



CHIEF OF THE NATIONAL GUARD BUREAU INSTRUCTION

NGB-GC
DISTRIBUTION: A

CNGBI 0400.00
29 November 2022

OFFICE OF THE NATIONAL GUARD BUREAU GENERAL COUNSEL

References: See Enclosure B.

1. Purpose. This instruction establishes policy and assigns responsibilities for the Office of the National Guard Bureau (NGB) General Counsel in accordance with (IAW) the references.
2. Cancellation. None.
3. Applicability. This instruction applies to all elements of the NGB.
4. Policy. It is NGB policy that:

a. Under the authority, direction, and control of the Chief of the National Guard Bureau (CNGB), the NGB General Counsel is the legal counsel to the CNGB and the chief legal officer and Designated Agency Ethics Official for all elements of the NGB. The CNGB appoints the NGB General Counsel IAW section 10506 of reference a, and the NGB General Counsel's responsibility and authority extends to any legal question or procedure, to coordinating legal and policy advice within NGB and with external entities, and to other matters as the CNGB directs.

b. The Office of the NGB General Counsel is subject to the authority, direction, and control of the NGB General Counsel. This includes all attorneys and paralegals performing duty within any element of the NGB, as well as all general officer and field grade Judge Advocates serving as National Guard (NG) Assistants or Special Assistants assigned to any element of the NGB, including those supporting Army, Air Force, or Joint organizational entities.

c. To accomplish the responsibilities and functions prescribed in this instruction, the NGB General Counsel organizes and manages the manpower resources that the CNGB allocates to the Office of the NGB General Counsel IAW the NGB joint manpower process. Pursuant to a delegation of authority from the General Counsel of the Department of Defense, the NGB General Counsel serves as the qualifying authority and senior selecting official for civilian attorneys appointed, IAW reference b, in the NGB and in NG units and organizations.

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d. The NGB General Counsel serves as the sole NGB proponent for establishing NGB's legal position on all matters and for drafting and issuing all legal policies, including policies addressing the organization and functions of the Office of the General Counsel.

e. All NGB staff actions for the approval of the CNGB, Vice Chief of the National Guard Bureau (VCNGB), Director of the Army National Guard (DARNG), or Director of the Air National Guard (DANG) will be reviewed for legal sufficiency by the NGB General Counsel, NGB Principal Deputy General Counsel, or the NGB General Counsel's designee. This final legal review is always the last step before a staff action is presented to the CNGB, VCNGB, or respective Director for approval.

f. All elements of the NGB must ensure that any communications with external legal entities are directed through and coordinated with the NGB General Counsel.

g. The legal opinions of the Office of the NGB General Counsel are binding on all officials and personnel of the NGB.

h. The Office of the NGB General Counsel is part of the CNGB's personal staff within the Office of the CNGB (OCNGB) and performs duties as assigned to assist the CNGB in carrying out his or her responsibilities under sections 10501–10508 of reference a and reference c. The Office of the NGB General Counsel also assists the CNGB in his or her role, IAW section 151 of reference a, as a member of the Joint Chiefs of Staff.

(1) The Office of the NGB General Counsel provides all legal services to assist the CNGB, VCNGB, NGB Director of Staff, DARNG, DANG, Director of Space Operations (DSO), OCNGB, NGB Joint Staff, the Army National Guard (ARNG) Directorate, the Air National Guard (ANG) Directorate, the Space Operations Directorate, and other NGB organizations and offices in carrying out their responsibilities in law and policy.

(2) The Office of the NGB General Counsel facilitates legal education and training and provides legal guidance on national-level policy involving the NG to the Title 32 ARNG and ANG Judge Advocate force.

(3) The NGB General Counsel shares functional areas and works in cooperation with the General Counsels and Judge Advocates General of the Army and Air Force, who are responsible, pursuant to chapters 703 and 705 of reference a, and chapters 903 and 905 of reference a, respectively, for assisting the Secretaries of the Army and Air Force in carrying out their responsibilities.

i. Consistent with NGB's responsibility under section 10503 of reference a to support the Secretaries of the Army and Air Force, the NGB General Counsel will meet regularly with the General Counsels and Judge Advocates General of the Army and Air Force and advise the CNGB on significant Army, Air Force and Space Force legal developments relevant to the NGB or the NG.

j. All legal manpower requirements, authorizations, and related vouchers within NGB will be accounted for within the Office of the NGB General Counsel, as an organizational element of the OCNGB. This includes, but is not limited to, positions within the Office of the Chief,

ARNG Trial Defense Service. These legal manpower requirements, authorizations, and related vouchers will be documented consistent with section 10508 of reference a and reference c, as implemented by the NGB joint manpower process in reference e.

