

Department of Homeland Security
Management Directive System
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**GENERAL COUNSEL
ORGANIZATION**

I. Purpose

This directive provides information about the organization of the Department of Homeland Security, Office of General Counsel (OGC).

II. Scope

This directive applies to the DHS OGC.

III. Authorities

The Homeland Security Act of 2002, codified in Title 6, US Code.

IV. Responsibilities

A. **General:** The Office of General Counsel (OGC) is responsible for all legal activities within DHS, to ensure full implementation of DHS' statutory responsibilities and all policies set forth by the Secretary and all officials of DHS.

All DHS sub-unit and agency legal offices report up to the DHS Office of General Counsel. OGC provides legal counsel for all DHS offices except those specifically excluded by regulation or directive. OGC develops plans, policies, and operating methods and represents the agency and determines its position in order to provide effective legal services dealing with claims, protests, litigation, alternative dispute resolution, and representation of DHS in all legal forums. OGC drafts legislation proposed by DHS officials and furnishes legal advice in connection with reports on legislation proposed by other Federal agencies. OGC develops, implements, and coordinates DHS' ethics program for current and former DHS employees. OGC provides legal services to Boards and Commissions for which DHS provides administrative support. Enclosure (1) is an Organizational Chart for the OGC.

B. **General Counsel:** The General Counsel is the chief legal advisor of the Department. He or she determines the policy and directs the actions of the Office of General Counsel, the Offices of Regional Counsel and other DHS legal offices.

1. Plans, directs, and executes all legal activities within the DHS nationwide to ensure full and legally sound implementation of DHS' statutory responsibilities. Assures proper legal and policy support for the missions of DHS.
2. Serves as the chief legal advisor to the Secretary, the Deputy Secretary, and other senior agency officials in developing issuing DHS policies and regulations.
3. Provides overall guidance and direction to all components of the OGC. Directs and coordinates the conduct of legal and policy assistance activities within DHS field jurisdictions and establishes reporting relationships of subordinate legal offices in the Department. Issues directives and instructions to govern execution of the functions of these offices and evaluates their performance by review and inspection.

C. **Deputy General Counsel.** Assists the General Counsel in the execution of the functions of the Office of General Counsel and acts in the capacity of the General Counsel in the event of absence or vacancy. Performs other delegated and assigned duties.

D. **Administrative Support Staff.**

1. Provides administrative assistance and support to the General Counsel, Associate General Counsels, Legal Advisors, and Regional Counsels in development and/or execution of staffing plans; employee development programs; hiring and other personnel actions; acquisition, allocation and management of space, equipment and other property; and law office automation programs.
2. Provides administrative assistance and support to the General Counsel, Associate General Counsels, and Regional Counsels in formulation and execution of the Office of General Counsel's operating budget, including analysis of budgetary needs. Monitors expenditures to ensure they are within funding limitations and other budget constraints.
3. Provides such additional administrative support to the Office of General Counsel as may be required by the General Counsel.

E. **Associate General Counsel for Border and Transportation Security (BTS).** As head of the BTS Law Division, plans, develops, and coordinates legal services and advice pertaining to the Border and Transportation Security Directorate:

1. In consultation with the General Counsel, plans, directs and executes all legal activities within the BTS nationwide to ensure full and legally sound implementation of BTS' statutory responsibilities. Assures proper legal and policy support for the varied mission of BTS.
2. Serves as the chief legal advisor to the Under Secretary for Border and Transportation Security, and other BTS senior agency officials in developing and issuing BTS policies and regulations.
3. Provides overall guidance and direction to all components of the BTS. Directs and coordinates the conduct of legal and policy assistance activities within BTS field jurisdictions through Offices of Regional Counsel.
4. Provides legal advice and guidance on all BTS matters with international law implications and coordinates with attorneys from the Department of State, as necessary.
5. Consults with and advises the General Counsel, other Associate General Counsels, Regional Counsels and other legal offices in the Department on legal matters in assigned areas of responsibility.
6. Monitors Division workloads and resources, making adjustments as necessary. Makes recommendations on resource acquisition, development, and allocation to the General Counsel.
7. Implements the policies of the General Counsel and provides overall management direction for the BTS Law Division. When requested, represents the General Counsel and/or the OGC with senior DHS management, other Federal agencies, business representatives and others in interpreting OGC or BTS programs, policies and objectives.
8. Provides litigation support to the Department of Justice attorneys and offices of United States Attorneys (with assistance from other elements of the OGC and other agencies) in representation of the Government's interest in court in assigned areas of responsibility.
9. Serves as DHS' legal advisor for the Bureau of Border Security. In this role, performs the following:
 - a. Plans, directs, and executes all legal activities within the Bureau of Border Security nationwide to ensure full and legally sound implementation of the Bureau's statutory responsibilities. Assures proper legal and policy support for the mission of the Bureau of Border Security.

