advocates are Flag Officers: the Vice Commandant of the Coast Guard, the Judge Advocate General; the Chief Prosecutor of the Coast Guard; the Assistant Commandant for Capability; and the Pacific Area Deputy Commander. Other Judge Advocates serve as command cadre, which currently includes a commanding officer of one of the Coast Guard's ten National Security Cutters as well as a Sector Commander who served as Captain of the Port.

CGJAG is composed of a small, yet dedicated workforce. There are currently 261 total active-duty Judge Advocates, 47 reserve Judge Advocates, 115 civilian attorneys, and 86 support staff.



*Location of CGJAG presence at various Coast Guard Offices throughout the Nation.*



# CGJAG Program Development

The Office of Legal Policy and Program Development (LPD) plans, develops, and executes policies and programs that will ensure the health of the legal program while ensuring the effective delivery of legal services throughout the Coast Guard. This program coordinates and oversees recruitment, assignment, training, and professional responsibility and development of judge advocates, civilian counsel, paralegals, and legal yeoman to ensure effective and efficient delivery of legal services. The program also plans and manages the acquisition, distribution, and use of legal program resources and performance support tools to include leveraging technology and available resources for information and knowledge management.

CGJAG military attorneys come through one of two paths. Current Coast Guard members earn their juris doctorates while on active duty with their education funded through the advanced education program. In 2020, CGJAG opened the advanced education program to enlisted members with a bachelor's degree. Following law school, the enlisted members are commissioned as Lieutenants (O-3) in the Coast Guard legal program. To date, CGJAG has sent eight enlisted members to law school and the first enlisted members graduated law school in May of 2023. Individuals not currently in the Coast Guard are brought in as Direct Commission Lawyers (DCLs). DCLs commission with an extended active-duty contract after they complete law school. CGJAG relies on the DCL program to provide over half of the Service's judge advocates. DCLs significantly contribute to CGJAG through their diverse experience and background.

CGJAG is actively expanding and enhancing ongoing recruiting and retention initiatives. CGJAG is increasing its visibility through a new Symplcity campaign and more attendance at national recruiting events around the country. In 2023, CGJAG began offering a \$40K hiring bonus and \$10K per year retention bonuses (for up to three years). This year CGJAG established a program to hire and commission law students in their second year of law school, attend officer training the summer before their 3L year, and join active duty after taking the bar exam.

CGJAG also has a robust and successful internship program that professionally develops its interns in both legal and operational environments. Interns are placed at regional legal offices around the country or practice area offices at Coast Guard headquarters in Washington DC. Over 70% of CGJAG interns later apply for positions as DCLs or civilian attorneys.

To further supplement the reserve component, CGJAG successfully implemented the Direct Commission Lawyer Selected Reserve (DCL-SELRES) recruiting initiative in December 2019. Under this initiative, licensed attorneys may apply to join CGJAG as reservists, where they will be commissioned as Coast Guard reserve judge advocates following completion of officer training.

*Deputy Judge Advocate General and Deputy Chief Counsel, Mr. Calvin Lederer, swears in LT Jenifer Jackson during her commissioning ceremony in May 2024 immediately following her law school graduation. LT Jackson enlisted in the Coast Guard and served as a Yeoman, a military human resources specialist, before attending law school under the funded advanced education program.*



## CGJAG Spotlight: New CGJAG Insignia

In 2022, the Commandant announced the expansion of the Coast Guard insignia and said that all personnel who achieve excellence in their specialty should have an opportunity to represent their excellence through insignia, whether active, reserve, or civilian. CGJAG was the first program to present a qualification insignia developed after the Commandant expanded the opportunity to create new qualification insignia. On April 16, 2024, the insignia was presented to representatives of the CGJAG workforce – LCDR Brett McCall, for officers, Petty Officer 1st Class Jana Leahy for enlisted, CAPT Lynn Singband for reservists, and Coast Guard Court of Criminal Appeals Chief Judge Lane McClelland for civilians.



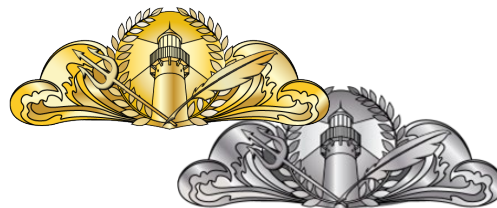
*Vice Commandant Stephen Poulin presents Deputy Judge Advocate General and Deputy Chief Counsel, Mr. Calvin Lederer, both members of CGJAG, with a framed gold CGJAG insignia on April 16, 2024.*

The core elements of the insignia are a lighthouse surrounded by a wreath, a quill pen, a trident, and waves. The lighthouse harkens to the lighthouse insignia worn on the caps of light keepers of the U.S. Lighthouse Service from the 1840s. The lighthouse and the light it projects warn of unseen hazards in fair and foul weather and is a beacon of light and hope in periods of uncertainty, guiding weary mariners to safe harbor. Similarly, CGJAG professionals keep the Coast Guard and its members out of shoal waters and away from other hazards, and through their consistent deliberate counsel are a beacon in uncertain times. The light shining from the lantern room also calls to mind CGJAG's role in bringing misconduct to light, ensuring the continued integrity of the service and maintaining public trust. The laurel wreath which frames the lighthouse is another nod to the lighthouse keeper's insignia and is an ancient Greek symbol of achievement and honor. The quill has been a long-recognized symbol of scholarly pursuits and is frequently associated with lawyers and clerks. The trident represents the Coast Guard's character as a multi-mission military sea service and invokes the Coast Guard's diverse missions of ensuring safe and lawful commerce and national defense.

The gold insignia may be worn by active duty and Reserve Judge Advocates assigned to duty as a Judge Advocate or approved for designation by the Judge Advocate General, and by Civilian Attorney-Advisors assigned to a position in a CGJAG activity. The pewter insignia may be worn after at least two years in a legal billet or position by military and civilian Coast Guard Paralegals and Coast Guard Legal Technicians who are designated by the Judge Advocate General. Permanent wear is authorized.



*2022 concept by LCDR Brett McCall.*



*Approved CGJAG Qualification Insignia.*

# Prevention Law

The prevention law team is responsible for supporting commands in the prevention of personnel casualties and property losses, minimizing security risks, and protecting the marine environment. These attorneys also work with policy to create and support international and domestic legal frameworks for preventing, preparing, and responding to incidents.

**Vessel Safety:** Coast Guard attorneys assist with the development and implementation of vessel safety standards. Coast Guard attorneys advise the Coast Guard's Assistant Commandant for Prevention Policy, which develops and maintains policy, standards, and program alignment for the prevention activities of the Coast Guard to achieve Marine Safety, Security, and Stewardship mission success. Coast Guard attorneys also work with state recreational boating safety liaisons to ensure states follow federal law. With respect to passenger vessel inspection and licensing requirements, many legal offices work closely with Coast Guard Investigative Service (CGIS), state Departments of Natural Resources, and United States Attorney's Offices to hold individuals and entities accountable for conducting illegal passenger charters.

**Illegal Passenger Operations:** Coast Guard Captains of the Port (COTPs) and Officers in Charge, Marine Inspection (OCMIs) regulate large numbers of uninspected and small passenger vessels. Some vessel operators attempt to avoid regulatory oversight by exploiting statutory exceptions.

Attorneys from the District Eight legal office in New Orleans, LA assisted with an illegal charter case referred to the United States District Court for the Southern District of Alabama. On August 4, 2023, personnel from Sector Mobile responded to a vessel that had lost two passengers who were spear fishing off the coast of Orange Beach, AL. The Master of the vessel reportedly located them 5NM away from where they entered the water about an hour later. The Master acknowledged he did not have a Merchant Mariners Credential, said the passengers paid \$100 each to join a spear fishing tournament, but another passenger admitted to paying the Master \$500 to go spear fishing. A written COTP order was issued to the owner/operator. Afterwards, Sector Mobile found that the Master violated this order on 5-6 different occasions. Sector Mobile then issued the Master a Notice of Violation in the amount of \$1,000 for violating the COTP order. The Master admitted to operating the charter on approximately 30 different occasions without valid credentials.

Attorneys from District Nine in Cleveland, OH assisted the U.S. Attorney for the Western District of Michigan with the successful prosecution of a civilian boat operator for violations of a Sector Detroit COTP order. The order was issued following the operator's repeated operation of a small passenger vessel without licensing, certification, or other legal requirements. During one outing, the vessel caught fire, putting the passengers at risk. A Coast Guard small boat responded to the operator's distress call and evacuated the passengers from the vessel. The operator was sentenced to probation and had to pay a fine.

33 C.F.R. Subchapter T Interim Final Rule: In September 2019, the 75-foot dive boat MV Conception caught fire and sank off Santa Cruz Island, California resulting in 34 people dying. Following this incident, Congress mandated updated changes to regulations for small passenger vessels with overnight accommodations. In response, the Coast Guard promulgated interim regulations to address fire prevention, early detection, and improved means of escape in the event of an onboard fire. Coast Guard attorneys provided support developing guidance for the new standards. This guidance provides maritime stakeholders with clear expectations, helps them operate safely, and continues to assist in promulgation of final regulations.

Additionally, the District Eleven legal office provided trial support to the Central District of California in the trial of the captain of the MV Conception for seaman's manslaughter for the deaths of the 34 people on the MV Conception. On May 2, 2024, he was sentenced to 4 years in prison.





**Outer Continental Shelf Safety Issues:** District Eight attorneys in New Orleans, Louisiana, work closely with the Outer Continental Shelf (OCS) Officer in Charge, Marine Inspections on a myriad of issues and contingencies arising across 179,000 square miles of the OCS, which includes more than 6,500 oil and gas wells, 1,800 fixed platforms, 3,500 miles of subsea pipeline, 85 mobile offshore drilling units, and 53 floating production installations. For example, District Eight attorneys advised on the proper agency action related to the disposition of cold-stacked rigs (oil rigs that are not actively operated or maintained) on OCS leases, personnel safety regulation on offshore drilling platforms operated under Coast Guard and OSHA authorities, and proposed policy revisions for deficiency issuance and civil penalties issued by the Coast Guard and the Bureau of Safety and Environmental Enforcement (BSEE). Coast Guard attorneys recently advised on the applicability of the Coast Guard's ballast water management (BWM) regulations to floating production units towed to United States waters from foreign ports. Based on the statutory and administrative record, including rulemaking commentary and past agency treatment, it was determined the BWM rules indeed applied. Another recent issue arising on the OCS concerned the applicability of operational limitations for ship-to-ship transfers and lightering operations to assets involved in highly specialized pollution incident response schemes. Attorneys also advised on proper funding of helicopter flights, contracted through BSEE, for OCS inspectors.

**Mariner Credentialing and Manning Issues:** There are approximately 200,000 active holders of Merchant Mariner Credentials (MMCs) issued by the Coast Guard. Coast Guard attorneys actively assist numerous program elements in establishing and modifying the procedures and policies regarding the qualification for and issuance of merchant mariner credentials. Their advice and support help develop standards required by those serving aboard U.S. documented vessels. Recently, attorneys provided guidance to the National Maritime Center (NMC) on mitigating the impact of severe shortages of credentialed mariners available to man U.S. flagged vessels. These efforts included reducing barriers to entry, minimizing obstacles to reentry after a period of inactive service, and eliminating outdated qualification requirements. District Nine attorneys, located in Cleveland, OH, worked closely with Ninth District Prevention staff and Officers in Charge, Marine Inspection (OCMIs) to develop new procedures to assess operators' requests to reduce manning from their existing requirements, trying to address significant manning shortages in the U.S. industry while ensuring the highest levels of safety and legal compliance.

Coast Guard attorneys helped develop a policy implementing the provisions of the National Defense Authorization Act (NDAA) of 2024 (Pub. Law 118-31), which temporarily reduced sea service requirements for certain deck rating endorsements. There are critical shortages of mariners serving in these ratings, and the existing sea service requirements were determined to be outdated. Attorneys also helped draft and implement a policy that relaxes an administrative requirement that hindered mariners from renewing their credentials after a period ashore. Previous requirements resulted in mariners having to take a full battery of tests if their credentials expired beyond a one-year administrative grace period. The new policy extends that grace period to six years, making it easier for mariners to be issued an active merchant mariner credential.

**Sexual Assault / Sexual Harassment:** The 2023 National Defense Authorization Act (NDAA) enacted several new legislative tools for the Coast Guard to combat sexual assault and sexual harassment (SASH) in the maritime industry. The Coast Guard continues to provide guidance to the maritime transportation industry and admiralty lawyers on the impact of these changes and means of compliance. CGIS and the S&R National Center of Expertise (NCOE) investigate reports of SASH to determine what S&R action is appropriate. Since January 2023, the Coast Guard has received over 350 reports of SASH for potential S&R action, which include reports from the Transportation Security Administration that include underlying SASH offenses, SASH convictions that would prevent the issuance of a credential, and harassment.

**Suspension and Revocation (S&R):** As the regulatory agency responsible for issuing merchant mariner credentials and licensing, Coast Guard attorneys work to ensure the integrity of that program to safeguard our maritime transportation system. When the Coast Guard learns that an MMC holder has committed an offense that would warrant suspension or revocation of his or her MMC, an administrative enforcement proceeding conducted under 46 C.F.R.

part 5 and 33 C.F.R. part 20 may be initiated. Attorneys advise Coast Guard licensing professionals on a multitude of events that could trigger S&R processing including drug use; security risks; sexual assault or sexual harassment; convictions covered by the National Driver Register Act; and other criminal convictions, misconduct, negligence, and professional or medical incompetence. During the investigation of an S&R offense, Coast Guard attorneys advise Investigating Officers (IOs) regarding the collection of evidence, parameters for witness interviews, and communication with attorneys representing parties or witnesses. Approximately 500 S&R Complaints are issued each year, and every Complaint is reviewed by a Coast Guard attorney for legal sufficiency before it is filed. If a mariner that is subject to an S&R proceeding requests a hearing before an administrative law judge, a Coast Guard attorney represents the agency throughout the process.

<u>Suspension and Revocation (S&amp;R) Historical and Predicted Enforcement Activity</u>			
CY	Docketed Cases	Hearings	Appeals
2019	531	17	5
2020	357	6	8
2021	817	14	4
2022	532	7	5
2023	487	11	0
2024 (YTD)	277	4	0

**Cyber Risk in the Maritime Community:** Coast Guard attorneys continue to support the Coast Guard’s effort to develop policy, standards, and regulations for addressing cyber risks in the maritime community. The Coast Guard published guidance to assist facilities regulated under the Maritime Transportation Security Act with implementing cyber security measures that will meet existing facility security plan requirements. Coast Guard attorneys also participated in multiple interagency cyber incident response exercises, assisting in a whole of government approach to cybersecurity that involves both state and federal agencies.