5. Definitions. See Glossary.

6. Responsibilities. See Enclosure A.

7. Summary of Changes. This is the initial publication of CNGB Instruction 0400.00.

8. Releasability. This instruction is approved for public release; distribution is unlimited. It is available at <<https://www.ngbpmc.ng.mil/>>.

9. Effective Date. This instruction is effective upon publication and must be revised, reissued, canceled, or certified as current every five years.



DANIEL R. HOKANSON
General, USA
Chief, National Guard Bureau

Enclosures:

- A -- Responsibilities
- B -- References
- GL -- Glossary

ENCLOSURE A
RESPONSIBILITIES

1. NGB General Counsel. The NGB General Counsel will:
 - a. Be responsible for, and have all legal authority necessary to conduct, the full spectrum of the legal affairs of the NGB.
 - b. Report directly to the CNGB and serve as agent of the CNGB within assigned policy and program responsibilities.
 - c. Provide all legal support to the OCNGB, NGB Joint Staff, ARNG Directorate, ANG Directorate, Space Operations Directorate, other NGB organizations and offices, and to the Title 32 ARNG and ANG Judge Advocate force in the States, Territories, and the District of Columbia, by providing guidance, direction, and oversight for all legal matters pertaining to the formulation, review, and execution of plans, policies, programs, and budgets within their areas of responsibility.
 - d. Be accountable to the CNGB for results achieved within the policy and program responsibilities assigned by this instruction or otherwise delegated by CNGB to the Office of the NGB General Counsel.
 - e. Serve as the sole channel of communications on all legal matters pertaining to the NG between the NGB, States, and Departments of the Army and Air Force.
 - f. Direct the assignment and functions of all legal manpower and related resources of the NGB IAW the CNGB's legal priorities. This includes, but is not limited to, legal manpower supporting the NGB Office of Complex Investigations and the ARNG Trial Defense Service.
 - g. In coordination with the Judge Advocates General of the Army and Air Force, when appropriate, provide input to the CNGB and the NGB Executive Leadership Advisory Board concerning the consideration or selection of any attorney for assignment to a general officer position for which the CNGB is the selecting or nominating official.
 - h. Provide input to the CNGB, the Executive Leadership Advisory Board, and the Civilian Leadership Advisory Board concerning the consideration or selection of any civilian attorney for assignment to an NGB Senior Executive Service/Senior Leader position.
 - i. Provide input to other NGB force development panels and boards concerning the consideration or selection of Title 10 Active Guard and Reserve attorneys for assignment, promotion, retention, or professional development opportunities. This includes, but is not limited to, the ARNG Promotion Recommendation Review Board and the ANG Force Management Review Panel. The recommendations of these panels

and boards will be considered advisory in nature, and the NGB General Counsel will, on behalf of the CNGB, make final determinations on the assignment, promotion, retention, and professional development of Title 10 Active Guard and Reserve attorneys.

j. Oversee functional area management provided by the Office of the NGB General Counsel for Title 32 ARNG and ANG Judge Advocates, legal administrators, and paralegals.

k. Approve the assignment of any NG civilian or military attorney to a non-legal position or function IAW applicable Army and Air Force policies.

2. Office of the NGB General Counsel. The Office of the NGB General Counsel will:

a. Review all CNGB Issuances and other NGB policy guidance documents, as well as designated NGB staff actions, to ensure legal sufficiency and defensibility.

b. Provide a full-spectrum legal practice addressing the disciplines and functional areas that concern the use of NG forces and funding, including: administrative law and ethics, contract and fiscal law, environmental and real property law, information law (including the Freedom of Information Act, Privacy Act, and civil liberties), intelligence oversight, litigation and employment law, military justice, national security and related operational law matters, and all other areas of the law necessary to ensure the NGB is legally compliant in all its actions, decisions and policies. Legal services are performed consistent with the requirements of references f through o.

c. Advise the CNGB and VCNGB on all matters of law and policy concerning their responsibilities under references a through d, and provide related legal support to the OCNGB consistent with the requirements of references p through s.

