



DoD INSTRUCTION 5525.07

IMPLEMENTATION OF THE MEMORANDUM OF UNDERSTANDING BETWEEN THE DEPARTMENTS OF JUSTICE AND DEFENSE RELATING TO THE INVESTIGATION AND PROSECUTION OF CERTAIN CRIMES

Originating Components: Office of the General Counsel of the Department of Defense
Office of the Inspector General of the Department of Defense

Effective: March 5, 2020

Releasability: Cleared for public release. Available on the Directives Division Website at <https://www.esd.whs.mil/DD/>.

Reissues and Cancels: DoD Instruction 5525.07, "Implementation of the Memorandum of Understanding (MOU) between the Departments of Justice (DoJ) and Defense Relating to the Investigation and Prosecution of Certain Crimes," June 18, 2007

Approved by: Paul C. Ney, Jr., General Counsel of the Department of Defense
Glenn A. Fine, Principal Deputy Inspector General Performing the Duties of the Inspector General of the Department of Defense

Purpose: In accordance with the authorities in DoD Directive 5106.01 and DoD Directive 5145.01, this issuance establishes policy, assigns responsibilities, and prescribes supplemental guidance to the August 1984 "Memorandum between the Departments of Justice and Defense Relating to the Investigation and Prosecution of Certain Crimes" (the "August 1984 MOU").

TABLE OF CONTENTS

SECTION 1: GENERAL ISSUANCE INFORMATION	3
1.1. Applicability.	3
1.2. Policy.	3
SECTION 2: RESPONSIBILITIES	4
2.1. IG DoD.....	4
2.2. General Counsel of the Department of Defense.	4
2.3. Secretaries of the Military Departments.	4
SECTION 3: INQUIRIES FOR WHICH DOJ HAS ASSUMED INVESTIGATIVE RESPONSIBILITY BASED ON THE AUGUST 1984 MOU	5
SECTION 4: DoD SUPPLEMENTAL GUIDANCE TO THE AUGUST 1984 MOU	6
DoD Supplemental Guidance – B. Policy.....	18
DoD Supplemental Guidance – C. Investigative and Prosecutive Jurisdiction.	18
DoD Supplemental Guidance -- C.1.b. Frauds Against the Department of Defense and Theft and Embezzlement of Government Property.	19
DoD Supplemental Guidance – C.2. Crimes Committed on Military Installations.....	19
DoD Supplemental Guidance – C.3. Crimes Committed Outside Military Installations by Persons Who Can Be Tried by Court-Martial.....	20
DoD Supplemental Guidance – E. Prosecution of Cases.	20
Prosecution of Cases and Grants of Immunity.	20
DoD Supplemental Guidance – F.6 Joint Investigations.	21
Joint Investigations.	21
GLOSSARY	22
G.1. Acronyms.	22
G.2. Definitions.....	22
REFERENCES	23
FIGURES	
Figure 1. Verbatim text of the August 1984 MOU.....	7

SECTION 1: GENERAL ISSUANCE INFORMATION

1.1. APPLICABILITY.

This issuance applies to OSD, the Military Departments, the Office of the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense (IG DoD), the Defense Agencies, the DoD Field Activities, and all other organizational entities within the DoD (referred to collectively in this issuance as the “DoD Components”).

1.2. POLICY.

It is DoD policy to maintain an effective working relationship with the Department of Justice (DOJ) in the investigation and prosecution of crimes involving DoD programs, operations, or personnel.

SECTION 2: RESPONSIBILITIES

2.1. IG DOD.

The IG DoD:

- a. Establishes procedures to implement the investigative policies set forth in this issuance.
- b. Monitors compliance by Defense Criminal Investigative Organizations (DCIOs) with the terms of the August 1984 MOU.
- c. Provides specific guidance regarding investigative matters, as appropriate.

2.2. GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE.

The General Counsel of the Department of Defense:

- a. Establishes procedures to implement the prosecutorial policies set forth in the August 1984 MOU. Those policies will be consistent with the Uniform Code of Military Justice (UCMJ), the Manual for Courts-Martial, and the DoD Supplemental Guidance provided in this issuance.
- b. Monitors the DoD Components' compliance with the prosecutorial portions of the August 1984 MOU.
- c. Provides specific guidance on the investigation and prosecution of those crimes addressed by the August 1984 MOU, as appropriate.
- d. Modifies the DoD Supplemental Guidance in this issuance with the concurrence of the IG DoD, after coordination with the affected DoD Components.