- b. Serves as the principal legal advisor to the Assistant Secretary, Bureau of Border Security, and other senior Bureau officials in providing specialized legal advice, opinions, determinations, regulations, and any other assistance with respect to legal matters affecting the Bureau.
- c. Provides overall legal guidance and direction to all components of the Bureau of Border Security. Directs and coordinates the conduct of legal and policy assistance activities within the Bureau's field jurisdictions.
- d. Represents the Bureau in all exclusion, deportation, and removal proceedings before the Executive Office for Immigration Review. (see H.R. 5005, section 442(c)).
- e. Consults with and advises the General Counsel, Associate General Counsels, Legal Advisors, and Regional Counsels on legal matters in assigned areas of responsibility.
- f. Maintains close communication and coordination with the Legal Advisor for the Bureau of Citizenship & Immigration Services.
- g. Provides litigation support to the Department of Justice attorneys and offices of United States Attorneys (with assistance from other elements of the OGC and other agencies) in representation of the Government's interest in court in assigned areas of responsibility.
- h. Represents the bureau in all exclusion, deportation, and removal proceedings before the Executive Office for Immigration Review. (see H.R. 5005, section 442(c)).

F. **Legal Advisor for the Bureau of Citizenship & Immigration Services.**

Serves as DHS' legal advisor for the Bureau of Citizenship & Immigration Services.

- 1. In consultation with the General Counsel, plans, directs and executes all legal activities within the Bureau of Citizenship & Immigration Services nationwide to ensure full and legally sound implementation of the Bureau's statutory responsibilities. Assures proper legal and policy support for the mission of the Bureau of Citizenship & Immigration Services.

2. Serves as the principal legal advisor to the Director, Bureau of Citizenship & Immigration Services, and other senior Bureau officials in providing specialized legal advice, opinions, determinations, regulations, and any other assistance with respect to legal matters affecting the Bureau.
3. Provides overall guidance and direction to all components of the Bureau of Citizenship & Immigration Services. Directs and coordinates the conduct of legal and policy assistance activities within the Bureau's field jurisdictions.
4. Represents the Bureau in visa petition appeal proceedings before the Executive Office for Immigration Review. (see H.R. 5005, section 451(d)).
5. Maintains close communication and coordination with the Legal Advisor for the Bureau of Border Security.
6. Provides litigation support to the Department of Justice attorneys and offices of United States Attorneys (with assistance from other elements of the OGC and other agencies) in representation of the Government's interest in court in assigned areas of responsibility.
7. Consults with and advises the General Counsel, other Associate General Counsels, Regional Counsels and other legal offices in the Department on legal matters in assigned areas of responsibility.

G. **Associate General Counsel for Emergency Preparedness and Response (EP&R)**. As head of the EP&R Law Division, plans, develops, and coordinates legal services and advice pertaining to the EP&R Directorate:

1. In consultation with the General Counsel, plans, directs and executes all legal activities within the EP&R Directorate nationwide to ensure full and legally sound implementation of EP&R's statutory responsibilities. Assures proper legal and policy support for the varied missions of EP&R.
2. Serves as the chief legal advisor to the Under Secretary for Emergency Preparedness and Response, and other EP&R senior agency officials in developing and issuing EP&R policies and regulations.
3. Provides overall guidance and direction to all components of the EP&R Directorate. Directs and coordinates the conduct of legal and policy assistance activities within the EP&R field jurisdictions.

4. Provides advice and guidance to the Office for State and Local Government Coordination and to other DHS components and officials on state and local government matters.
5. Consults with and advises the General Counsel, other Associate General Counsels, Regional Counsels and other legal offices in the Department on legal matters in assigned areas of responsibility.
6. Monitors Division workloads and resources, making adjustments as necessary. Makes recommendations on resource acquisition, development, and allocation to the General Counsel.
7. Provides litigation support to the Department of Justice attorneys and offices of United States Attorneys (with assistance from other elements of the OGC and other agencies) in representation of the Government's interest in court in assigned areas of responsibility.
8. Implements the policies of the General Counsel and provides overall management direction for the EP&R Law Division. When requested, represents the General Counsel and/or the OGC with senior DHS management, other Federal agencies, business representatives and others in interpreting OGC or EP&R programs, policies and objectives.

