



DEPARTMENT OF THE NAVY
OFFICE OF THE JUDGE ADVOCATE GENERAL
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IN REPLY REFER TO
JAGINST 5720.2B
JAG 13
16 March 2004

JAG INSTRUCTION 5720.2B

From: Judge Advocate General

Subj: INDEXING NAVY DEPARTMENT FINAL OPINIONS AND STATEMENTS OF
POLICY OR INTERPRETATION RENDERED BY THE JUDGE ADVOCATE
GENERAL

Ref: (a) Freedom of Information Act, 5 U.S.C. § 552
(b) SECNAVINST 5720.45A
(c) DODDIR 5400.7, DOD Freedom of Information Act
Program

1. Purpose. To comply with references (a) through (c) by establishing criteria and procedures for indexing Navy Department final opinions and statements of policy or interpretation rendered by the Judge Advocate General (JAG).

2. Cancellation. JAGINST 5720.2A.

3. Policy. Reference (a) requires JAG to make available for public inspection and copying Navy Department final opinions and statements of policy or interpretation in decisional documents created by JAG in the adjudication of cases. Reference (b) also requires JAG to maintain and make available to the public indexes of JAG decisions issued after 4 July 1967 that have precedential significance affecting the public.

4. Definitions:

a. Final opinion. A Navy Department determination issued as part of the final disposition of an adjudication proceeding, which may have precedential effect in the disposition of other cases affecting members of the public.

b. Statements of policy or interpretation. Policy statements and interpretations of less than general applicability (i.e. applicable only to specific cases, organizations, or persons), which are not required to be published in the Federal Register, but which may have precedential effect in the disposition of other cases affecting members of the public.

c. Decisional document. Final opinion or statement of policy interpretation rendered by JAG in a specific case.

d. Index. A topical summary outline or numerical locator of Navy Department final opinions and statements of policy or interpretation that enables the public to isolate desired decisional documents from others covered by the index. The means by which decisional documents may be found.

5. Applicability. This instruction is applicable to all Office of the Judge Advocate General (OJAG) Divisions. Examples of decisional documents that are subject to indexing are those precedential decisions expressed in:

a. Decisions on remission or suspension of courts-martial sentences and petitions for relief under Articles 69 and 73 of the Uniform Code of Military Justice (10 U.S.C. §§ 869 and 873) (Director, Administrative Support Division, Navy Appellate Review Activity).

b. Decisions on decertification of military judges and judge advocates (Deputy Assistant Judge Advocate General (DAJAG) (Administrative Law)).

c. Formal written advice on ethics and standards of conduct, including post-Government service employment restrictions, applicable to naval personnel (DAJAG (Administrative Law)).

d. Final determinations for the Secretary of the Navy about entitlement of Navy and Marine Corps Reservists to pay and allowances and medical care at Government expense as the result of a disability (DAJAG (Administrative Law)).

6. Index Content. Index design depends on the number and complexity of issues involved in cases indexed:

a. To identify a discrete decisional document, at a minimum, the index must include the following and be updated quarterly with new topical index headings added as appropriate:

(1) A list of opinions by topic.

(2) A brief summary of the facts and rationale supporting the final opinion, statement of policy or interpretation.

(3) The final departmental disposition of an individual case.

(4) The identification of the service member involved in an individual case as a member of the Navy or Marine Corps, to include duty status and rank (personal identifiers such as the service member's name and social security number must be deleted).

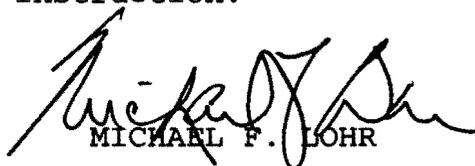
(5) A cross-reference of decisional documents that could be listed under more than one topical index heading.

b. In the alternative, an index need not summarize a final opinion, statement of policy, or interpretation if the decisional document and possible supporting memorandum describe its facts and/or rationale. In that event, the topical index must be detailed enough so that only a relatively narrow range of decisional documents can properly be indexed in any index heading.

7. Decisional Document File. Cognizant Division Directors shall maintain a separate file of decisional documents identified in the index. Personal identifiers in a decisional document, release of which would constitute a clearly unwarranted invasion of personal privacy, shall be deleted.

8. Effective Date/Implementation. This instruction is effective immediately. All Divisions in OJAG shall maintain decisional document files and indexes.

9. Tasking. The Special Assistant (Inspector General) will conduct an annual inspection of affected OJAG activities to ensure compliance with this instruction.


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