2.3. SECRETARIES OF THE MILITARY DEPARTMENTS.

The Secretaries of the Military Departments establish procedures to implement the policies set forth in this issuance.

- a. The policies will encourage commanders of installations in the United States (in coordination with their servicing Military Criminal Investigative Organization) to seek to enter into a memorandum of understanding with the Office(s) of the United States Attorney with jurisdiction over the installation.
- b. Such memoranda of understanding should address procedures for exercising prosecutorial authority over alleged offenses occurring on the installation that are subject to prosecution in a United States district court.

SECTION 3: INQUIRIES FOR WHICH DOJ HAS ASSUMED INVESTIGATIVE RESPONSIBILITY BASED ON THE AUGUST 1984 MOU

For inquiries over which DOJ has assumed investigative responsibility based on the August 1984 MOU, the applicable DCIO should seek to participate jointly with DOJ investigative agencies whenever the inquiries relate to DoD programs, operations, or personnel. This applies to cases referred to the Federal Bureau of Investigation (FBI) under Paragraph C.1.a. of the August 1984 MOU as well as to those cases for which a DOJ investigative agency is assigned primary investigative responsibility by a DOJ prosecutor.

SECTION 4: DoD SUPPLEMENTAL GUIDANCE TO THE AUGUST 1984 MOU

This section contains DoD Supplemental Guidance. DoD Components will comply with the August 1984 MOU and the DoD Supplemental Guidance.

The following Figure provides the verbatim text of the August 1984 MOU:

Figure 1. Verbatim text of the August 1984 MOU

MEMORANDUM OF UNDERSTANDING BETWEEN THE
DEPARTMENTS OF JUSTICE AND DEFENSE
RELATING TO THE INVESTIGATION AND
PROSECUTION OF CERTAIN CRIMES

A. PURPOSE, SCOPE AND AUTHORITY

This Memorandum of Understanding (MOU) establishes policy for the Department of Justice and the Department of Defense with regard to the investigation and prosecution of criminal matters over which the two Departments have jurisdiction. This memorandum is not intended to confer any rights, benefits, privileges or form of due process procedure upon individuals, associations, corporations or other persons or entities.

This Memorandum applies to all components and personnel of the Department of Justice and the Department of Defense. The statutory bases for the Department of Defense and the Department of Justice investigation and prosecution responsibilities include, but are not limited to:

1. Department of Justice: Titles 18, 21, and 28 of the United States Code; and
2. Department of Defense: The Uniform Code of Military Justice, Title 10, United States Code, Sections 801-940, the Inspector General Act of 1978, Title 5 United States Code, Appendix I, and Title 5 United States Code, Section 301.

B. POLICY

The Department of Justice has primary responsibility for enforcement of federal laws in the

68101

Figure 1. Verbatim text of the August 1984 MOU, Continued

United States District Courts. The Department of Defense has responsibility for the integrity of its programs, operations and installations and for the discipline, of the Armed Forces. Prompt administrative actions and completion of investigations within the two (2) year statute of limitations under the Uniform Code of Military Justice require the Department of Defense to assume an important role in federal criminal investigations. To encourage joint and coordinated investigative efforts, in appropriate cases where the Department of Justice assumes investigative responsibility for a matter relating to the Department of Defense, it should share information and conduct the inquiry jointly with the interested Department of Defense investigative agency.

It is neither feasible nor desirable to establish inflexible rules regarding the responsibilities of the Department of Defense and the Department of Justice as to each matter over which they may have concurrent interest. Informal arrangements and agreements within the spirit of this MOU are permissible with respect to specific crimes or investigations.