*Coast Guard attorneys attend an event at Air Station Washington where cyber security initiatives were announced that will protect the Marine Transportation System.*

The Office of Maritime and International Law (CG-LMI), in collaboration with the Office of Regulations and Administrative Law (CG-LRA), the Office of Information and Intelligence Law (CG-LII), and Coast Guard Cyber Command attorneys, supported Coast Guard Program Offices with several significant initiatives. These efforts culminated in notable achievements, including: (1) a recently signed Executive Order enhancing the Coast Guard's authority to address malicious cyber activity in the Marine Transportation System (MTS) through amendments to 33 CFR part 6; (2) the release of the Cybersecurity in the Marine Transportation System Notice of Proposed Rulemaking; and (3) a new cyber-focused Maritime Security Directive mandating cyber risk management measures for owners and operators of ship-to-shore cranes manufactured by the People’s Republic of China.

**Vessel Documentation:** Coast Guard attorneys continue to provide guidance regarding the appropriate federal or state documentation required to operate vessels in certain trades. These documents serve as evidence of vessel nationality. The Coast Guard is responsible for issuing coastwise and fishery endorsements to commercial vessels seeking to engage in coastwise trade. Coast Guard attorneys liaise with state officials to correct the issue of vessels operating overseas with invalid state registration.

**Green Energy and Offshore Wind:** Coast Guard attorneys work closely with the Department of Interior to address legal issues associated with licensing offshore windfarms. Coast Guard attorneys also work to ensure Offshore Supply Vessels supporting Offshore Wind projects are operated safely. These efforts help reduce the cost of Offshore Wind projects and help uphold efforts to transition to renewable energy.

**Autonomous and Remote Technology:** Coast Guard attorneys advise the Coast Guard Automated and Autonomous Vessel Policy Council (AutoPoCo). The AutoPoCo coordinates across offices on the operation of remotely operated and autonomous vessels in United States waters and the development of related emerging technology. The AutoPoCo serves as the touchpoint for Headquarters' external engagement on these issues. It reviews and responds to comments and concerns from other Government stakeholders and industry partners.

**Marine Casualties & Investigations:** Coast Guard attorneys provide support for marine incidents investigations, including working closely with counterparts at the National Transportation Safety Board (NTSB) on casualties and initiatives. The Marine Board of Investigation (MBI) is the highest level of marine casualty investigation, convened by the Commandant. The purpose of these investigations is to determine the cause of the incident and provide safety recommendations to prevent similar casualties. Coast Guard attorneys act as legal advisors for the investigators.

MAIN PASS OIL GATHERING (MPOG) 11015 oil spill: District Eight attorneys advised the Sector New Orleans Federal on Scene Coordinator on the response and investigation into the MPOG 11015 oil spill. On November 16, an estimated discharge of 1.1 million gallons of crude oil was detected and was suspected to be the result of a leak from a 65.9-mile-long pipeline carrying Louisiana Sweet Crude oil, with a total capacity of 4.5 million gallons, approximately 5% of the Gulf of Mexico's oil production. The investigation required extensive CG coordination with the NTSB, the Bureau of Safety and Environmental Enforcement, the Pipeline Hazardous Materials Safety Administration, and the Louisiana Oil Spill Coordinator's Office.

Submersible Vessel TITAN: Coast Guard attorneys continue to provide legal counsel and investigatory assistance to the MBI investigating the complete loss of the TITAN and its five occupants in the Atlantic Ocean off the coast of St. John's, Newfoundland, Canada on June 18, 2023. After an extensive search and rescue effort, the wreckage of the TITAN was found on the ocean floor approximately 500 meters off the bow of the RMS TITANIC.

**Space Operations:** Increased space operations in District Seven, based in Miami, Florida continue to pose complex challenges to the Coast Guard. In the last several years, space operations in the U.S. have increased tremendously from just 20 launches in 2018 to 113 in 2023. That number is only expected to increase. In 2022, Coast Guard attorneys coordinated with Coast Guard Headquarters, Atlantic Area, and District Seven staff to implement a congressionally directed pilot program for safety zones beyond 12 nautical miles relating to space launches and recoveries. The purpose of this safety zone was to ensure the protection of vessels and waterway users in the Exclusive Economic Zone from potential hazards created by reentry vehicle splashdowns and recovery operations, and the safe recovery of reentry vehicles and personnel involved in reentry services. At the end of 2023, the pilot program lapsed and as of July 2024 has not been reauthorized. However, as a result of the pilot program the Coast Guard garnered critical data on the protection of space operation in waters subject to our jurisdiction and continues to work with industry partners and NASA on the protection of each space launch operation.

**Waterways Management (WWM):** The Ninth Coast Guard District located in Cleveland, OH prepared a Memorandum of Understanding (MOU) between the Canadian Coast Guard, the Great Lakes St. Lawrence Seaway Development Corporation, and the St. Lawrence Seaway Management Corporation to establish a working group to develop the framework for a Great Lakes Cooperative Vessel Traffic Service (CVTS). Currently, the four vessel traffic services on Great Lakes have no formal means to communicate and collaborate. The MOU was signed on April 11, 2024 with the goal of implementing a CVTS within the next 18 months.

Attorneys from the Ninth Coast Guard District helped Ninth District WWM Staff, operators, and CG-WWM interpret and implement new Great Lakes icebreaking reporting and response requirements passed pursuant to the Don Young Coast Guard Authorization Act of 2022.



## CGJAG Spotlight: Francis Scott Key Bridge Collapse

On March 26, 2024, the M/V DALI, a Singapore-flagged containership, lost power, propulsion, and steering while transiting the Patapsco River, leading to an allision with the Francis Scott Key Bridge in Baltimore, Maryland. The impact caused three spans to collapse, causing one span to block the navigable channel. Tragically, seven construction workers fell into the water, resulting in six fatalities. The unified command of federal, state, and local agencies responding to the collapse was led by the incident commander, CAPT David O'Connell, Commander of Sector Maryland-National Capital Region – and a judge advocate, and RADM Shannon Gilreath, District Five Commander – and a judge advocate. RADM Gilreath reported to the Atlantic Area Commander, VADM Kevin Lunday and in turn the Vice Commandant, ADM Steven Poulin – both judge advocates. (Recently, ADM Lunday succeeded ADM Poulin as Vice Commandant.) Judge Advocates and attorneys from Maritime and International Law (CG-LMI) and District Five Legal Office in Portsmouth, VA, were on scene to advise the Unified Command and support the Coast Guard Marine Board of Investigation (MBI) and National Transportation Safety Board (NTSB) investigation, that were initiated concurrently. The continuing MBI involves international collaboration among Singapore, India, and Sri Lanka. Coast Guard lawyers are also supporting a Department of Justice criminal investigation into the incident.

Legal issues and actions during the response included publishing a temporary final rule on April 8, 2024 establishing a temporary safety zone within a 2000-yard radius of the center span to protect personnel, vessels, and the marine environment from potential hazards associated with salvage work and reopening the ship channel, and use of Coast Guard unmanned aerial systems to secure Department of Defense and other response assets and people.



*Commandant Linda Fagan, Deputy Commandant for Operations Vice Admiral Peter W. Gautier, the Governor of Maryland, and the Mayor of Baltimore transit by Coast Guard boat to assess the Francis Scott Key Bridge collapse in Baltimore, Maryland, March 29, 2024.*

# Environmental Law

Coast Guard attorneys advise on the agency's own compliance with environmental laws and provide analyses of environmental impacts of deepwater port permits, bridge permits, the acquisition and homeporting of vessels (e.g., Polar Security Cutters and Offshore Patrol Cutters), the transfer of historic lighthouses, the regulation of waterway traffic, and the management and cleanup of federal property. These attorneys also advise on criminal violations of marine pollution statutes and Comprehensive Environmental Response Compensation and Liability Act (CERCLA) cases, especially where it minimizes future liability related to transactions involving potentially contaminated property.

**Environmental Compliance:** The discovery of potential health effects arising from polyfluoroalkyl substances (PFAS) has created concern at military installations. Legal Service Command (LSC) environmental law experts assisted Coast Guard commands with legal issues surrounding the cleanup of Aqueous Film Forming Foam (AFFF)/PFAS contamination at Coast Guard Air Stations in Hawaii and Alaska. Due to the relatively new and developing understanding of the long-term environmental impacts these “forever” chemicals have, LSC attorneys regularly address nuanced and novel legal issues as the understanding of the effects of these chemicals have on the environment.

LSC attorneys advised Coast Guard units on environmental enforcement actions initiated against the Coast Guard. LSC advised Base Kodiak in four separate and distinct Clean Water Act permit enforcement actions initiated by the Alaska Department of Environmental Conservation. Of particular note, the LSC provided legal advice and guidance to Coast Guard stakeholders following a Notice of Intent (NOI) to file an administrative complaint from the U.S. Environmental Protection Agency (EPA) alleging violations of federal environmental laws that apply to storage and disposal of hazardous waste on federal installations. Within 90 days of initial notification, Coast Guard stakeholders resolved the matter, turning their focus instead to identifying root causes of the problems identified in the NOI and identifying course corrections. LSC also advised Sector San Francisco to ensure continued compliance of existing stormwater best management practices with the 2021 Consent Decree arising out of *Baykeeper v. USCG* lawsuit.

**Maritime Environmental Response:** Coast Guard attorneys provide advice on the Service's role in oil and hazardous substance spill response under both the Oil Pollution Act (OPA) and Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). The Coast Guard maintains Joint Contingency Plans with all countries with which it shares maritime boundaries to maintain close partnerships and ensure coordinated responses to oil or hazardous substance pollution incidents. Coast Guard attorneys advise leadership on negotiations regarding agreements with Canada and Mexico addressing coordinated response to potential marine pollution incidents.

**Maritime Environmental Criminal and Civil Enforcement:** As a maritime law enforcement agency, the Coast Guard works with the DoJ to prosecute environmental crimes. These cases frequently involve efforts by Coast Guard District legal offices, the Office of Maritime and International Law's Environmental Law Division (CG-LMI-E), Sectors, and Coast Guard Investigative Service (CGIS).

Upon the discovery of International Convention for the Prevention of Pollution from Ships (MARPOL) violations and documentary, machinery and safety deficiencies, the District Eleven legal office successfully applied a Judicial Civil Penalty referral option against the M/V COSCO NAGOYA. District Eleven is currently negotiating with the vessel owners to settle outside Federal Civil action.

The District Eight legal office in New Orleans, LA worked with Sector New Orleans, CGIS, and the U.S. Attorney's Office for the Eastern District of LA, on the investigation and indictment of the A/S/L SINGAPORE. On February 26, 2024, Sector New Orleans Port State Control (PSC) Examiners boarded the Liberian-flagged M/V ASL SINGAPORE for a routine examination. The PSC Officers identified several deficiencies, including: (1) oily bilge water bypassing





the oily water separator without being recorded in the oil record book; (2) an unauthorized bypass device installed, allowing direct discharge of bilge holding tank contents into the sea without processing through the oily water separator; and (3) the removal and erasure of the oily water separator data storage card, violating MARPOL. These observations established grounds to conduct expanded examinations. Subsequently, Coast Guard attorneys and Sector New Orleans referred the case to the DoJ for alleged violations of titles 33 and 18 of the US Code.

The District Eight legal office also worked closely with Sector Mobile, CGIS, and the U.S. Attorney's Office for the Northern District of Florida, on the investigation and indictment of the M/V SUHAR. On 25 August 2023 in Pensacola, FL, personnel from Sector Mobile noted discrepancies in the oil record book, indicating that more than five cubic meters of oily water in the bilge holding tank was unaccounted for. Further investigation revealed the Chief Engineer directed crewmembers to pump oily water from the bilge holding tank overboard through a configuration of pumps and hoses resulting in a violation of 33 U.S.C. § 1908(a) (Failure to maintain an Accurate Oil Record Book) and 18 U.S.C. § 1505 (Obstruction of Justice).

On a pending DoJ criminal case, the District Eight legal office engaged with DoJ to revoke bond for the operator of a vessel that attempted to functionally abandon seafarers on US soil while the owner and operator were criminally charged with violating international regulations for illegally dumping oil. The DoJ filed a first-ever companion civil case to revoke the bond that convinced the owner/operator to take responsibility for their seafarers.

The District Eight legal office increased unit-level awareness of alternatives to the standard Class I Civil Penalty (maximum \$10,000 fine) for companies whose actions or neglect led to egregious or repeated releases of oil into the environment. The District Eight legal office advised Sectors New Orleans and Corpus Christi in the Inspection, Investigation, and Civil referral of environmental violations by several oil companies that frequently release oil into the environment. Through consultation with other Coast Guard legal offices, CG-LMI-E and Claims and Litigation, three cases were referred to the DoJ for Judicial Civil Penalty. Specifically, the District Eight legal office referred Hillcorp Energy Company for unlawfully discharging thousands of gallons of oil, initiating a civil enforcement action against Hillcorp. In a separate case, an improperly winterized pipe at the Flint Hills Resources facility cracked, spilling approximately 335 barrels of light crude oil into the Corpus Christi Bay. The Flint Hills staff were not properly trained on how to respond immediately to mitigate the release with basic controls. The DoJ reached a settlement agreement of \$400,000 with the parent company of the facility. Lastly, the DoJ accepted a referral from District Eight for civil penalties and other appropriate relief against Texas Petroleum Investment Company in violation of the Clean Water Act, 33 U.S.C. § 1321(b)7, for over 200 incidents of oil pollution that took place between 2015 and 2023, totaling an estimated release of 27,986.11 gallons of oil released into the environment.

The District Nine legal office in Cleveland, OH worked closely with CGIS to develop evidence related to allegations that Algoma Central Corporation was violating their environmental compliance plan put in place in 2021 after the company pleaded guilty to dumping wastewater in Lake Ontario in violation of the Clean Water Act. The case went to the U.S. Attorney for the Western District of New York for further enforcement action. Additionally, the District Nine legal office aided CGIS in referring two other environmental cases for alleged violations of environmental laws on the Great Lakes.