d. Provide two Office of the NGB General Counsel legal support elements, one ARNG and one ANG, that will provide direct legal support to the DARNG, DANG, and their respective ARNG and ANG Directorates on all matters of law and policy concerning their responsibilities under references a through d. These legal support elements will perform duties within the Office of the NGB General Counsel under the oversight of the NGB General Counsel while maintaining direct contact, interaction, and daily involvement with the Directors and all Directorate elements to identify and address legal issues within the respective Directorates they support. This includes attending ARNG and ANG Directorate staff and leadership meetings, and assisting the Office of the NGB General Counsel in advising the DARNG, DANG, and all Directorate elements in conjunction and collaboration with the many subject matter experts in the other Office of the NGB General Counsel divisions so that they may provide full-spectrum legal support to the ARNG and ANG Directorates consistent with the requirements of references g through j. These legal support elements will also provide military justice and other required legal support to the ARNG Readiness Center and ARNG Directorate Battalion Commander, as well as the ANG Readiness Center and the ANG Readiness Center Commander. The NGB General Counsel will consult with either the DARNG or

DANG, as appropriate, on the prospective selection of and rating chain for the senior ARNG Judge Advocate and senior ANG Judge Advocate assigned to the ARNG and ANG legal support elements. The CNGB will serve as the senior rater for the senior ARNG Judge Advocate and senior ANG Judge Advocate assigned to the ARNG and ANG legal support elements. Although the ARNG and ANG legal support element personnel will be dedicated primarily to supporting the ARNG and ANG Directorates, the NGB General Counsel may temporarily assign them other functions or legal responsibilities to address exigent NGB legal requirements arising outside of the Directorates or to address other CNGB legal priorities.

e. Advise the DSO on all matters of law and policy concerning his or her responsibilities as assigned by the CNGB, and provide legal support to the Space Operations Directorate consistent with the requirements of references i and j.

f. Advise the NGB Director of Staff on all matters of law and policy concerning his or her responsibilities under reference d, and provide related legal support to the NGB Joint Staff consistent with the requirements of references t through oo.

g. Assist the Judge Advocates General of the Army and Air Force in executing Army and Air Force legal policies and programs as they apply to Title 32 ARNG and ANG Judge Advocates, legal administrators, and paralegals. This includes functional area management, as well as the Special Victims' Counsel, ARNG Trial Defense Service, and ANG Area Defense Counsel programs.

h. Develop and facilitate legal training for Title 32 ARNG and ANG Judge Advocates, legal administrators, and paralegals, including formal instruction and Continuing Legal Education training.

i. Ensure, on behalf of the CNGB pursuant to reference c, that Judge Advocate units and Service members of the ARNG and ANG are trained by the States, Territories, and the District of Columbia IAW the approved legal policies and programs of the Army and Air Force.

j. Monitor and assist the States, Territories, and the District of Columbia in the organization, maintenance, and operation of NG Judge Advocate units to provide well-trained and well-equipped units capable of augmenting the active forces.

k. Provide ethics-related legal guidance and assistance to the NGB staff and State Judge Advocates on behalf of the NGB General Counsel, who serves as the NGB's Designated Agency Ethics Official.

l. Perform other duties as assigned by the NGB General Counsel.

ENCLOSURE B

REFERENCES

- a. Title 10 United States Code (U.S.C.), “Armed Forces”
- b. Title 5, U.S.C., “Government Organizations and Employees”
- c. DoD Directive 5105.77, 30 October 2015, “National Guard Bureau (NGB),”
Incorporating Change 1, 10 October 2017
- d. Chief of the National Guard Bureau (CNGB) Instruction 0100.01, 11 January 2013,
“Organization of the National Guard Bureau”
- e. CNGB Instruction 1701.01A, 15 November 2016, “Manpower and Organization
Policies and Standards”
- f. Joint Publication 1-04, 02 August 2016, “Legal Support to Military Operations”
- g. Army Regulation 27-1, 24 January 2017, “Judge Advocate Legal Services”
- h. Army Regulation 27-3, 26 March 2020, “The Army Legal Assistance Program”
- i. Department of the Air Force Instruction 51-101, 29 November 2018, “The Air Force
Judge Advocate General’s Corps (AFJAGC) Operations, Accessions, and Professional
Development,” as amended by Department of the Air Force Guidance Memorandum
2021-01, 23 April 2021
- j. Air Force Policy Directive 51-101, 14 November 2018, “The Air Force Judge
Advocate General’s Corps”
- k. CNGB Instruction 0401.01A, 09 September 2020, “National Guard Special Victims’
Counsel Program”
- l. CNGB Instruction 0402.01, 24 July 2015, “National Guard Alternative Dispute
Resolution”
- m. CNGB Instruction 0404.01, 05 September 2017, “Claims”
- n. CNGB Instruction 0405.01, 21 July 2017, “Litigation”
- o. CNGB Instruction 0407.01, 21 December 2020, “National Guard Military Judges
Program”
- p. CNGB Instruction 0500.01, 08 November 2012, “National Guard Bureau (NGB)
Relations with Congress”
- q. CNGB Instruction 0500.02, 01 February 2013, “Development, Coordination, and