- C. INVESTIGATIVE AND PROSECUTIVE JURISDICTION
 - 1. CRIMES ARISING FROM THE DEPARTMENT OF DEFENSE OPERATIONS
 - a. Corruption Involving the Department of Defense Personnel

The Department of Defense investigative agencies will refer to the FBI on receipt all significant allegations of bribery and conflict of interest involving military or civilian personnel of the Department of

Figure 1. Verbatim text of the August 1984 MOU, Continued

Defense. In all corruption matters the subject of a referral to the FBI, the Department of Defense shall obtain the concurrence of the Department of Justice prosecutor or the FBI before initiating any independent investigation preliminary to any action under the Uniform Code of Military Justice. If the Department of Defense is not satisfied with the initial determination, the matter will be reviewed by the Criminal Division of the Department of Justice.

The FBI will notify the referring agency promptly regarding whether they accept the referred matters for investigation. The FBI will attempt to make such decision in one (1) working day of receipt in such matters.

b. Frauds Against the Department of Defense and Theft and Embezzlement of Government Property

The Department of Justice and the Department of Defense have investigative responsibility for frauds against the Department of Defense and theft and embezzlement of Government property from the Department of Defense. The Department of Defense will investigate frauds against the Department of Defense and theft of government property from the Department of Defense. Whenever a Department of Defense investigative agency identifies a matter which, if developed by investigation, would warrant federal prosecution, it will confer with the United States Attorney or the Criminal Division, the Department of Justice, and the FBI field office. At the time of this initial conference, criminal investigative

Figure 1. Verbatim text of the August 1984 MOU, Continued

responsibility will be determined by the Department of Justice in consultation with the Department of Defense.

2. CRIMES COMMITTED ON MILITARY INSTALLATIONS

a. Subject(s) can be Tried by Court-Martial or are Unknown Crimes (other than those covered by paragraph C.1.) committed on a military installation will be investigated by the Department of Defense investigative agency concerned and, when committed by a person subject to the Uniform Code of Military Justice, prosecuted by the Military Department concerned. The Department of Defense will provide immediate notice to the Department of Justice of significant cases in which an individual subject/victim is other than a military member or dependent thereof.

b. One or More Subjects cannot be Tried by Court-Martial
When a crime (other than those covered by paragraph C.1.) has occurred on a military installation and there is reasonable basis to believe that it has been committed by a person or persons, some or all of whom are not subject to the Uniform Code of Military Justice, the Department of Defense investigative agency will provide immediate notice of the matter to the appropriate Department of Justice investigative agency unless the Department of Justice has relieved the Department of Defense of the reporting requirement for that type or class of crime.

3. CRIMES COMMITTED OUTSIDE MILITARY INSTALLATIONS BY PERSONS WHO CAN BE TRIED BY COURT-MARTIAL

a. Offense is Normally Tried by Court-Martial

Figure 1. Verbatim text of the August 1984 MOU, Continued

Crimes (other than those covered by paragraph C.1.) committed outside a military installation by persons subject to the Uniform Code of Military Justice which, normally, are tried by court-martial will be investigated and prosecuted by the Department of Defense. The Department of Defense will provide immediate notice of significant cases to the appropriate Department of Justice investigative agency. The Department of Defense will provide immediate notice in all cases where one or more subjects is not under military jurisdiction unless the Department of Justice has relieved the Department of Defense of the reporting requirement for that type or class of crime.

b. Crimes Related to Scheduled Military Activities

Crimes related to scheduled military activities outside of a military installation, such as organized maneuvers in which persons subject to the Uniform Code of Military Justice are suspects, shall be treated as if committed on a military installation for purposes of this Memorandum. The FBI or other Department of Justice investigative agency may assume jurisdiction with the concurrence of the United States Attorney or the Criminal Division, Department of Justice.

c. Offense is not Normally Tried by Court-Martial

When there are reasonable grounds to believe that a Federal crime (other than those covered by paragraph C.1.) normally not tried by court-martial, has been committed outside a military installation by a person

Figure 1. Verbatim text of the August 1984 MOU, Continued

subject to the Uniform Code of Military Justice, the Department of Defense investigative agency will immediately refer the case to the appropriate Department of Justice investigative agency unless the Department of Justice has relieved the Department of Defense of the reporting requirement for that type or class of crime.

D. REFERRALS AND INVESTIGATIVE ASSISTANCE

1. REFERRALS

Referrals, notices, reports, requests and the general transfer of information under this Memorandum normally should be between the FBI or other Department of Justice investigative agency and the appropriate Department of Defense investigative agency at the field level.