## Response Law

Attorneys in the Response Law Division (RLD) provide around the clock support to seven of the eleven Coast Guard missions. Duty attorneys provide real time legal advice on Coast Guard authorities, jurisdiction in the maritime environment, and develop cases for prosecution. RLD attorneys serve as Coast Guard representatives to the Maritime Operational Threat Response Plan and aid in developing a coordinated interagency response to maritime cases. To further support Coast Guard operations, several Coast Guard attorneys serve as full-time Special Assistant U.S. Attorneys in key areas around the United States. Additionally, attorneys at field units stand rotational duty schedules to provide around the clock support to Operational Commanders and units throughout their area of responsibility.

**Drug Interdiction:** During this period, RLD attorneys worked with interagency partners to resolve complex counterdrug cases. RLD attorneys advised on and coordinated 106 interagency actions to support maritime counterdrug cases. In coordination with the Department of State and Department of Justice (DoJ), RLD duty attorneys prepared diplomatic correspondence to board vessels under the 1988 U.N. Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances; waivers of jurisdiction to prosecute foreign vessels; and certifications of U.S. jurisdiction under the Maritime Drug Law Enforcement Act. RLD attorneys coordinated criminal referrals to the DoJ and partner nations supporting prosecution of 244 suspected smugglers. They worked closely with U.S. Attorney's Offices and the DoJ to support these prosecutions by researching and assisting in responses to defense challenges. These efforts contributed to the removal of nearly 46 metric tons of cocaine from suspect vessels during this period, denying transnational criminal organizations an estimated \$2.79 billion in illicit profits.

District Eleven attorneys in Alameda, CA provided around-the-clock, real-time legal support to Coast Guard operators combating international drug trafficking on over 59 at-sea interdictions. These interdictions resulted in the apprehension of 177 narcotics smuggling detainees, 337 migrant cases, and cocaine seizures totaling a wholesale street value of almost \$2 billion. District Eleven legal also supported efforts to build partner nation capacity and prosecution competency, especially in countries that recently transitioned to accusatorial legal systems. District Eleven legal also chairs the legal working group for the North American Maritime Security Initiative, the tri-lateral forum among Canada, Mexico and the U.S. These initiatives enhance operational effectiveness and strengthen international partnerships in the pursuit of maritime security. District Eleven legal also advised on diplomatic and legal issues during the first-ever deployment of an Ecuadorian Shiprider onboard a Coast Guard Cutter during an Illegal, Unreported, and Unregulated Fishing patrol in the Eastern Pacific. These efforts continue to improve information sharing and close gaps in Maritime Domain Awareness between partners in support of regional maritime security and economic stability. Finally, to ensure Coast Guard boarding teams produce effective case packages, District Eleven attorneys trained 44 units deploying to the Eastern Pacific and California Coastal Region on best practices in evidence collection and case package preparation.

**Alien Migrant Interdiction:** RLD and field attorneys assigned to the District Seven in Miami, FL advised operational commanders on the authority and jurisdiction for migrant interdiction operations. Through their support, Coast Guard teams aided interagency coordination to repatriate migrants to their country of origin or departure. During this year, overlapping crises in several Caribbean States led to an increase in maritime migration ventures, some of the highest volume of maritime migration in the past decade. The Coast Guard interdicted more than 2,876 migrants at sea over the course of the year.

**Defense Readiness:** RLD attorneys advised Coast Guard Headquarters staff, Area Commands, and U.S. Combatant Commands on missions which support the National Military Strategy and Department of Defense (DoD) operations. Because of the Coast Guard's unique responsibilities as both an armed force and a law enforcement authority, RLD attorneys play a key role in advising on the Coast Guard's defense readiness capabilities and authorities in relation to the DoD. RLD attorneys provided legal advice related to expanded personnel exchanges with the U.K. Royal Navy, the Royal Australian Navy, and the Royal Canadian Navy. Additionally, RLD attorneys advised on U.S.



support of the Australia's Pacific Maritime Security Program, aimed at large-scale enhancements of coastal defense capabilities for several Pacific nations.

**Living Marine Resources:** RLD attorneys provide legal advice and interagency coordination for enforcement of international fisheries issues such as foreign fishing vessel incursions into U.S. waters; Western and Central Pacific Fisheries Commission inspections; and enforcement of the United Nations global moratorium on High Seas Drift Net Fishing. These efforts advance national goals for the conservation, management, and recovery of living marine resources, marine protected species, and conservation areas. Coast Guard attorneys also advise on policies to enforce the Magnuson-Stevens Fisheries Conservation and Management Act and Lacey Act, international ocean governance structures.

**Other Law Enforcement:** RLD attorneys assist the Coast Guard's Office of Maritime Law Enforcement in developing law enforcement policy and guidance on the Coast Guard's law enforcement missions. As the nation's focus on Oceania and the western Pacific region grows, Coast Guard lawyers in Pacific Area in Alameda, CA, and District Fourteen in Honolulu, Hawaii, advise on legal regimes to counter illegal, unreported and unregulated fishing. As a party to the North Pacific Fisheries Commission (NPFC) and Western Central Pacific Fisheries Commission (WCPFC), the Coast Guard conducted boardings under these conventions' High Seas Boarding and Inspection (HSBI) regimes.

**Ports, Waterways, and Coastal Security:** RLD attorneys continued to play a key role in analyzing new counter-unmanned aircraft system (C-UAS) technologies and implementing these technologies in the field. Attorneys drafted guidance to units and participated in planning the use of Coast Guard C-UAS capabilities in support of special security events, such as the Boston Marathon.

**Search and Rescue (SAR):** RLD attorneys worked with international partners to strengthen SAR capability worldwide. During this period, RLD attorneys advised the Coast Guard Office of SAR as a member of the U.S. delegation to the International Cospas-SARSAT meeting held in Cairo, Egypt. At the meeting, the four parties to the 1988 Agreement (the U.S., France, Canada, and Russia) made progress in developing a new agreement as a transition is made from a system based primarily on low-earth orbit satellites to medium-earth orbit satellites. Coast Guard attorneys also provided advice on coordination agreements between the U.S. and other parties to the International Convention on Maritime SAR to streamline cooperation in rescues, including the signing of a new SAR agreement between the United States, the Dutch Caribbean Coast Guard, and the French Maritime Authority.

**Maldives Delegation Visit:** RLD attorneys met with a delegation from the Maldives that included law enforcement officers, prosecutors, and judges. The delegation's visit was co-hosted by the United Nations Office on Drugs & Crime (UNODC) and the DoJ Office of Overseas Prosecutorial Development. LMI-R attorneys delivered a talk about the U.S. Coast Guard's authorities, the maritime law enforcement mission, international cooperation, and operational practices enabling sound prosecutions.



## CGJAG Spotlight: GRANDE COSTA D'AVORIO

In January 2024, District One concluded its formal investigation into the tragic loss of life from fire aboard the Italian roll-on/roll-off cargo ship GRANDE COSTA D'AVORIO in Newark, New Jersey. The cargo aboard the vessel caught fire during the summer of 2023 while it was in port loading vehicles. Two Newark firefighters who responded to the scene and who fought the blaze aboard the vessel were overcome by the fire and perished. During a two-week span, a formal board made up of Coast Guard officers and National Transportation Safety Board (NTSB) investigators held a public hearing where they received testimony from 22 witnesses and reviewed 21 exhibits from over 81 different pieces of evidence. The fire was found to have originated from a jeep that had overheated while engaged in pulling cars onto the ship, but inadequate training and poor communication contributed to the fatalities as the firemen became disoriented and were unable to evacuate.



*LCDR Katie Ward, Senior Staff Attorney at District One, Boston, MA, at the GRANDE COSTA D'AVORIO hearing.*

As the Coast Guard attorney assigned to the formal investigation, LCDR Katie Ward provided critical legal support which allowed investigators access to the evidence they needed, and assisted board members in resolving complex matters of law. In addition, she was able to pioneer several “firsts” for CGJAG participation in such cases. She became the first Coast Guard attorney as assigned counsel to participate in the direct examination of witnesses during the public hearing. In doing so, she was able to apply her trial advocacy skills and experience with investigations to pose insightful questions to witnesses and gain valuable contextualization for testimony being entered into the investigation record. Her direct engagement was recommended by the lead investigating officer to be a best practice for formal public hearings. Furthermore, she was the first attorney to test drive the Coast Guard’s Microsoft enterprise suite of collaboration software during public hearings. As a result, she had a litany of Coast Guard legal expertise available to her in real-time. She was effectively afforded the benefit of a second-chair in the form of attorneys following along at District One or subject matter experts at headquarters to help her research obscure points of law on examination scope, and could receive valuable feedback from leadership on the novel legal tactics being employed by industry counsel.

There were also precious lessons learned for the legal practice of supporting marine casualty investigations. The public hearings highlighted the importance of witness preparation so that participants knew what to expect when faced with the prospect of receiving pointed interrogatories from industry lawyers. This would allow witnesses to take the stand confidently and provide factual testimony that would be relevant and within the intended scope of the investigation. Another valuable practice that added to the overall efficiency of the hearing process was to solicit potential objections from industry and other parties in interest so that they could be adjudicated prior to each hearing day. When rendered, the rulings allowed the hearings to commence smoothly with fewer interruptions that could derail examinations or confuse witnesses and the public.



# Maritime and International Law

As the nation's only armed force with domestic law-enforcement authority, the Coast Guard is involved 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 (CG-LMI) 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.

**International Maritime Organization (IMO):** The IMO is a United Nations specialized agency that is headquartered in London, England. It is responsible for the safety and security of shipping and the prevention of marine and atmospheric pollution by ships. Coast Guard attorneys serve as advisors or representatives of the United States at meetings of various IMO committees such as: the Maritime Safety Committee; the Marine Environment Protection Committee; the Legal Committee; the Subcommittee on Implementation of IMO Instruments; the Subcommittee on Pollution Prevention and Response; the Subcommittee on Human Element Training and Watchkeeping; the Subcommittee on Navigation, Communications and Search and Rescue; and the Subcommittee on Ship Design and Construction and the Meeting of Contracting Parties to the London Convention and London Protocol.

The Office Maritime and International Law served as counsel to the U.S. delegation for the 81<sup>st</sup> meeting of the IMO's Marine Environment Protection Committee. The Committee adopted amendments to the International Convention for the Prevention of Pollution from Ships (MARPOL) Protocol I, referencing a procedure for reporting freight containers that are lost overboard from vessels. The Committee approved two proposals for the future designation of Emission Control Areas, one in Canadian Arctic Waters and a second in the Norwegian Sea. Finally, the Committee endorsed a draft action plan for the reduction of underwater noise from commercial shipping.

The Office of Maritime and International Law served as counsel to the U.S. delegation for the 108<sup>th</sup> meeting of the IMO's Maritime Safety Committee. The Committee, among other things, has been actively working to develop a non-mandatory safety code for Maritime Autonomous Surface Ship (MASS). This effort to develop a set of common terms, principles and functional requirements for commercial cargo vessels that employ autonomous and remotely operated technologies is ongoing and involves the efforts of numerous delegations from across the globe. The Committee adopted a target of May 2025 for the completion of the voluntary MASS Code.

**IMO Legal Committee:** The Chief of the Office of Maritime and International Law serves as the Head of the U.S. delegation to the 11<sup>th</sup> Meeting of the Legal Committee (LEG). An important issue addressed by the committee include the fair treatment of seafarers when detained on suspicion of committing maritime crimes and in the event of a maritime accident and provisions of financial security in case of abandonment. Additionally, the committee continues to consider measures to address Maritime Autonomous Surface Ships (MASS) in instruments under the purview of LEG, and measures to prevent unlawful practices associated with the fraudulent registration and fraudulent registries of ships. Coast Guard attorneys work with legal advisors from the Dept of State and Dept of Defense to represent U.S. interests in the above matters. Finally, issues associated with the illegal Russian invasion of Ukraine continue to be discussed in the Committee.

**International Labour Organization (ILO):** The ILO develops labor standards and has a special section devoted to the maritime sector. The primary instrument is the Maritime Labour Convention, 2006 (MLC). Although not a party to the MLC, the U.S. is active in all meetings addressing labor issues affecting seafarers, most recently participating in the Second Meeting of the Joint ILO-IMO Tripartite Working Group to Identify and Address Seafarers' Issues and the Human Element. The Office of Maritime and International Law regularly serves as a legal adviser on the U.S. delegation to these meetings. The most recent work involved developing international standards to prevent sexual





assault and sexual harassment (SASH) on board ships. The ILO's focus overlaps with IMO with respect to SASH, fair treatment of seafarers and concerns with minimum hours of rest/maximum hours of work for all those working aboard seagoing ships. Coast Guard attorneys work with legal advisors from the Department of Labor, which is the lead agency at ILO, as well as the Department of State.

**Support to Foreign Nations:** The Coast Guard supports the development of the legal framework of other countries through Model Maritime Service Code engagements and other training events. Coast Guard attorneys provide support to several nations including Ukraine, Kenya, Costa Rica, Vietnam, Mexico, and Indonesia, among others, in the development of legal authorities for their maritime law enforcement agencies. During these engagements, Coast Guard attorneys identify gaps in existing authorities and assist in drafting legislation, regulations, and policy needed to execute their desired missions. U.S. Coast Guard attorneys developed and led training events for foreign Coast Guard officers regarding maritime domain awareness, implementation of whole of government communications, and the implementation of IMO instruments designed to mitigate cyber risk to waterfront facilities and vessels. U.S. Coast Guard attorneys also assist other nations' prosecutions by facilitating the testimony of Coast Guard law enforcement officers during criminal trials.

Coast Guard attorneys across the country coordinate Coast Guard responses to requests from foreign partners to support prosecutions by foreign partners pursuant to Mutual Legal Assistance Treaties. This support most often occurs in preparing Coast Guard witnesses and transmitting evidence from Coast Guard boarding operations in support of counter drug and transnational organized crime prosecutions in foreign courts.

**Arctic Developments:** Coast Guard attorneys are actively engaged in issues involving expansion of commercial maritime transportation along the Arctic border. As part of the United States delegation to the Arctic Council, Coast Guard attorneys advised Coast Guard leadership on Law of the Sea matters. These issues included matters concerning emerging shipping areas, as well as the Arctic Council's Protection of the Arctic Marine Environment (PAME) Working Group initiatives, including implementation of the Arctic Marine Shipping Assessment and review/advice for the Arctic Ocean Review and the Emergency Prevention Preparedness and Response (EPPR) Working Group initiatives.