Submission of National Guard Bureau (NGB) Legislative Initiatives”

- r. CNGB Instruction 0700.00, 15 May 2020, “National Guard Inspector General”
- s. CNGB Instruction 0700.01A, 21 December 2018, “Inspector General Intelligence Oversight”
- t. CNGB Instruction 0800.02A, 10 May 2018, “General Officer and Senior Executive Service or Equivalent Travel Outside the United States, Its Territories, and Its Possessions”
- u. CNGB Instruction 1300.01, 26 June 2020, “National Guard Sexual Assault Prevention and Response Program”
- v. CNGB Instruction 1900.01, 10 January 2018, “Employing National Guard Members Under The Office Of Personnel Management Intergovernmental Personnel Act”
- w. CNGB Instruction 2000.01C, 14 August 2018, “National Guard Intelligence Activities”
- x. CNGB Instruction 3000.04, 24 January 2018, “National Guard Bureau Domestic Operations”
- y. CNGB Instruction 3510.01A, 08 March 2021, “National Guard Chemical, Biological, Radiological, and Nuclear Response Management”
- z. CNGB Instruction 5000.01B, 24 January 2020, “Chief of the National Guard Bureau Issuances Program”
- aa. CNGB Instruction 5050.01A, 21 October 2015, “National Guard Bureau Staff Actions,” Validity Extended, 15 October 2022
- bb. CNGB Instruction 5200.01, 3 February 2017, “National Guard Bureau All-Hazards Support Plan”
- cc. CNGB Instruction 5400.01, 17 August 2017, “National Guard Bureau Advisory Committee Management Program”
- dd. CNGB Instruction 7500.00, 13 October 2016, “Domestic Use of National Guard Unmanned Aircraft Systems”
- ee. CNGB Instruction 8100.01, 29 September 2014, “National Guard Conference Policy,” Validity Extended, 27 March 2020
- ff. CNGB Instruction 8501.01, 07 June 2018, “National Guard Bureau Participation in Department of Defense Planning, Programing, Budgeting, and Execution Process”
- gg. CNGB Instruction 9000.01, 29 July 2016, “Visits and Demonstrations of Products or Services by Contractors from Commercial and Defense Industries”

- hh. CNGB Instruction 9400.01, 29 November 2017, "Nondiscrimination in Federally Assisted Programs"
- ii. CNGB Instruction 9500.01A, 12 July 2019, "National Guard Fiscal Stewardship"
- jj. CNGB Instruction 9501.01, 08 July 2021, "National Guard Bureau United States Property and Fiscal Officer Program"
- kk. CNGB Instruction 9550.01, 30 April 2015, "Restrictions on the Use of Federal Funds for Lobbying or Propaganda"
- ll. CNGB Instruction 9600.01, 09 June 2013, "Alternative Dispute Resolution Policy and Guidance"
- mm. CNGB Instruction 9601.01, 27 September 2015, "National Guard Discrimination Complaint Program"
- nn. National Guard Regulation 5-1, 28 May 2010, "National Guard Grants and Cooperative Agreements"
- oo. Air Force Instruction 63-101/20-101, 30 June 2021, "Integrated Life Cycle Management," Incorporating Change 1, 23 November 2021

GLOSSARY

PART I. ACRONYMS

ANG	Air National Guard
ARNG	Army National Guard
CNGB	Chief of the National Guard Bureau
DANG	Director of the Air National Guard
DARNG	Director of the Army National Guard
DSO	Director of Space Operations
NG	National Guard
NGB	National Guard Bureau
OCNGB	Office of the Chief of the National Guard Bureau
VCNGB	Vice Chief of the National Guard Bureau

PART II. DEFINITIONS

National Guard Bureau General Counsel -- The statutory legal officer for the National Guard Bureau, as prescribed by Title 10 of the United States Code, Section 10506.

Principal Deputy General Counsel -- A senior attorney selected by the General Counsel to assist the General Counsel in carrying out the functions of the Office of the General Counsel.

National Guard Assistants -- Judge Advocates in the grade of colonel or higher serving part-time in any element of the National Guard Bureau. Also called Special Assistants.

Qualifying Authority -- A designation that a Department of Defense official is granted discretionary authority to determine that a civilian attorney is qualified for appointment pursuant to Title 5 of the United States Code and governing regulations.