H. **Legal Advisor for Ethics.** Serves as DHS' Designated Agency Ethics Official (DAEO) and performs the functions assigned to the DAEO by statute and Government-wide regulations. Plans, directs, implements, and coordinates the ethics program and policies within DHS, including employee financial disclosure, standards of conduct, and post employment situations. Acts for the Secretary in interpreting policy in conflict-of-interest cases involving senior officials, and serves as personal counsel to the Secretary on all ethics matters affecting the DHS. Makes determinations and takes other actions on behalf of the Secretary as may be warranted pursuant to 18 U.S.C. 207 pertaining to post employment activities of former employees and 18 U.S.C 208 pertaining to acts affecting a personal financial interest for current employees. Designates, directs, and monitors the work of deputy standards of conduct counselors. In this role, performs the following:

1. Development, implementation and interpretation of policies governing employee financial disclosure; conduct and post employment conflict of interest situations; overall direction of DHS policies and procedures regarding standards of conduct and conflicts of interest; and establishment of program goals and methods for monitoring progress toward goal attainment.

2. Implementation of systems of financial disclosure by DHS employees, including uniform procedures and standards for review of reports.
3. Establishment of uniform policies and criteria to determine and resolve conflict of interest situations involving current employees and post employment activities of former employees, including standards to address recurrent problems involving current and former employees.
4. Development of standards of conduct regulations as necessary to supplement Government wide regulations of the Office of Government Ethics (OGE).
5. Development and implementation of the DHS-wide standards of conduct training program.
6. Provision of advice and assistance to senior executives of DHS, contractors doing business with DHS and labor organizations regarding DHS standards of conduct policies.

I. **Associate General Counsel for General Law.** As head of the General Law Division, plans, develops, and coordinates legal services and advice pertaining to: (1) labor law; acquisition, including bid protests and contract disputes; environment; intellectual property; finance; appropriations; personnel, including Office of Special Counsel matters; Freedom of Information Act and Privacy Act; civil rights, and work place initiatives; (2) DHS' alternative dispute resolution program; (3) the Board for Correction of Military Records; and (4) other general legal matters.

1. Provides legal services to the DHS Headquarters Office staff offices, including but not limited to the Offices of: Chief Information Officer; Chief Financial Officer; Civil Rights and Civil Liberties Officer, Privacy Officer; and Chief Human Capital Officer.
2. In assigned areas of legal responsibility, provides legal services to the Undersecretaries, Directors, Commandant of the Coast Guard and Inspector General, and their respective staffs.
3. Provides legal services to independent boards, commissions, and agencies serviced by DHS.
4. Consults with and advises the General Counsel, other Associate General Counsels, Legal Advisors, Regional Counsels, and other legal offices in the Department on legal matters in assigned areas of responsibility.

5. As requested, provides legal support to DHS Headquarters Office staff offices and/or OGC in hearings before Congressional committees and in conferences with other Federal agencies, States and local governments, contractors and other entities.
6. Provides advice and all support to the Board for Correction of Military Records, the Chairperson of which is an attorney assigned to the Office of General Law.
7. Provides litigation support to the Department of Justice attorneys and offices of United States Attorneys (with assistance from other elements of the OGC and other agencies) in representation of the government's interest in court in assigned areas of responsibility.
8. Represents DHS in hearings before the Merit Systems Protection Board, Equal Employment Opportunity Commission and Federal Labor Relations Authority and arbitrators in cases arising out of Headquarters Office. Provides legal counsel and litigation support to Headquarters Office Services in controversies involving assigned areas.
9. Serves as DHS final appeal authority in appeals of FOIA and Privacy Act determinations. In non-appellate FOIA and Privacy Act matters, provides legal advice and assistance to the Privacy Officer and Undersecretary for Management in implementing their FOIA and Privacy Act programs.
10. Monitors Division workloads and resources, making adjustments as necessary. Makes recommendations on resource acquisition, development, and allocation to the General Counsel.
11. Implements the policies of the General Counsel and provides overall management direction for the General Law Division. When requested, represents the General Counsel and/or the OGC with senior DHS management, other Federal agencies, business representatives and others in interpreting OGC programs, policies, and objectives.

J. **Associate General Counsel for Information Analysis and Infrastructure Protection (IA & IP)**. As head of the IA&IP Law Division, plans, develops, and coordinates legal services and advice pertaining to the IA&IP Directorate:

1. In consultation with the General Counsel, plans, directs and executes all legal activities within the IA&IP Directorate nationwide to ensure full and legally sound implementation of IA&IPs statutory responsibilities. Assures proper legal and policy support for the varied mission of the IA&IP Directorate.