**District Legal Office International Activity Support:** Dedicated to developing solutions to combat illicit maritime activities, a District Eight attorney based in New Orleans, LA serves on the legal working group for the North American Maritime Security Initiative, working with Mexican and Canadian counterparts to successfully execute joint exercises and foster further partnership engagements. District Eight attorneys also contribute to engagements sponsored by the Defense Institute of International Legal Studies (DIILS), including a trip to Tirania, Albania where a staff attorney provided international human rights law training to the Albanian military.

**Papua New Guinea (PNG) Agreement Concerning Counter Illicit Transnational Maritime Activity Operations Entry into Force:** Attorneys from the Office of Maritime and International Law, Pacific Area in Alameda, CA, and District Fourteen in Honolulu, HI worked with the Department of State and U.S. Embassy Port Moresby to ensure legal sufficiency of the exchange of notes for entry into force of the Papua New Guinea Bilateral Maritime Law Enforcement Agreement. Signed in May 2023, PNG notified the United States that it completed all national procedures for entry into force on August 16, 2023 and CGC MYRTLE HAZARD embarked a shiprider to enact the agreement on August 23, 2023.

**Standard Operating Procedures with Samoa:** Attorneys from the Office of Maritime and International Law, Pacific Area, and District Fourteen developed Standard Operating Procedures (SOP) for United States law enforcement vessels to receive approval from the Government of Samoa to conduct law enforcement activities, including boarding of vessels in its EEZ and on the high seas. This SOP supplements the existing Bilateral Maritime Law Enforcement Agreement and furthers maritime law enforcement operations, maritime domain awareness, and assists with implementation of

integrated operations within the Pacific. The SOP was signed on April 5, 2024, by Samoa's Chargé d'Affaires, Noriko Horuichi as the US signatory, and Harry Schuster, Minister of Police signed for Samoa.

### **International Legally Binding Instrument on Plastic Pollution:**

In March 2022, the United Nations Environment Assembly (UNEA) passed resolution number 5/14 whereby Member States agreed to develop an international legally binding agreement to address plastic pollution, including in the marine environment. Attorneys from CG-LMI have provided subject matter expertise while serving with other sister agencies on the U.S. delegation to the Intergovernmental Negotiating Committee (INC). To date, the INC has convened for four negotiating sessions, with the fifth and final session planned for November 2024. The current draft instrument contains a variety of possible substantive provisions aimed at addressing pollution across the full lifecycle of plastic, including draft text on chemicals and polymers of concern, problematic plastic products, product design, extended producer responsibility, trade, microplastics, waste management, and existing plastic pollution.



*The US Government Delegation at the global plastics treaty negotiation in Nairobi, Kenya, November 2023.*

**Coast Guard JAGs at Army Center for Law and Military Operations (CLAMO):** Coast Guard JAGs are assigned to the Army Center for Law and Military Operations (CLAMO) at the Army JAG Legal Center and School (TJAGLCS) in Charlottesville, VA. This joint service assignment allows Coast Guard JAGs to collaborate with their Army, Navy, Marine, and National Guard counterparts to gain valuable experience in military legal operations. By participating in this program, Coast Guard JAGs contribute to advancing the strategic legal interests of the Coast Guard while also fostering inter-service cooperation and knowledge sharing among the different branches of the armed forces. This unique opportunity enhances their legal expertise, promotes joint operational effectiveness, and strengthens the overall capabilities of the Coast Guard in fulfilling its critical mission of safeguarding the nation's maritime interests.

### **Defense Institute of International Legal Studies (DIILS):**

CGJAG, working with the Defense Institute of International Legal Studies, deployed over 40 attorneys to more than 29 nations to help support, educate, and improve legal systems and processes in other nations. 19 JAGs were repeat instructors during these engagements. Participating JAGs supporting these endeavors, ranging in rank from O-3 to O-6. The countries traveled to span over four continents; regions visited include: Southeast Asia, South America, Africa, Central America, Europe, and the Caribbean.

*Coast Guard District 7, Miami, FL, attorney LCDR Juan Ramirez supports DIILS mission by providing International Human Rights and Human Trafficking training to Colombia's defense forces.*



## CGJAG Spotlight: Palau Embedded Advisor

In April 2023, the Defense Institute of International Legal Studies (DIILS) deployed LCDR Daniel Cahill for a five-month Institutional Capacity Building (ICB) assignment in the Republic of Palau. LCDR Cahill embedded in the Office of the Attorney General, where he supported Palau's implementation of critical initiatives to stem malign influence. His expert guidance helped achieve settlement of a multi-year case, ending the lengthy detention of a foreign fishing crew and expediting their repatriation. With support from the DIILS Maritime ICB team, LCDR Cahill supported an initiative to help Palau identify gaps in its maritime domain awareness, maritime security, and law enforcement programs, including a comprehensive review of Palau's fisheries laws. LCDR Cahill collaborated with Palauan attorneys and officials to assist their efforts to author a legislative change proposal for the nation's search and rescue policy, develop a legal curriculum for maritime services, and create search and rescue and fisheries training materials. These contributions earned praise from the most senior officials in Palau, including the President, Vice President, Attorney General, and National Security Coordinator, as well as the Judge Advocate General of the U.S. Coast Guard and the Commander of Coast Guard Forces Micronesia.

Following LCDR Cahill's deployment, LT M. Sylvia Dai completed a three-month, independent temporary duty assignment in the Republic of Palau's Attorney General's Office, promoting maritime domain awareness, maritime security, and effective prosecution of transnational criminal offenses. During that period, she provided support on a range of maritime law, policy, and operational matters, including facilitating interagency cooperation on illegal fishing operations, working with the Division of Maritime Law Enforcement on the expanded bilateral law enforcement agreement between the United States and Palau, and attending the Joint Heads of Security Meeting with the Palau delegation. Leveraging her superb prosecutorial expertise and experience, she advised on a range of complex cases, from financial crimes and corruption to narcotics and homicide. As co-drafter of Palau's first maritime law enforcement policy, she helped establish a framework for conducting maritime law enforcement operations in compliance with international legal standards. Further, she skillfully facilitated interagency and international cooperation in combating illegal fishing activities and the implementation of a cooperative law enforcement agreement between Palau and Coast Guard District Fourteen in Honolulu, HI.



*LT M. Sylvia Dai, front row, right, completed a three-month temporary duty assignment in the Republic of Palau's Attorney General's Office.*



# Information, Intelligence, and Cyber Law

The Office of Information and Intelligence Law (CG-LII) is responsible for advising on the collection, storage, and sharing of government information; Coast Guard intelligence activities; cyber security and operations; telecommunications policy; the development and use of information technology; data management, and the use of artificial intelligence to inform operations. The Office also administers the Coast Guard's Intelligence Oversight program, ensuring compliance with applicable laws, Presidential Directives, and Intelligence Community Directives.

**Information and Information Technology Law:** Attorneys in this practice area provide legal advice and policy guidance to the Coast Guard's Assistant Commandant for Command; Control, Communications, Cybersecurity, Computers, and Information Technology; the Chief Information Officer; the Privacy Program Office; and offices conducting cybersecurity missions across the Coast Guard. CG-LII attorneys advise on issues pertaining to the proper sharing and disclosure of information with the public; foreign and interagency partners; and with state, local, territorial, and tribal entities. Additionally, CG-LII attorneys support the development and implementation of information technology and spectrum management within the Coast Guard. CG-LII attorneys also analyze privacy and civil rights issues, advise on the handling of privacy incidents, and help craft data mitigation strategies. Over the last year, attorneys in this area supported the Information Sharing and Safeguarding Governance Board (ISSGB) and provided critical guidance regarding access to controlled unclassified information by foreign government individuals attending Coast Guard resident training programs, ensuring that security standards for safeguarding such information are provided.

**Intelligence Law:** Coast Guard Intelligence (CGI) is divided into two elements. The law enforcement intelligence element (LEIE) plans, directs, collects, reports, processes, exploits, analyzes, produces, and disseminates information pursuant to Coast Guard law enforcement authorities, in support of law enforcement operations. The national intelligence element (NIE) conducts intelligence activities as a member of the Intelligence Community. CGI is required to comply with executive branch and statutory oversight requirements. The Judge Advocate General is designated as the agency's Senior Intelligence Oversight Official and manages the intelligence oversight program through CG-LII. CG-LII also includes embedded attorneys at intelligence units including the Coast Guard's Cryptologic Group; the Atlantic and Pacific Maritime Intelligence Fusion Centers; and the Intelligence Coordination Center. Attorneys ensure that CGI collects, retains, and disseminates intelligence in a manner that respects civil rights and civil liberties while protecting sources and methods. The attorney embedded with the Counterintelligence (CI) Service provides legal advice to national security investigations and counterintelligence operational planning for all CI agents across the Coast Guard. Over the last year, attorneys in this field have completed an update to the National Intelligence Activities Instruction which clarifies the policy for Coast Guard intelligence support to law enforcement and improved the Intelligence Oversight Inspection program in alignment with new governing policies on Open Source Activities. The CG-LII team was recognized for outstanding performance this past year and formed part of the team that won the IC Civil Liberties and Privacy Team of the Year Award for their work in implementing Executive Order 14086, which enabled the U.S. to engage successfully with the European Union to allow data to flow between the two continents in support of commerce. In addition, CG-LII attorney LT Jacob



*Information and Intelligence Law attorney LT Thayer receiving the Intelligence Community Legal Exceptional Service Award.*

Thayer was recognized by the White House and the Intelligence Community with two national level awards, the Killian Award for Intelligence Oversight, and the Intelligence Community Legal Exceptional Service Award.

**Cyberspace:** CG-LII supports the Office of Cyberspace Forces (CG-791) which has the mandate to man, train, and equip Coast Guard cyberspace forces and develop appropriate strategy, policy, and doctrine for Coast Guard Cyber Command. The Office of Cyberspace Forces imbedded attorney provides advice regarding executive orders, legislation, and national security priorities related to the defense of the Coast Guard's network, efforts to protect the cyberspace associated with the marine transportation system, and the development of capabilities for full-spectrum cyberspace operations. This past year, CG-LII attorneys supported the interagency lawyers group review the recently published National Security Memorandum on Critical Infrastructure Security and Resilience (NSPM-22) and worked to finalize the language of Executive Order 14116 in consultation with other Coast Guard legal offices, expanding the authority of the Coast Guard to safeguard against cyberthreats endangering vessels, waterfront facilities, harbors and ports, and instituting mandatory reporting of cyber incidents.

**Office of Data and Analytics (ODA):** CG-LII supports the Coast Guard's Chief Data and Artificial Intelligence Officer (CDAO) and the Office of Data & Analytics. The office supports a new program that grew out of a task force chartered by the Vice Commandant in 2020 to shape the future of Coast Guard data management and to leverage the full potential of data as a strategic resource. CG-ODA is also responsible for lifecycle data management and implementing an open data plan under the Open, Public, Electronic, and Necessary (OPEN) Government Data Act. The CG-LII imbedded attorney provides legal support to ensure that the use of data is effective, ethical, and in compliance with existing security and privacy laws. CG-LII provides counsel on the agency's responsibilities under the Foundations for Evidence-Based Policymaking Act and OPEN Government Data Act, which require agencies to use data properly when making decisions. These authorities also require agencies to make data available to the public whenever possible. In addition, CG-LII advises on executive orders, legislation, policy, and best practices related to the implementation of advanced analytics and artificial intelligence supporting operations.

**Coast Guard Cyber Command (CGCYBER) Legal Office:** CGCYBER attorneys advise the Coast Guard's operational cyberspace unit on all aspects of the command's efforts to defend Coast Guard networks, protect the Marine Transportation System (MTS), and operate in cyberspace. CGCYBER attorneys support the defense of Coast Guard networks. They assisted the CGCYBER Red Team - a cyber threat emulation team - through the process of updating its doctrine to comply with standards published by the National Security Agency (NSA). As a result, Red Team was certified and accredited by the NSA as a Department of Defense Red Team. The CGCYBER Legal Office also advises the CGCYBER Assessment and Authorization Department and reviews documentation for interconnections to the network, enabling the flow of critical information while ensuring appropriate safeguards.

CGCYBER attorneys provide legal advice for operations that protect the MTS. In the last year, they supported CGCYBER's Cyber Protection Teams (CPTs) execute over 30 Defensive Cyber Operations (DCO) across the MTS. CPT missions identified more than 300 Known Exploitable Vulnerabilities (KEVs) and provided remediation advice to improve the cyber resiliency of the MTS ensuring the flow of approximately \$5.4 trillion in goods and services, constituting 25% of the U.S. GDP. CGCYBER attorneys assisted in the preparation of CGCYBER's third annual Cyber Trends & Insights in the Marine Environment (CTIME) Report, which provides a summary of findings from all CPT missions conducted in the last year and relevant best practices to remediate vulnerabilities and secure critical systems.

The CGCYBER Intelligence Department (CGCC-2) is comprised of both National Intelligence Element (NIE) personnel conducting intelligence activities under Executive Order 12333, and Law Enforcement Intelligence Element (LEIE) personnel conducting activities under Coast Guard law enforcement and regulatory authorities. CGCC-2 NIE personnel are subject to the Coast Guard Intelligence Oversight program, including the following requirements: reporting and investigating questionable intelligence activities, congressional notifications, periodic reports, inspections, and training.



## Federal Prosecution Support

CGJAG attorneys work closely with the Department of Justice (DoJ) on various cases. Seven Coast Guard Districts provided Special Assistant U.S. Attorney (SAUSA) support to USCG-led criminal investigations. The Coast Guard also has full time SAUSA positions detailed to the DoJ and filled by judge advocates. These judge advocates represent the United States in prosecuting criminal violations of U.S. Law.

Two staff attorneys from the First District Legal Office in Boston, MA have been assigned as Special Assistant United States Attorneys (SAUSAs) for ongoing investigations and prosecutions, including seaman's manslaughter and major environmental crimes cases. They also served as primary liaisons in other cases referred for prosecution.