If a Department of Justice investigative agency does not accept a referred matter and the referring Department of Defense investigative agency then, or subsequently, believes that evidence exists supporting prosecution before civilian courts, the Department of Defense agency may present the case to the United States Attorney or the Criminal Division, Department of Justice, for review.

2. INVESTIGATIVE ASSISTANCE

In cases where a Department of Defense or Department of Justice investigative agency has primary responsibility and it requires limited assistance to pursue outstanding leads, the investigative agency requiring assistance will promptly advise the appropriate investigative agency in the other Department and, to the

Figure 1. Verbatim text of the August 1984 MOU, Continued

extent authorized by law and regulations, the requested assistance should be provided without assuming responsibility for the investigation.

E. PROSECUTION OF CASES

1. With the concurrence of the Department of Defense, the Department of Justice will designate such Department of Defense attorneys as it deems desirable to be Special Assistant United States Attorneys for use where the effective prosecution of cases may be facilitated by the Department of Defense attorneys.

2. The Department of Justice will institute civil actions expeditiously in United States District Courts whenever appropriate to recover monies lost as a result of crimes against the Department of Defense; the Department of Defense will provide appropriate assistance to facilitate such actions.

3. The Department of Justice prosecutors will solicit the views of the Department of Defense prior to initiating any action against an individual subject to the Uniform Code of Military Justice.

4. The Department of Justice will solicit the views of the Department of Defense with regard to its Department of Defense-related cases and investigations in order to effectively coordinate the use of civil, criminal and administrative remedies.

F. MISCELLANEOUS MATTERS

1. THE DEPARTMENT OF DEFENSE ADMINISTRATIVE ACTIONS

Nothing in this Memorandum limits the Department of Defense investigations conducted in support of

Figure 1. Verbatim text of the August 1984 MOU, Continued

administrative actions to be taken by the Department of Defense. However, the Department of Defense investigative agencies will coordinate all such investigations with the appropriate Department of Justice prosecutive agency and obtain the concurrence of the Department of Justice prosecutor or the Department of Justice investigative agency prior to conducting any administrative investigation during the pendency of the criminal investigation or prosecution.

2. SPECIAL UNIFORM CODE OF MILITARY JUSTICE FACTORS
In situations where an individual subject to the

Uniform Code of Military Justice is a suspect in any crime for which a Department of Defense investigative agency has assumed jurisdiction, if a Department of Defense investigative agency believes that the crime involves special factors relating to the administration and discipline of the Armed Forces that would justify its investigation, the Department of Defense investigative agency will advise the appropriate Department of Justice prosecuting authorities of these factors. Investigations of such a crime may be undertaken by the appropriate Department of Defense investigative agency with the concurrence of the Department of Justice.

3. ORGANIZED CRIME

The Department of Defense investigative agencies will provide to the FBI all information collected during the normal course of agency operations pertaining to the element generally known as "organized crime" including both traditional (La Cosa Nostra) and nontraditional

Figure 1. Verbatim text of the August 1984 MOU, Continued

organizations whether or not the matter is considered prosecutable. The FBI should be notified of any investigation involving any element of organized crime and may assume jurisdiction of the same.

4. DEPARTMENT OF JUSTICE NOTIFICATIONS TO DEPARTMENT OF DEFENSE INVESTIGATIVE AGENCIES

a. The Department of Justice investigative agencies will promptly notify the appropriate Department of Defense investigative agency of the initiation of the Department of Defense related investigations which are predicated on other than a Department of Defense referral except in those rare instances where notification might endanger agents or adversely affect the investigation. The Department of Justice investigative agencies will also notify the Department of Defense of all allegations of the Department of Defense related crimes where investigation is not initiated by the Department of Justice.

b. Upon request, the Department of Justice investigative agencies will provide timely status reports on all investigations relating to the Department of Defense unless the circumstances indicate such reporting would be inappropriate.

c. The Department of Justice investigative agencies will promptly furnish investigative results at the conclusion of an investigation and advise as to the nature of judicial action, if any, taken or contemplated.

d. If judicial or administrative action is being considered by the Department of Defense, the Department of Justice will, upon written request, provide

Figure 1. Verbatim text of the August 1984 MOU, Continued

existing detailed investigative data and documents (less any federal grand jury material, disclosure of which would be prohibited by Rule 6(e), Federal Rules of Criminal Procedure), as well as agent testimony for use in judicial or administrative proceedings, consistent with Department of Justice and other federal regulations. The ultimate use of the information shall be subject to the concurrence of the federal prosecutor during the pendency of any related investigation or prosecution.