2. Serves as the chief legal advisor to the Under Secretary for Information Analysis and Infrastructure Protection, and other IA&IP senior agency officials in developing and issuing IA&IP policies and regulations.
3. Provides overall guidance and direction to all components of the IA&IP Directorate. Directs and coordinates the conduct of legal and policy assistance activities within the IA&IP field jurisdictions.
4. Consults with and advises the General Counsel, other Associate General Counsels, Regional Counsels and other legal offices in the Department on legal matters in assigned areas of responsibility.
5. Provides litigation support to the Department of Justice attorneys and offices of United States Attorneys (with assistance from other elements of the OGC and other agencies) in representation of the Government's interest in court in assigned areas of responsibility.
6. Monitors Division workloads and resources, making adjustments as necessary. Makes recommendations on resource acquisition, development, and allocation to the General Counsel.
7. Implements the policies of the General Counsel and provides overall management direction for the IA&IP Law Division. When requested, represents the General Counsel and/or the OGC with senior DHS management, other Federal agencies, business representatives and others in interpreting OGC or IA&IP programs, policies and objectives.

K. **Associate General Counsel for Rules and Administration**. As head of the Rules and Administration Law Division, plans, develops, and coordinates legal services and advice pertaining to: (1) claims and various protests, other than bid protests and contract appeals, against the DHS or the U.S. Government through DHS; (2) the collection, compromise, closing, and referral of claims in favor of the Government and litigation involving DHS; (3) legislative and regulatory activities; (4) small boards and commissions, committees for special groups, and Federal Advisory Committee Act; (5) intergovernmental affairs; and (6) other rules and administration matters.

1. In assigned areas of legal responsibility, provides legal services to the Undersecretaries, Directors, Commandant of the Coast Guard and Inspector General, and their respective staffs.
2. Provides legal services to independent boards, commissions, and agencies serviced by DHS.

3. Consults with and advises the General Counsel, other Associate General Counsels, Regional Counsels and other legal offices in the Department on legal matters in assigned areas of responsibility.
4. As requested, provides legal support to DHS Headquarters Office staff offices and/or OGC in hearings before Congressional committees and in conferences with other Federal agencies, States and local governments, contractors and other entities.
5. Develops and manages the DHS legislative program, including the coordination of DHS comments on proposed legislation, and proposed comments by DHS and other agencies on pending legislation.
6. Develops and manages the DHS regulatory program, including the management of the regulatory docket.
7. Provides litigation support to the Department of Justice attorneys and offices of United States Attorneys (with assistance from other elements of the OGC and other agencies) in representation of the Government's interest in court in assigned areas of responsibility.
8. Monitors Division workloads and resources, making adjustments as necessary. Makes recommendations on resource acquisition, development, and allocation to the General Counsel.
9. Implements the policies of the General Counsel and provides overall management direction for the Rules and Administration Division. When requested, represents the General Counsel and/or the OGC with senior DHS management, other Federal agencies, business representatives and others in interpreting OGC programs, policies, and objectives.

L. **Associate General Counsel for Science and Technology (S&T)**. As head of the Science and Technology Law Division, plans, develops, and coordinates legal services and advice pertaining to the S&T Directorate:

1. In consultation with the General Counsel, plans, directs and executes all legal activities within the Science and Technology Directorate nationwide to ensure full and legally sound implementation of the Science and Technology Directorate's statutory responsibilities. Assures proper legal and policy support for the mission of the Science and Technology Directorate.
2. Serves as the chief legal advisor to the Under Secretary for Science and Technology, and other S&T senior agency officials in developing and issuing S&T policies and regulations.

3. Provides overall guidance and direction to all components of the S&T Directorate. Directs and coordinates the conduct of legal and policy assistance activities within the S&T field jurisdictions.
4. Consults with and advises the General Counsel, other Associate General Counsels, Regional Counsels and other legal offices in the Department on legal matters in assigned areas of responsibility.
5. Monitors Division workloads and resources, making adjustments as necessary. Makes recommendations on resource acquisition, development, and allocation to the General Counsel.
6. Provides litigation support to the Department of Justice attorneys and offices of United States Attorneys (with assistance from other elements of the OGC and other agencies) in representation of the Government's interest in court in assigned areas of responsibility.
7. Implements the policies of the General Counsel and provides overall management direction for the S&T Law Division. When requested, represents the General Counsel and/or the OGC with senior DHS management, other Federal agencies, business representatives and others in interpreting OGC or S&T programs, policies and objectives.

M. **Questions or Concerns**: Any questions or concerns regarding this directive should be addressed to the General Counsel.