The Eleventh District Legal Office, located in Alameda, CA, provided support to the DoJ and foreign partners, facilitating 88 trial appearances resulting in the prosecution and conviction of 84 narco-smugglers and 17 human smuggling crime referrals. A Coast Guard Transnational Organized Crime (TOC) attorney worked with the District Eleven legal office and Sector Response teams, and interagency partners from DoJ, Customs and Border Protection, and Homeland Security Investigations to build and implement a disposition process for SW Maritime Border human smuggling cases, leading to a 300% increase in smuggling network operator criminal referrals from 2023. The legal office also represents the Coast Guard for DHS/DoJ Joint Task Force (JTF) Alpha, the Attorney General's initiative to disrupt and dismantle human smuggling and trafficking networks that abuse, exploit, or endanger migrants seeking to unlawfully come to the U.S. from the Northern Triangle region and Mexico. Through JTF Alpha, the District Eleven legal office has provided critical evidence and testimony in support of the extradition and prosecution of over 240 operators of human smuggling groups in North and Central America.

District Eight attorneys based in New Orleans, LA continue to participate in Alabama Environmental Crimes Task Force meetings, most recently in January 2024 when Sector Mobile gave a brief on MARPOL cases from the perspective of a USCG investigator and port state control officer. The District Eight legal office also worked closely with the USAO for the Southern District of Texas in the referral of a case involving a violation of 18 U.S.C. § 2237 (Failure to Heave to) by a Mexican lancha operator interdicted for illegally fishing in the U.S. contiguous zone.

Beginning in October 2023, District Seven received funding from Operation Vigilant Sentry (OVS) to place a second full time Special Assistant U.S. Attorney (SAUSA) at the Southern District of Florida (SDFL). The OVS SAUSA focuses exclusively on Title 8 offenses arising in and around the Florida Straits and has been a key driver in clearing the backlog of Title 8 cases which amassed during the highest surge in migration the District has seen in eighteen years. To date, two Reserve Judge Advocates have continuously filled the role.

District Seven's full time SDFL SAUSA continued to see high levels of indictments for maritime offenses within the District. Notable cases included the conviction following trial of a man accused of shining a laser pointer into the cockpits of Coast Guard helicopters, and the successful negotiation of a pre-trial diversion agreement for the operator of a "hydropod" personal watercraft, who had been violating District Captain of the Port Orders for a decade and costing taxpayers thousands of dollars in search and rescue costs.

In the District of Puerto Rico (DPR), the SAUSA portfolio continues to expand beyond cocaine and migrant smuggling. Recently, the SAUSA secured a plea agreement with a Search and Rescue hoax perpetrator. The individual cost taxpayers over \$1 million during the Coast Guard's search and rescue efforts. DPR also saw the Coast Guard SAUSA handle a rarely seen fentanyl smuggling cases within its jurisdiction.



# 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 military judges, prosecutors, defense counsel, and special victims' counsel for courts-martial. Judge advocates assigned as appellate government and defense counsel brief and argue cases before the Coast Guard Court of Criminal Appeals (CGCCA) and the Court of Appeals for the Armed Forces (CAAF). Coast Guard attorneys who serve as Staff Judge Advocates (SJAs) provide advice on military criminal matters to field commanders.

**Office of Military Justice:** The Office of Military Justice and the Office of Legal Program Development were combined under the leadership of a Captain (O6) who manages CGJAG program development; Resources Management; and Military Justice Policy and Appeals. The Office of Military Justice aids and trains judge advocates in the field. It also works extensively with the Department of Defense and the other Services to develop and execute military justice initiatives.

**Joint Service Committee on Military Justice:** The Chief of the Office of Military Justice, CAPT Anita Scott, currently chairs the Joint Service Committee on Military Justice (JSC), the first time the Coast Guard has served as its chair since the Committee's creation in 1983. The JSC's purpose is to advise the President of the United States, through the Office of the General Counsel of the Department of Defense, to ensure the military justice system is comprehensive and up to date. The JSC is comprised of members from the Army, Navy, Air Force, Marine Corps, and Coast Guard, as well as advisors from the Office of the General Counsel of the Department of Defense and the U.S. Court of Appeals of the Armed Forces. Under the Coast Guard's leadership, the Committee drafted and facilitated approval of the July 2023 Executive Order (EO), which enabled the new exclusive authorities over victim-centric cases. Following the EO, the JSC facilitated the production of the 2023 and 2024 editions of the Manuals for Courts-Martial and authored critical updates to the Safe-to-Report policy for all the Armed Forces to ensure that victims of sexual assault are not disciplined for collateral misconduct associated with the offense.



*Coast Guard Prosecutors in Norfolk, Virginia.*

**Office of the Chief Prosecutor:** In 2023, RDML Bill Dwyer became Chief Prosecutor of the Coast Guard. The Chief Prosecutor and the Office of the Chief Prosecutor (OCP) are the counterparts to Lead Special Trial Counsel (STC) and Offices of STC in the armed services. In addition to disposing of "covered offenses" – the most serious offenses enumerated in the Uniform Code of Military Justice, OCP is responsible for prosecuting all cases in the Coast Guard. Since reaching initial operating capability on April 14, 2023, the OCP worked to enhance the proficiency of its legal support staff and prosecutors. Over the next two years, the OCP will centralize most of its operations in Charleston, South Carolina. OCP continues to hire additional personnel with expertise to support the investigation and prosecution of victim-centric felonies (e.g., forensic psychologist, embedded investigator, paralegals with victim-witness assistance support). These subject-matter experts and additional staff will significantly advance the training and support to prosecutors and the Service's delivery of military justice provisions. Additionally, the OCP is currently designing a smart courtroom in Charleston. The courtroom will consist of 7,100 square feet of space dedicated to a courtroom, chambers, member room, venire, and sufficient office space for all the parties to a court-martial.

The OCP recently partnered with the Charleston School of Law to establish a robust externship program and an annual mock trial competition for law students. On May 10, 2024, the Charleston School of Law recognized the OCP and the

Coast Guard Maritime Law Enforcement Academy by presenting the Coast Guard Legal Program with a “Community Partner of the Year Award.”

**Coast Guard Judiciary:** The Coast Guard trial judiciary consists of three full-time military judges and several collateral judges performing general and special courts-martial cases. The Coast Guard Court of Criminal Appeals consists of nine members, including two full time civilian judges. The Court reviews cases on direct appeals by the Government, as well as extraordinary writs.

**Staff Judge Advocates and Other Counsel:** Coast Guard attorneys at field offices serve as Staff Judge Advocates (SJAs) providing advice on military criminal matters to field commanders. These SJAs are located at the Coast Guard’s Pacific Area (PACAREA) and Atlantic Area (LANTAREA); its nine District Offices; three Training Centers; the Coast Guard Academy; the Legal Service Command which supports an attorney within the Personnel Service Center (PSC) at Coast Guard Headquarters; and the Coast Guard’s Cyber Command. Area and District Legal Offices continue to provide comprehensive legal advice to Court Martial Convening Authorities and coordinate with the OCP on cases. Those offices also continue to prosecute or support General Courts-Martial (GCM), Special Courts-Martial (SPCM), and Summary Courts-Martial (SCM). Judge advocates assigned as appellate government counsel brief and argue cases before the Coast Guard Court of Criminal Appeals, the Court of Appeals for the Armed Forces (CAAF), and the U.S. Supreme Court. Appellate government counsel also works closely with the Navy-Marine Corps Appellate Government Division, Army’s Government Appellate Division, and Air Force Government Appellate Division.

During this past year, Coast Guard attorneys handled a variety of cases, including homicide, maltreatment, drugs, sexual assault, theft, simple assault, and dereliction of duty. The chart below shows the number of Coast Guard courts-martial which took place during the past five fiscal years.

<b>COURTS-MARTIAL (BY FISCAL YEAR)</b>					
	<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>
<b>General Courts-Martial</b>	<b>6</b>	<b>4</b>	<b>11</b>	<b>6</b>	<b>11</b>
<b>Special Courts-Martial</b>	<b>8</b>	<b>8</b>	<b>17</b>	<b>7</b>	<b>7</b>
<b>Summary Courts-Martial</b>	<b>19</b>	<b>12</b>	<b>7</b>	<b>5</b>	<b>2</b>
<b>Total Courts-Martial</b>	<b>33</b>	<b>24</b>	<b>35</b>	<b>18</b>	<b>20</b>



# Legal Assistance, Defense Services, and Member Advocacy

The Judge Advocate General is responsible for providing various legal services directly to Coast Guard members and eligible beneficiaries. These services include providing: advice and representation to victims of sexual assaults perpetrated by members of the Coast Guard; advice and representation to members facing separation from the Coast Guard due to physical disabilities; advice and representation to members facing punishment under the Uniform Code of Military Justice or adverse administrative proceedings generated by the Coast Guard; and legal assistance to members and eligible dependents relating to personal civil matters. These functions are provided respectively by the offices of CG-LMA and CG-LAD.

**Member Advocacy:** The Office of Member Advocacy is responsible for the Special Victims' Counsel Program and oversees Disability Evaluation System counsel.

**Special Victims' Counsel (SVC) Program:** With approximately 180 active cases, the SVC Program continues to provide legal advice and representation to active-duty members, reservists, dependents, and civilian victims of sexual assault and domestic violence. Special Victims' Counsel appear on victims' behalf throughout the military justice process, including representation at courts-martial, post-trial, and appellate proceedings. A policy change in the Coast Guard now provides that victims shall be notified when their perpetrator is appearing before an administrative separation board, and victims may be represented by SVC at these proceedings.

Special Victims' Counsel are working with Legal Assistance attorneys to provide victims of domestic violence more coordinated and robust legal services. SVCs primarily assist with obtaining military protective orders and advocate for victims in military justice and adverse administrative proceedings, while Legal Assistance attorneys assist with civilian protective orders and provide victims in depth family law advice. This coordinated approach provides victims with timely access to the legal services they need. The Coast Guard has fourteen full-time SVCs at six locations nationwide: Miami, FL; Seattle, WA; Alameda, CA; Cleveland, OH; Washington, DC; and the CG Academy in New London, CT.

**Disability Evaluation System Attorneys:** Member Advocacy Division attorneys also represent ill and injured Coast Guard members throughout every stage of the Service's Disability Evaluation System (DES) process, representing the individual (rather than the Coast Guard) as they either medically separate or return to duty. This past year, five primary disability attorneys and five collateral duty disability attorneys represented over 400 Coast Guard members facing disability evaluation and possible medical separation or retirement. DES attorneys help clients make informed decisions that will have dramatic effects on the members' careers and financial interests. Attorneys advocate for their clients before the Informal and Formal Physical Evaluation Boards (PEBs) and in the earlier stages of the Medical Evaluation Board (MEB) process, ensuring that members are afforded their right to due process, and that the Coast Guard's actions comply with applicable federal statutes and Department of Veterans Affairs (VA) regulations.

The Coast Guard continues to work towards transitioning to the Integrated Disability Evaluation System (IDES), having completed "IDES Pilot 2.0" under the supervision of the VA. The Coast Guard Personnel Service Center (PSC) has received approval from the VA for full implementation of the IDES program, and PSC is currently expanding IDES incrementally. Member Advocacy Division attorneys are working closely with PSC to help guide the service through this transition, with the twin goals of reducing the total amount of time that a member is in the DES and providing the member with a clear picture of their Coast Guard and VA disability compensation before separation from the service. Both PSC and the Office of Member Advocacy attorneys are fully committed to improving the process for the members undergoing evaluation.





**Defense Services:** The Defense Services Division is responsible for providing defense counsel, representation, and consultation across the Coast Guard to members facing courts-martial and adverse administrative proceedings. This Division manages the Coast Guard and Navy Memorandum of Understanding on Mutual Support in Military Justice Matters. Through the cross-service agreement, in 2023, the Defense Services Division coordinated representation for over 15 Coast Guard members facing courts-martial and over 25 members facing administrative separation hearings. Currently, the Coast Guard has seven judge advocates embedded in five Navy Defense Service Offices throughout the country. These Coast Guard judge advocates provided legal advice to over 500 service members in the Coast Guard, Navy, and Marine Corps. They also represented clients in over 80 courts-martial and over 30 administrative separation hearings. Additionally, there are two judge advocate appellate defense counsel who provide legal advice and representation at the appellate level alongside the Navy and Marine Corps Appellate Defense Division. Over the last year, the Coast Guard's Appellate Defense Counsel have consulted with and represented over 20 members before the Coast Guard Clemency Board; Navy Clemency and Parole Board; Coast Guard Court of Criminal Appeals; and the Court of Appeals for the Armed Forces.

**Legal Assistance:** From April 2023 to March 2024, 15 civilian and active-duty legal assistance attorneys provided counsel to over 3,800 clients, helping them with estate planning, family law, consumer law, and numerous other civil law issues. Recent changes in the law, particularly in the areas of assisting victims of domestic violence and base housing tenant issues, has had an impact on the Coast Guard Legal Assistance practice and the type of cases addressed by the legal assistance attorneys.

The American Bar Association Standing Committee on Legal Assistance for Military Personnel (LAMP) Committee named the Eleventh Coast Guard District Legal Assistance Team in Alameda, CA as a winner of the Group Distinguished Service Award. In addition to being one of our most productive offices, the District Eleven team was recognized for discovering and investigating a pattern of violation of the Servicemembers Civil Relief Act by a corporation providing property management services for over 130,000 multifamily housing units across sixteen states, including California. Their advocacy eventually led to a referral to the Department of Justice and significant monetary compensation for members. Also, they were credited with assisting numerous families in a new area of legal assistance, special education law.

The Coast Guard legal assistance program hosted the first Sea Services Symposium, which was attended by over 40 attorneys from the Coast Guard, Navy and Marines. The event included 20 hours of content on various legal assistance topics provided over 3 days, including remarks from Commander, Naval Legal Service Command and the Coast Guard TJAG.



*Attendees of the 2024 Sea Services Symposium, including Rear Admiral Batson, the Judge Advocate General, front row center left.*



## Civil Advocacy, Claims and Litigation

CGJAG actively manages an extensive claims program under several federal statutes. This involves 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 and recovery costs. The Office of Claims and Litigation (CG-LCL), in support of its partners from Department of Justice (DoJ) and various United States Attorney offices, defends and asserts the Coast Guard's legal interests in a panoply of cases related to its internal operations and its 11 statutory missions.