5. TECHNICAL ASSISTANCE

a. The Department of Justice will provide to the Department of Defense all technical services normally available to federal investigative agencies.

b. The Department of Defense will provide assistance to the Department of Justice in matters not relating to the Department of Defense as permitted by law and implementing regulations.

6. JOINT INVESTIGATIONS

a. To the extent authorized by law, the Department of Justice investigative agencies may agree to enter into joint investigative endeavors, including undercover operations, in appropriate circumstances. However, all such investigations will be subject to Department of Justice guidelines.

b. The Department of Defense, in the conduct of any investigation that might lead to prosecution in Federal District Court, will conduct the investigation consistent with any Department of Justice guidelines. The

Figure 1. Verbatim text of the August 1984 MOU, Continued

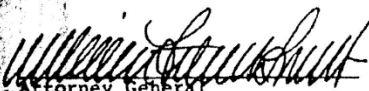
Department of Justice shall provide copies of all relevant guidelines and their revisions.

7. APPREHENSION OF SUSPECTS

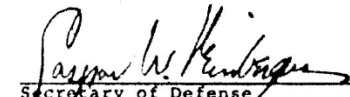
To the extent authorized by law, the Department of Justice and the Department of Defense will each promptly deliver or make available to the other suspects, accused individuals and witnesses where authority to investigate the crimes involved is lodged in the other Department. This MOU neither expands nor limits the authority of either Department to perform apprehensions, searches, seizures, or custodial interrogations.

G. EXCEPTION

This Memorandum shall not affect the investigative authority now fixed by the 1979 "Agreement Governing the Conduct of the Defense Department Counterintelligence Activities in Conjunction with the Federal Bureau of Investigation" and the 1983 Memorandum of Understanding between the Department of Defense, the Department of Justice and the FBI concerning "Use of Federal Military Force in Domestic Terrorist Incidents."



Attorney General
United States Department
of Justice



Secretary of Defense
United States Department
of Defense

DOD SUPPLEMENTAL GUIDANCE – B. POLICY.

The August 1984 MOU references a 2-year statute of limitations then in effect for most UCMJ offenses. Article 43 of the UCMJ, Section 843 of Title 10, United States Code, governing the statute of limitations, has been amended several times since the August 1984 MOU was issued. Article 43 now applies a 5-year statute of limitations generally; a longer statute of limitations for prescribed child abuse offenses; and no statute of limitations for capital offenses, rape or sexual assault, or rape or sexual assault of a child. Article 43 also provides for the extension of the statute of limitations in certain prescribed scenarios. It is important to complete investigations, administrative actions, and prosecutions in a timely manner notwithstanding a lengthier statute of limitations.

DOD SUPPLEMENTAL GUIDANCE – C. INVESTIGATIVE AND PROSECUTIVE JURISDICTION.

1. Crimes Arising from Department of Defense Operations.

a. Corruption Involving Department of Defense Personnel.

A. Certain bribery and conflict of interest allegations (also referred to as “corruption” offenses in the August 1984 MOU) are to be referred immediately to the FBI.

B. For the purposes of this section, bribery and conflict of interest allegations are those which would, if proven, violate Sections 201, 203, 205, 208, 209, or 219 of Title 18, United States Code.

C. Under Paragraph C.1.a. of the August 1984 MOU, DCIOs shall refer to the FBI those “significant” allegations of bribery and conflict of interest that implicate directly military or DoD civilian personnel, including allegations of bribery or conflict of interest that arise during the course of an ongoing investigation.

1. All bribery and conflict of interest allegations against present, retired, or former general/flag officers and civilians in positions above the GS-15 and equivalent levels, the Senior Executive Service, and the Executive Level will be considered “significant” for purposes of referral to the FBI.