**Protecting Coast Guard Authorities:** Partnering with national D.C.-area DoJ offices, as well as various U.S. Attorney Offices throughout the country, CG-LCL notched multiple litigation victories that reinforced Coast Guard authorities with respect to the conduct of Search and Rescue (SAR) operations, commercial vessel documentation, and personnel actions. Successful litigation refreshed appellate case law on the discretion exercised by Coast Guard personnel conducting SAR and the application of the Good Samaritan standard of care for responding units. Elsewhere, CG-LCL successfully argued for deference to its interpretation and application of regulations used to determine whether a vessel is U.S.-built/rebuilt or foreign-built/rebuilt for purposes of granting a certificate of documentation and coastwise endorsement. The district court deferred to the Coast Guard's reasonable interpretation of its own regulations and the Fifth Circuit, applying *Kisor v. Wilkie*, affirmed. Finally, CG-LCL continued to see favorable outcomes for both civilian and military personnel actions that were challenged in federal district courts.

**Judicial Civil Penalties:** CG-LCL refocused its efforts on pursuing judicial civil penalty (JCP) referrals to DoJ under the Clean Water Act, when appropriate. These JCP referrals provide the Coast Guard with additional compliance incentives compared to the alternative administrative civil penalty process by presenting federal district courts with the ability to impose injunctive relief on responsible parties that repeatedly or egregiously pollute U.S. waters.

**Claims Adjudication:** The Legal Service Command (LSC) Claims Division adjudicated 328 wrongful death, personal injury, and property damage cases totaling more than \$1.6 trillion in claimed damages and negotiated settlements of approximately \$423,000. The LSC Claims Division adjudicated 123 household good damage claims and authorized settlement payments of approximately \$200,000 to military members or civilian employees for damages arising from shipments of personal property under a Government contracted transfer. The LSC Claims Division recovered more than \$119,000 owed to the United States for property damage.

**Development of Global Household Contract Program:** The Household Goods (HHG) branch within the LSC Claims Division is actively engaged with our military counterparts in the implementation and development of the Global Household Contract (GHC) program, a U.S. Transportation Command led effort to improve and centralize the relocation process for Department of Defense and Coast Guard personnel. Under GHC, HomeSafe Alliance will serve as the "single move manager" responsible for the packing, shipping, storage-in-transit warehouse services, delivery and unpacking of household goods throughout the world, and any subsequent claim to the transportation provider for any damages sustained during the relocation. The program went live on April 1, 2024 for moves in the Norfolk area, Base Seattle, and, as of 01 May 2024, Base Portsmouth. The Claims HHG branch has actively participated in numerous meetings related to the implementation of this new system where they have provided valuable input on how to incorporate and ensure alignment with applicable regulations and policy surrounding the Claims process. Additionally, they participated in the trial and testing phase of the system's online submittal process for any subsequent claims, enabling our claims experts to provide valuable feedback on gaps and areas in need of improvement.



## General Law

The mission of the General Law practice area is to provide legal advice in the areas of Fiscal Law, Standards of Federal Conduct/Ethics Law, Civilian Employment and Labor Law, Military Personnel Law, and Administrative Law. The attorneys in the practice area are responsible for reviewing and commenting on legal authorities, delegations, advising on major incident investigations, providing agency positions to the Department of Homeland Security Board of Correction for Military Records, and reviewing administrative investigations. Attorneys in the office of General Law also provide direct counsel to the Coast Guard's senior leadership and their staffs.

**Fiscal Law:** The fiscal law practice group provided legal advice on the Federal Appropriations Laws as they apply to authorized Coast Guard functions and the goal of a clean audit of Coast Guard fiscal and property accounts. Over the past year, the fiscal law practice group provided real time advice to clients on issues including:

- Continued oversight on the proper use of the hurricane supplemental appropriation while in its expired stage;
- Worked with the Coast Guard's budget formulation program and the Air Force's Office of General Counsel to culminate a multi-year effort to transfer the HC-130 aircraft to the California Department of Forestry and Fire Protection (Cal Fire), as initially required by the 2014 NDAA; developed a complex Memorandum of Understanding between the Air Force, Coast Guard, and Cal Fire; ultimately enabled programs to meet the targeted FY2024 sundown, which included reduction of remaining positions and funding for the HC-130H program. On 2 January 2024, the USCG and Cal Fire signed an SF-122 for the official transfer of seven HC-130H aircraft along with necessary ground support equipment, valued at \$129 million;
- Coordinated with the Recruiting Command regarding its operations and initiatives to ensure public engagement of potential recruits conforms to fiscal limitations;
- Oversaw clean audit of Coast Guard fiscal and property accounts. Prepared the Fiscal Year 2023 CG-094 Statement of Assurance and Risk Assessment of the Coast Guard's Fiscal Law Practice, Financial Disclosure Program, Continuing Legal Liabilities, and CG-LRA Unfunded Liabilities. Coordinated within CGJAG offices to prepare TJAG for annual KPMG Fraud Awareness meeting;
- Ensured availability for Government Accountability Office (GAO) audits (requests and exit conferences) to resolve any conflicts and ensure the Coast Guard is properly represented in GAO Statements of Fact and Reports, particularly, regarding the Coast Guard's emergency preparedness.

**Employment Law:** Coast Guard employment and labor law attorneys handled over 47 Equal Employment Opportunity Commission (EEOC) and Merit Systems Protection Board (MSPB) cases during this period. Coast Guard attorneys have continued to work with the Human Resource Specialists and attorneys in the Department of Homeland Security to establish discipline boards, constituting a major overhaul to civilian employee discipline. In addition, Coast Guard employment and labor law attorneys provided advice to Coast Guard leadership regarding over 223 employment related matters, including advising on several high-profile harassment investigations involving civilian subjects. Headquarters employment and labor law attorneys have worked closely with Human Resources and Civil Rights personnel to refine cooperative processes for reasonable accommodation, Alternative Dispute Resolution, settlement, and disciplinary and performance actions. Additionally, they have worked in coordination with Human Resources and Coast Guard Investigative Service personnel to implement and populate the National Law Enforcement Accountability Database (NLEAD), a system maintained at DoJ to allow agencies to vet law enforcement personnel for hiring and promotion. They have advised Human Resources and acquisition personnel on the labor relations aspect of Confidential Financial Disclosure Report (CFDR) filing requirements for Contracting Officer Representatives (CORs) and on compliance with the requirements of section 1101 of the National Defense Authorization Act for fiscal year 2024 regarding identification and possible reclassification of diversity, equity, and inclusion positions. Finally, they worked cooperatively with the Office of Special Counsel (OSC) to draft and execute a settlement agreement following an OSC



finding that an employee violated the Hatch Act by advocating for a political candidate on a personal social media account.

Legal Service Command (LSC) continued to advocate on behalf of the Coast Guard before the Merit Systems Protection Board (MSPB) in cases involving civilian employment law. LSC successfully argued that the MSPB should uphold the removal of a civilian employee who misused their government workstation during business hours to access websites containing anti-Semitic, white supremacist, and extremist information and discriminatory content and then share that content via government email. LSC's efforts resulted in legal precedent that enhances the tools available to Commands for workforce management and enables them to better enforce policy and pursue corrective action against activities that negatively impact the morale, health, and wellbeing of a diverse workforce.

The Norfolk LSC attorneys assisted Coast Guard stakeholders address various performance and misconduct issues of a civilian employee with a poor work ethic, who was unable to achieve results, who failed to follow direction and who was accused of creating a hostile work environment. The prior command however, had failed to hold this employee accountable for their poor performance and behavior and even awarded the employee with top performance ratings through 2023. LSC developed a progressive discipline strategy to hold the employee accountable and provided advice leading to formal disciplinary actions and a performance development plan. LSC participated in mediation and advised the command to allow the complaint to go formal leading the assigned EEOC, Administrative Judge, to give Notice of Intent to Issue a Decision in Favor of the Agency. LSC facilitated settlement agreement negotiations that triggered the employee's voluntary resignation, an outcome that had an overwhelming positive impact on the morale and well-being of the unit.

**Ethics:** Ethics attorneys provided advice on matters of misuse of position, lobbying, gifts, conflicts of interest, outside employment and activities, and fundraising. This included advising the Coast Guard personnel and field level attorneys on a myriad of gift acceptance issues; political activity rights and limitations for Coast Guard employees, and military members; and implementation of the DoD managed SkillBridge Program participation. Additionally, Headquarters attorneys continued to provide ethics training to field attorneys monthly and completed all annual training for personnel filing financial disclosures. Beyond required annual training, Headquarters attorneys provided training for all new Senior Leaders, all prospective District Commanding Officers, Senior Leader spouses and active and reserve judge advocates attending Missions Law.

In conjunction with the Real Property attorneys, the office reviewed numerous issues relating to the development of the National Coast Guard Museum. These issues include internal museum policies, the acceptance of gifts and services from the National Coast Guard Museum Association, and the administration of a \$50 million grant for museum construction. The Ethics attorneys continued to manage the electronic filing for both the Confidential Financial Disclosure Reports, using the Army Financial Disclosure Management System, and Public Financial Disclosure Reports, using the Integrity System. Headquarters attorneys also assisted in ethics review and determinations in association with the commissioning or christening of five new Coast Guard cutters (USCGC CALHOUN, USCGC ARGUS, and USCGC WILLIAM SPARLING, USCGC JOHN PATTERSON, and USCGC MELVIN BELL). The review included the factors and applicable regulations for the acceptance of free attendance to commissioning activities and dinners, along with gifts to members of the respective crews.

**Real Property:** Real property attorneys provided legal advice and services on a multitude of real property matters. This included advising on the updates to the Service's Real Property Management Manual and continued engagement with stakeholders in Seattle, WA as the Coast Guard seeks to expand its footprint at Base Seattle.

LSC attorneys advanced the Coast Guard's shore infrastructure support programs and the goal of maturing long-term homeporting processes around the country. This past year, LSC Real Property experts continued to provide advice and guidance to the largest Base expansion project in Coast Guard history – The Seattle Base Expansion and Homeporting

Project. LSC Attorneys continue to guide Coast Guard stakeholders on a legal path in alignment with Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) parameters to demolish Pier 36, dredge a slip, and reconstruct a slimmer Pier 36. They are undertaking these efforts with minimal negative impacts on the Treaty fishing rights of the Muckleshoot Tribe and the Suquamish Tribe, while under the oversight and enforcement of EPA Region 10. The LSC currently provides weekly advice to the Facilities Design and Construction Center on securing EPA buy-in on Slip 36 project to ensure that the demolition and the dredging achieve the CERCLA clean-up levels. Additionally, the LSC routinely collaborates with EPA legal counsel on how best to present the blueprints and specifications to their Project Manager for approval within a timeframe permissible for the work to begin and provided Shore Infrastructure Logistics Command (SILC) with draft language for a Legislative Change Proposal (LCP) that would align the Coast Guard with DoD's legal authority to mitigate long-term negative impacts on Treaty fishing rights.

LSC real property experts, in conjunction with CG-LCL, and the Department of Justice (DoJ) defended the Coast Guard's ability to operate it's Rescue 21 (R21), communications system at the Powell Point Site on the Outer Banks of North Carolina after being threatened by an action in Federal bankruptcy court. LSC, in collaboration with the Assistant U.S. Attorney, and the Coast Guard's Shore Infrastructure Logistics Command and Civil Engineering Unit, weighed the creditors' claims, all available remedies, and proposed relief to advise DoJ on the CG's strategic interest for protecting our sustained presence at this R21 site. This support enabled the government to secure an outcome preserving access and use of the site for the R21 system.

LSC real property experts also provided legal support for the divestiture and sale of multiple underutilized properties throughout the United States, including in Arrowsic, ME; Shark River, NJ; Westhampton, NY; Rochester, NY; Jamestown, RI; and Fishers Island, NY. These sales resulted in millions of dollars for use in acquiring badly needed military housing and refurbishing other housing properties.

**Administrative Law:** The Administrative Law (ALG) team worked extensively with colleagues within the Coast Guard and advised senior leadership and investigating officers within Coast Guard Headquarters during investigations, final action decisions, and accountability efforts. ALG attorneys continue to work closely with the Anti-Harassment Program Office to refine and improve policy in this area. ALG attorneys assisted offices throughout the Coast Guard with developing policy change proposals and delegation memoranda that will continue to enhance the ability of the Coast Guard to carry out its missions and increase efficiency. Attorneys also handle a legal travel docket that is instrumental in facilitating flag officer and Senior Executive Service official travel. General Law attorneys also submitted and reviewed over 100 Department of Homeland Security Board for Correction of Military Records advisory opinions and Coast Guard Discharge Review Boards respectively. Attorneys reviewed over 1,000 Coast Guard-wide policy and messaging documents for legal sufficiency. ALG attorneys served as legal advisor on numerous high level Mishap Analysis Board investigations.



# 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 and treaties, and maintain marine security. Coast Guard attorneys draft new regulations based on those mandates and provide advice to field commanders on the implementation of all existing regulations and their enforcement and applicability. The Office of Regulations and Administrative Law (LRA) manages the Coast Guard regulatory agenda; oversees regulatory initiatives; works with attorneys supporting district local field regulations; provides advice about the Federal Advisory Committee Act (FACA); and responds to rulemaking-related recommendations and complaints filed by the public.

The Coast Guard's rulemaking program continues to balance a portfolio of regulations touching on a wide variety of the 11 Coast Guard missions. Since last year's report, Coast Guard Headquarters published several rules and proposed rules, as well as more than 100 notices to comply with a variety of legal requirements such as the Paperwork Reduction Act and FACA. Additionally, Coast Guard field units, including Sectors and Districts, drafted routine-and-frequent field regulations that affect only localized areas. During this period, the Coast Guard published over 400 field regulations, including proposed rules, final rules, and notifications of enforcement. In addition, Coast Guard issued over 100 additional field regulations that could not be published before their effective period ended.

The Coast Guard continued engaging in an extensive review of its regulations, guidance documents, and collections of information. The Coast Guard's current portfolio of rulemakings in development is published in the Unified Agenda available at <https://reginfo.gov> within the Department of Homeland Security portfolio. The following notable proposed rules provide examples of recent publications:

**Cybersecurity in the Marine Transportation System Proposed Rule:** In this proposed rule published in the Federal Register on February 24, 2024, LRA proposed updates to maritime cybersecurity regulations (89 FR 13404). Specifically, LRA proposed adding regulations specifically focused on establishing minimum cybersecurity requirements for U.S.-flagged vessels, Outer Continental Shelf facilities, and U.S. facilities subject to Maritime Transportation Security Act of 2002 regulations. This proposed rule would help to address current and emerging cybersecurity threats in the marine transportation system. The proposed rule solicited comments on the use of the term reportable cyber incident, alternative methods of reporting such incidents, and the definition of hazardous condition.

**District 5 Safety Zones for Windfarm Development on Outer Continental Shelf:** The Office of Regulations and Administrative Law also supported Coast Guard Districts in proposing and establishing safety zones for local needs. LRA continues to support safe navigation around new wind farm construction on the Outer Continental Shelf in the Atlantic Ocean. These safety zones are necessary to provide for the safety of life, property, and the environment during the planned construction of monopile type foundation, installation of the wind turbines, and laying tunnels that will carry electronic transmission cables from the wind turbines. Coast Guard Sectors generally enforce the temporary safety zones individually as construction progresses from one structure location to the next. On March 26, 2024, LRA published a temporary final rule (89 FR 20851) for 179 temporary 500-meter safety zones around the construction of 176 planned wind turbine generators and 3 offshore substations in Federal waters on the Outer Continental Shelf, east-northeast of Virginia Beach, VA. In addition, the Coast Guard published a temporary final rule on February 22, 2024 (89 FR 13274) establishing safety zones around tunnel construction for cables near the State Military Reservation, in Virginia Beach, VA

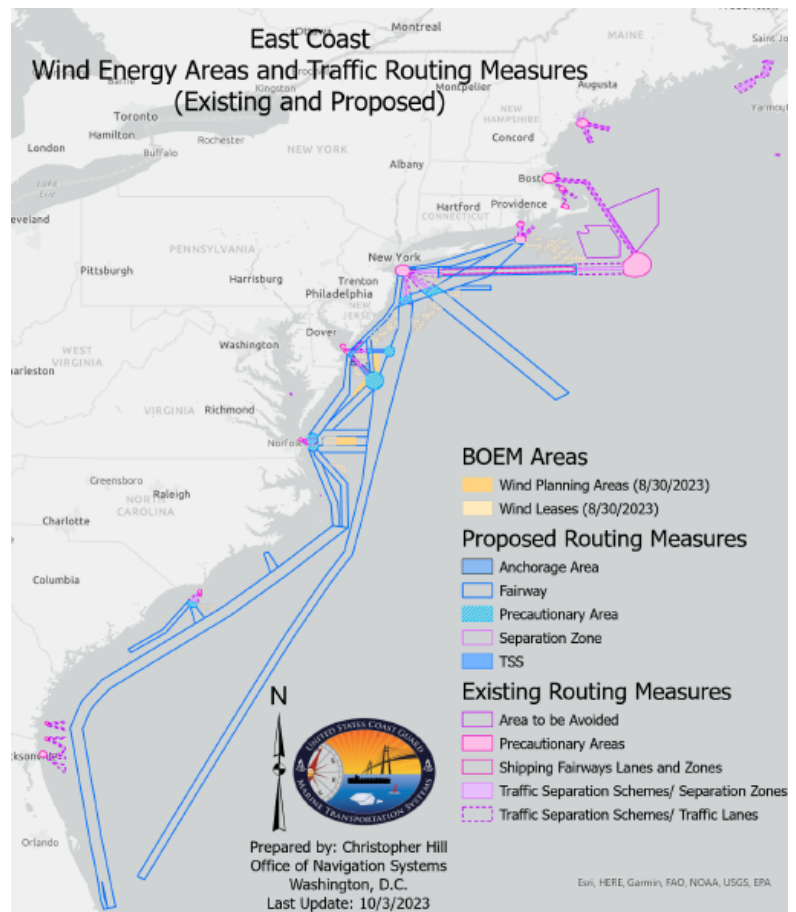
**Shipping Safety Fairways Along the Atlantic Coast Proposed Rule:** On January 19, 2024, the Coast Guard published in the Federal Register a proposed rule to establish shipping safety fairways ("fairways") along the Atlantic Coast (89 FR 3587). The locations were also identified in the Atlantic Coast Port Access Route Study. Fairways would preserve the safe and reliable transit of vessels along well-established traffic patterns and routes. While vessels are not



required to use them, fairways are designed to keep traditional navigation routes free from fixed structures that could impact navigation safety and impede other shared offshore activities. The Coast Guard recognizes that there is increasing interest in offshore commercial development, including offshore renewable energy installations, and believes this development is best served by the establishment of consistent and well-defined fairways. The proposed fairways would help ensure that offshore developments remain viable by allowing developers to construct and maintain installations without risk of impeding vessel traffic. The Coast Guard also proposed to establish traffic separation schemes and precautionary areas along the Atlantic coast to further improve navigation safety. The graphic below shows the proposed fairways and existing routing measures.

In addition to these two rulemakings, the Coast Guard published the following substantive national regulatory efforts since the last ABA Report:

- Great Lakes Pilotage Rates: 2024 Annual Review, Proposed rule;
- DUKW Amphibious Passenger Vessels, Interim rule;
- Towing Vessel Firefighting Training, Final rule;
- Exemption for Active-Duty Uniformed Service Members from Merchant Mariner Credentialing Fees, Proposed rule;
- Multi-Year Certificate of Documentation for Recreational Vessel Owners, Final rule;
- 2022 Updated Liquid Chemical Categorization Updates, Final rule;
- Great Lakes Pilotage Modernization, Proposed rule;
- User Fees for Inspected Towing Vessels, Final rule;
- Great Lakes Pilotage Rate: 2024 Annual Review, Final rule;
- Mariner Credentialing Program Transformation, Proposed rule;
- Updates to Marine Engineering Standards, Final rule; and
- Digital Certificate of Number for State Numbered Vessels Digital Certificate of Number for State Numbered Vessels, Final rule.



*Existing and proposed wind energy areas and traffic routing measures along the East Coast.*

# Procurement Law

The Procurement Law Program is responsible for providing expert legal counsel on major systems acquisitions. The program works with the stakeholders throughout the Coast Guard to deal with legal issues focused on matters having an impact on Coast Guard acquisitions, including acquisition planning, source selections, contract administration, and related litigation. The program also handles matters that arise from or are related to Coast Guard acquisitions including fiscal law, third party Freedom of Information Act (FOIA) requests, procurement regulations and policies, and legislation impacting the procurement process.

**Offshore Patrol Cutter (OPC):** The Offshore Patrol Cutter (OPC) procurement is the Coast Guard's largest single-class cutter acquisition. In 2018, the Coast Guard exercised an option with Eastern Shipbuilding Group, Inc. (ESG) to begin construction for the first OPC. On October 10, 2018, category 5 Hurricane MICHAEL made landfall over Panama City, significantly impacting ESG's production capacity. As a result, ESG was granted relief and the contract was limited to four hulls. In addition to the contract changes, the Coast Guard held a new competition for production of 11 more OPCs. On November 6, 2023, Court of Federal Claims ruled in favor of the Coast Guard and upheld the award decision. Austal is currently performing detail design work. Work on stage 1 of the OPC contract continues with Eastern Shipbuilding Group and the first OPC was christened on October 27, 2023.



*The USCGC ARGUS (WMSM-915) was launched on October 27, 2023*

**National Security Cutter (NSC):** The NSC is the largest and most advanced class of cutter in the Coast Guard. The Coast Guard commissioned the tenth NSC, USCGC CALHOUN, in April 2024. Currently the eleventh NSC is in production at Huntington Ingalls Industries shipyard in Pascagoula, MS. Program attorneys are working to address contract administration issues.

**Unmanned Airborne Systems (UAS):** The Coast Guard uses UAS to augment its manned aircraft fleet and to enlarge the surveillance range of the cutter fleet. Small UASs deploy from the deck of eight NSCs under a contract with Insitu, Inc. to operate the ScanEagle UAS. The deployments have been very successful. The Coast Guard expects to issue a new solicitation for these services soon. The Service also began using data from unmanned surface vessels to increase maritime domain awareness through a contract with Sairdron, Inc. Integrating these cutting-edge technologies across the USCG portfolio and mission will be a challenge in the years to come.

**Fast Response Cutter (FRC):** The Coast Guard has taken delivery of 57 of the Sentinel-class FRCs, a 154' multi-mission cutter under production contracts with Bollinger Shipyards. CG-LPL continues providing legal support for exercised options for additional FRCs, plus associated spares, awarded in 2023 and 2024.

**Polar Security Cutter (PSC):** In conjunction with the Navy, the Coast Guard awarded a design and production contract of the Polar Security Cutter. PSC Program attorneys worked with the Human Systems Integration Office to successfully award a contract to develop the training modules for deployment to the first PSC crews. This was the first such effort undertaken by the Coast Guard for training development, and it is being followed by other new platforms such as the Waterways Commerce Cutter, which is designed to construct, repair, and maintain aids to navigation on inland waterways.

**Rotary Wing Aircraft:** The Coast Guard operates two rotary wing aircraft platforms, the iconic H-65, with its bright orange color scheme, and the MH-60T, a medium-range workhorse. Procurement attorneys work with contracting personnel and program to ensure the needed parts and service-providers are on-contract and meeting mission requirements. The Coast Guard received approval from the Department of Homeland Security on October 31, 2023, to proceed with acquisition program activities that will continue to extend the service life of the existing MH-60T fleet as well as begin the Coast Guard’s transition to a rotary wing fleet consisting of all MH-60T aircraft.

**Claims and Bid Protests:** Procurement attorneys serve as the lead in defending contract actions in the event they are challenged before the Government Accountability Office (GAO), at the agency level. CG-LPL attorneys assisted Department of Justice attorneys in matters before the Court of Federal Claims. They routinely work with programs and contracting personnel to avoid or deter bid protests. Program attorneys managed seven GAO protests in Fiscal Year 2022, seven agency-level protests, and four matters brought before the Court. So far in Fiscal Year 2024, counsel participated in seven GAO protests. These were either dismissed, denied, or resulted in corrective action. Procurement attorneys also handle litigation related to contract appeals before the Civilian Board of Contract Appeals. Currently, the Coast Guard has one pending matter before the Civilian Board of Contract Appeals (CBCA) at an early stage of litigation. Last year USCG attorneys secured a victory at the CBCA when an appeal regarding an alleged underpayment was denied.

**Acquisition and Procurement Law at the Legal Services Command:** The Acquisition and Procurement Law Division (LSC-APL), consisting of the Supervisory Attorney and nine Procurement Law Attorneys, supports the procurement law and litigation needs of the Coast Guard’s asset sustainment community, including the logistics centers for Aviation, Surface Forces and Shore Infrastructure, as well as Operational Logistics and Command, Control And Navigation sustainment of the Command, Control, Communications, Computers, Cyber, Intelligence Service Center (C5ISC), from offices in Charleston, SC, Baltimore, MD, Elizabeth City, NC, Norfolk, VA, and Alameda, CA. LSC-APL and the Office of Acquisition and Procurement Law at Coast Guard Headquarters, together constitute to Coast Guard Acquisition and Procurement Community of Practice (ACOP), a thriving, collaborative community of Procurement and Acquisition practitioners. Generally, LSC Procurement Law Attorneys engage with their important Program and Contracting stakeholders in “Integrated Procurement Teams” (IPTs) to provide the Coast Guard with depot level maintenance for all Aviation, Surface and Shore assets and construction of new facilities, as indicated below.

LSC-APL provided extensive legal advice and guidance in defending Coast Guard interests before the Civilian Board of Contract Appeals (CBCA) where a contractor claimed relief in the amount of \$186,152 caused by delays on a \$2M million repair order at CG Station Grand Isle, LA. The April 18, 2024, decision found that a bi-lateral modification with broad release language barred the contractor’s monetary claim for delays caused by government changes and unforeseeable weather events. The parties modified the contract to increase the price and/or extend the period of performance four times to compensate for various delays, largely related to weather and the pandemic. The final modification included a full and unambiguous release. Believing that the contractor should not receive duplicative compensation for work and delays that it had already negotiated for, the Coast Guard elected to not settle the matter and denied the original claim. The CBCA denied the contractor’s appeal, finding that the “very broad” language of the release barred any relief. LSC-APL’s engagement throughout the process and oversight of the release language enabled a successful defense before the CBCA.

**Aviation Logistics Center (ALC):** ALC IPTs with their attorney contracted for on-site aircraft maintenance support services for Coast Guard C-130 aircraft; sustaining engineering and technical maintenance services for avionics equipment in all Coast Guard aircraft; comprehensive performance-based maintenance for engines powering Coast Guard H-65 aircraft; and the purchase of new engines for the expansion of the Coast Guard H-60 aircraft fleet. ALC’s Procurement Law Attorney recently supported DoJ in protest litigation at the U.S. Court of Federal Claims and





routinely provides counsel to leadership and participates in business decisions that keep depot level maintenance services moving at a state-of-the-art facility in Elizabeth City, NC.

**Surface Forces Logistics Center (SFLC):** SFLC IPTs and Procurement Law attorneys ensured that maintenance of new surface platforms and critical maintenance and upgrades to legacy medium endurance cutters, patrol boats, icebreakers and buoy tenders remained on track despite significant challenges posed by a shrinking industrial base and an aging surface fleet.

**Shore Infrastructure Logistics Center (SILC) and Facilities Design and Construction Center (FDCC):** Procurement Law attorneys supported significant maintenance, repair and resiliency improvement efforts carried out by Civil Engineering Units located across the nation, reducing significant maintenance backlogs. FDCC IPTs and their LSC-APL attorneys are currently completing work a \$4 billion strategic sourcing vehicle, drawing from small and large businesses, are preparing to compete regional construction and maintenance sourcing vehicles for small and socioeconomic program contractors, and are preparing to award nation-wide specialty vehicles for tower construction, architectural and engineering and environmental services. LSC-APL attorneys routinely advise on projects exceeding \$100 million. These projects are located in Puerto Rico; at “Super Bases” Charleston, SC and Seattle, WA; and many other locations. These attorneys handle all protest and Contract Disputes Act litigation relating to construction and maintenance of shore facilities, such as the recent victory at the Civilian Board of Contract Appeals, defeating a contractor’s claim for alleged Government delays by asserting accord and satisfaction and release of claims.

**Operational Logistics Command (LOGCOM):** LOGCOM IPTs with their Procurement Law attorney provide contract support for all Coast Guard emergency and contingency operations resulting from hurricanes, floods, shipwrecks, oil spills and other natural and maritime disasters. The LSC-APL attorney, in conjunction with Counsel from the National Pollution Fund Center, is currently advising on the implementation of new legislation providing indemnification for Oil Spill Recovery contractors. This attorney also participates in the IPTs and advises on contract administration for all significant service contracts that support operations at Coast Guard Bases, Stations and Training Centers.

**Command, Control, Communications, Computers, Cyber, Intelligence Service Center (C5ISC):** LSC-APL attorneys support the sustainment and recapitalization of ship- and aircraft-borne computers, radios, radars, and other electronic equipment. An LSC-APL attorney provided legal support to C5I Engineering Development, Integration, and Support Services (CEDISS), regarding a complex and critical contract for the design, development, integration, testing, and evaluation of C5I electronic systems, updates, upgrades, and lifecycle support. The contract resulted in a protest to the GAO following its award. LSC-APL provided stakeholders with legal advice and guidance on the best way to address the protester’s concerns, avoiding the impacts caused from a time-consuming protest and meeting the needs of the C5ISC and its customers safeguarding the Coast Guard from liability, operational delays, and legal fees.

# CGJAG Spotlight: Intellectual Property Law

The Coast Guard's Intellectual Property (IP) practice is housed within the Procurement Law Program (CG-LPL). Over the past six years, the Coast Guard has developed its IP practice. Under Mr. Korey Barry, Attorney Advisor and Intellectual Property Counsel, the Coast Guard's IP practice supports efforts to secure patents and trademarks while also negotiating licenses relevant to public information on the Coast Guard's statutory missions.

## Trademarks

In 2023, the IP practice received multiple trademark registrations from the U.S. Patent and Trademark Office (USPTO), thus enabling the Coast Guard to both better secure its image as well as protect its brand. These trademarks included the "USCG" acronym, the "USCG Reserve" logo, the "Semper Paratus: Always Ready" motto, as well as the U.S. Coast Guard Academy's retail lettering and the Coast Guard JAG insignia.

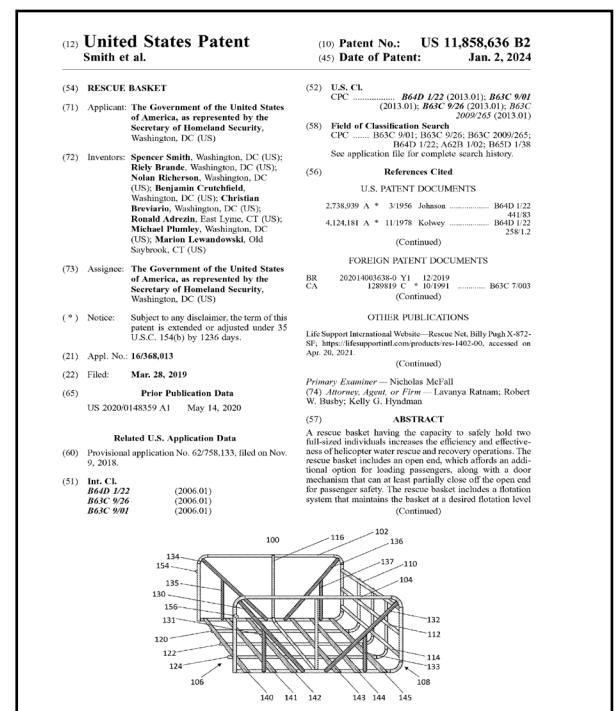
## Licensing

In years past, the IP practice successfully negotiated a licensing agreement between a Florida-based TV production company and the Coast Guard to produce *Coast Guard: Mission Critical*. This documentary series about the Coast Guard highlights the various missions conducted by Coast Guard personnel on an everyday basis. A trailer for the series can be viewed at <https://coastguardmissioncritical.com/>.

## Patents

Earlier this year, the Coast Guard received a patent from USPTO for its highly utilized "rescue basket." Coast Guard personnel commonly use this basket to hoist people up from bodies of water or structures to waiting rescue helicopters.

Additionally, the USPTO issued two other patents to the Coast Guard related to rescue devices. The first patent involved a portable device that can automatically deliver CPR without requiring Coast Guard personnel to physically administer it. The USPTO issued the second patent for a more efficient medical ventilator that can be used in hospitals or other medical facilities. Other patents acquired in the past included devices used in engine heat transfer and aircraft maintenance.



The patent issued by the U.S. Patent and Trademark Office to the Coast Guard on January 2, 2024 for a rescue basket, increasing the safety and effectiveness of helicopter rescue operations.

## **Legal Services Provided to USCG Training Centers**

The Coast Guard Training Centers (TRACENs) are located in Cape May, NJ; Yorktown, VA; Petaluma, CA; and Charleston, SC (the Maritime Law Enforcement Academy). The TRACENs present unique legal challenges and opportunities as units with significant student throughput and complex mission needs. Senior mid-grade Coast Guard attorneys serve as the sole independent duty Staff Judge Advocates. They advise their commanders on the full range of legal issues and serve as the local Command Director of Legal Assistance, providing critical advice to resolve civil legal matters to promote readiness and morale.

As the sole accession point for enlisted members, TRACEN Cape May's Legal Office also handles nuanced issues related to recruit discharges. Training Centers SJAs are seeking to expand this discharge authority to other FORCECOM commands, ensuring the service is more capable than ever of maintaining a workforce committed to our Core Values and embracing a culture of accountability for acts of misconduct. Over the past year, TRACEN Cape May worked with U.S. Citizenship and Immigration Services and Headquarters to develop a process whereby recruits who are Legal Permanent Residents will be able to pursue and obtain citizenship upon graduating from bootcamp. This initiative was expanded to include all TRACENs as part of the forthcoming operation, OPERATION SENTINEL TO CITIZEN. TRACEN COs have delegated authority to certify honorable service and TRACEN SJAs liaise with local USCIS offices to facilitate naturalization for applicants. To date, 100 applicants, including active duty, reserve, and dependents have naturalized and received citizenship based on Coast Guard military service.

## **Legal Services Provided to the Coast Guard Academy**

The Coast Guard Academy (Academy) SJA Office is responsible for providing legal advice to the Superintendent and approximately 2,000 members of the Coast Guard Academy - including the Coast Guard Band - regarding courts-martial, non-judicial punishments, cadet misconduct, appropriated and non-appropriated fund expenditures, administrative investigations, and ethics. Additionally, the Academy SJA Office advises cadets, faculty, and staff about unique, higher education legal issues. Many of these issues relate to the Academy's status as an institution of higher learning, requiring analysis of copyright law; intellectual property; patent law; academic hiring, firing, and tenure; and NCAA compliance.

Working at the intersection of legal practice areas unique within the military environment, the Academy SJA Office routinely engages counterparts at Coast Guard Headquarters, the Department of Defense Service Academies, and throughout the federal government to examine and resolve matters unique to military educational institutions. Its efforts enable Academy leadership to navigate nuanced personnel and policy issues with confidence. Through timely and accurate legal advice, the SJA Office protects the Academy's institutional integrity by assuring its continued adherence to policy and law.

## Legal Service Command – Contingency Response

The legal contingency response program trains and prepares Coast Guard attorneys to provide legal advice and other services in support of homeland security and domestic disaster operations or other contingency operations. When contingency operations are required, active duty and reserve Coast Guard judge advocates and civilian attorneys respond as necessary to support the larger contingency mission.

The Legal Service Command (LSC) spearheads contingency response legal operations for CGJAG. LSC solicits uniformed attorneys to volunteer their time for a two-week period between 01 May and 30 November in the event of a natural or manmade disaster to augment the legal support necessary during a contingency response. Additionally, the Contingency Response Officer (CRO) represents the LSC on all Operational Logistics Command and Service Center (LC/SC) calls to coordinate legal support and training for Member Advocacy (LMA), Reserve JAG (RJAG), and other legal offices in the CGJAG enterprise.

The RJAG program will take a more proactive role in this function this year, with the RJAG CRO developing and maintaining the RJAG roster. Of note, to provide enhanced RJAG contingency response readiness, LSC provided Contingency Response training to 27 RJAG attendees participating in the 2024 RJAG HURREX in St. Petersburg, FL. This presentation explained deployment procedures, services provided, scenarios, and a breakdown on relevant incident command system nomenclature. The LSC Contingency Response Program also produced a first in-kind supplemental Contingency Response Legal Supplemental process guide to append to the LSC Instruction for CRO, breaking down complicated contingency response ICS process to provide easy framework for incoming future LSC COs, XOs and CROs, furthering the efficient operation of this process through the preservation of lessons learned and best practices for future use.





# Legal Service Command - Detachment at Personnel Service Center

The Legal Service Command Detachment at Personnel Service Center (LSC-PSC) provides comprehensive legal support to customers across the Personnel Service Center (PSC) enterprise (Command, Officer Personnel Management (OPM); Enlisted Personnel Management (EPM); Reserve Personnel Management (RPM); Business Operations and Personnel Support divisions within PSC and Coast Guard Recruiting Command; Pay and Personnel Center; and Community Services Command). LSC-PSC also provides Staff Judge Advocate services to the Commanding Officers of Coast Guard Headquarters, Base National Capital Region, Air Station Washington, Ceremonial Honor Guard, and Coast Guard Counterintelligence Service. LSC-PSC personnel are proficient in matters related to military personnel actions including recruitments, accessions, promotions, advancements, continuations, retentions, evaluations, commissions, enlistments, appointments, assignments, separations, and adverse actions.

**PSC Boards and Panels:** LSC-PSC completed legal sufficiency review of all convening precepts and reports of results for all boards and panels conducted by PSC-OPM, EPM, RPM, and Coast Guard Recruiting Command. LSC-PSC also provides real-time legal advice as needed during proceedings ensuring the efficient processing of largescale military personnel actions for both officers and enlisted members.

**Officer and Enlisted Accountability Processing and Policy Review:** LSC-PSC provided support for the PSC comprehensive policy review to identify areas to improve accountability and transparency. Efforts have resulted in significant developments and better understanding of the Retired Grade Determination authority, created enhanced rights for victims of crimes, and improvements to the Officer and Enlisted Administrative Separation (ADSEP) process, including an overhaul of the enlisted ADSEP process which will be centralized at PSC. This effort will relieve the burden on field commands, reduce cycle-time and costs of the ADSEP process, and improve the quality of board hearings and reports.

**Litigation Support:** LSC-PSC and the Pay and Personnel Center (PPC), along with the Coast Guard Investigative Service, facilitated PSC Commander's participation in a criminal investigation and prosecution for fraud committed by an individual when he enlisted in the Coast Guard under the identity of a deceased person. The individual's fraud extended to his age, which was well beyond the maximum age allowed for enlistment. The prosecution also included charges for the subsequent entitlements and benefits that came from that fraud. PPC Legal facilitated suspension of retired pay upon receipt of compelling evidence of the fraud and related criminal offenses for which the individual was charged. The individual and his spouse were found guilty on October 30, 2023, of conspiracy, passport fraud and identity theft for stealing identities and living decades under the names of dead babies and sentenced in March 2024 to 34 months confinement, 3 years-probation, and \$6,500 in fines and fees.

**Future Sentinel Preparatory Program (FSPP):** LSC-PSC provided support for a new recruiting initiative modeled after an Army program to help mitigate societal trends that have reduced the available pool of citizens who meet Coast Guard entry standards. FSPP is a physical fitness training pipeline to help potential recruits who have a desire to serve meet or exceed Coast Guard accession standards. FSPP students will attend a three-week training course and receive instruction on physical, mental, nutrition, sleep and other areas to give them the tools and opportunities needed to excel.



# Legal Service Command - Command Services Division

Legal Service Command - Command Services Division (CSD) attorneys provide support to the Legal Service Command (LSC) Staff Judge Advocates (SJAs) and give legal advice directly to field support units on a myriad of legal issues. These subject areas include allegations of criminal misconduct, matters involving ethics and standards of conduct, administrative investigations, line-of-duty/misconduct determinations, harassing behavior investigations, civilian personnel disciplinary issues, Major Incident Investigations, administrative separation boards, memoranda of agreement/understanding, Privacy Act and Freedom of Information Act review, and installation, environmental, real property, and fiscal law matters.

CSD advised on over 249 military justice matters into alleged UCMJ violations before the preferral of charges and before referral to the Office of the Chief Prosecutor and other military justice matters ancillary to courts-martial prosecutions. CSD also handled 167 ethics requests, including proposed fundraisers, outside activities, widely attended gatherings, 97 Skillbridge conflict review requests, and reviewed numerous requests on the expenditure of Extraordinary Expense Funds for various Force Readiness Command events.

Due to a prolonged abeyance of processing members for administrative separations and significant turnover of personnel at Coast Guard Personnel Service Center (CG-PSC), CSD took the lead on staffing the legal advisor and recorder positions for CG-PSC initiated officer separation proceedings. These were the first CG-PSC initiated officer separation proceedings under the updated Military Separations policy, updated 31 March 2023. As a result, CSD participated in the first Board of Inquiry (BOI) under the updated manual, leading the service forward in preparation and execution of the BOI administrative process. Following this evolution, the CSD team provided comprehensive guidance to the Officer Personnel Management and Reserve Personnel Management Divisions on lessons learned and a thorough recommendation on process improvement.

CSD attorneys continue to serve as the UCMJ Article 137 training provider for ensuring command awareness on the purpose and administration of military justice. CSD facilitated this course for approximately 50 commanding officers, executive officers, and officers-in-charge from January to April 2024. CSD supported the Leadership Development Center (LDC) by revamping the entire military justice and ethics curriculum for the Prospective Command/Executive Officer, Direct Commission Officer (DCO), and Officer Candidate School (OCS) courses. The CSD Alameda team rewrote curriculum for 11 instruction blocks totaling over 15 hours of updated instruction, including a completely new and much more applicable Administrative Investigations assignment for the DCO and OCS courses. CSD also collaborated and coordinated across multiple legal offices to ensure all LDC legal training needs were met and attorney presenters had adequate time and training materials.

**Coast Guard Marathon:** With assistance from Command Service Center and the Office of General Law, CSD assisted Base Elizabeth City Morale, Well-Being, and Recreation Program accepted responsibility for Coast Guard Marathon (CGM) administration. CSD's engagement allowed the CGM to occur on time with great results.



*Members of LSC Command Cadre and the CSD participated in the Coast Guard Marathon's half marathon race.*



# **Office of the Judge Advocate General**

**Commandant (CG-094)**

Coast Guard Mail Stop 7213  
2703 Martin Luther King Ave., SE  
Washington D.C. 20593-7213

CoastGuardDCL@uscg.mil  
[www.GoCoastGuard.com](http://www.GoCoastGuard.com)