2. In cases not covered by subsection C.1. of this supplemental guidance, the determination of whether the matter is “significant” for purposes of referral to the FBI should be made in light of the following factors: sensitivity of the DoD program involved, amount of money in the alleged bribe, number of DoD personnel implicated, impact on the affected DoD program, and, with respect to military personnel, whether the matter normally would be handled under the UCMJ. Bribery and conflict of interest allegations warranting consideration of federal prosecution not referred to the FBI based on the application of these guidelines and not otherwise disposed of under the UCMJ will be developed and brought to the attention of DOJ through the “conference” mechanism described in Paragraph C.1.b. of the August 1984 MOU.

D. Bribery and conflict of interest allegations when military or DoD civilian personnel are not subjects of the investigations are not covered by the referral requirement of Paragraph C.1.a. of the August 1984 MOU. Matters in which the suspects are solely DoD contractors and their subcontractors, such as commercial bribery between a DoD subcontractor and a DoD prime contractor, do not require referral upon receipt to the FBI. The “conference” procedure described in Paragraph C.1.b. of the August 1984 MOU shall be used in these types of cases.

E. Bribery and conflict of interest allegations that arise from events occurring outside the United States and requiring investigation outside the United States need not be referred to the FBI.

DOD SUPPLEMENTAL GUIDANCE -- C.1.B. FRAUDS AGAINST THE DEPARTMENT OF DEFENSE AND THEFT AND EMBEZZLEMENT OF GOVERNMENT PROPERTY.

A. Unlike Paragraph C.1.a. of the August 1984 MOU, Paragraph C.1.b. does not have an automatic referral requirement. In accordance with Paragraph C.1.b., DCIOs shall confer with the appropriate federal prosecutor and the FBI on matters which, if developed by investigation, would warrant federal prosecution. This “conference” serves to define the respective roles of DCIOs and the FBI on a case-by-case basis. Generally, when a conference is warranted, the DCIO will arrange to meet with the prosecutor and provide notice to the FBI that such a meeting is being held. Separate conferences with both the prosecutor and the FBI normally are not necessary.

B. Mere receipt by DCIOs of raw allegations of fraud or theft does not require conferences with federal prosecutors or the FBI. Sufficient evidence should be developed before the conference to allow the prosecutor to make an informed judgment as to the merits of a case dependent upon further investigation. However, DCIOs should avoid delay in scheduling such conferences, particularly in complex fraud cases, because an early judgment by a prosecutor can be of assistance in focusing the investigation on those matters that most likely will result in criminal prosecution.

DOD SUPPLEMENTAL GUIDANCE – C.2. CRIMES COMMITTED ON MILITARY INSTALLATIONS.

A. Subsection C.2. of the August 1984 MOU addresses crimes committed on a military installation other than those listed in Paragraphs C.1.a. (bribery and conflict of interest) and C.1.b. (fraud, theft, and embezzlement against the government).

B. Unlike Paragraph C.1.a. of the August 1984 MOU, which requires “referral” to the FBI of certain cases, and Paragraph C.1.b., which requires a “conference” with respect to certain cases, subsection C.2. requires only that “notice” be given to DOJ of certain cases. Relief from the reporting requirement of subsection C.2. may be granted by the local U.S. Attorney as to types or classes of cases.

C. For purposes of Paragraph C.2.a. (when the subjects can be tried by court-martial or are unknown), an allegation is “significant” for purposes of required notice to DOJ only if the

offense falls within the prosecutorial guidelines of the local U.S. attorney. Judge advocates advising commanders of military installations in the United States and DCIO offices in the United States should familiarize themselves with the local U.S. attorney's office's prosecutorial guidelines. Notice should be given in other cases when the DoD Component believes that federal prosecution is warranted or otherwise determines that the case may attract significant public attention.

DOD SUPPLEMENTAL GUIDANCE – C.3. CRIMES COMMITTED OUTSIDE MILITARY INSTALLATIONS BY PERSONS WHO CAN BE TRIED BY COURT-MARTIAL.

For purposes of this paragraph, an allegation is “significant” for purposes of required notice to DOJ only if the offense falls within prosecutorial guidelines of the local U.S. attorney. Notice should be given in other cases when the DoD Component believes that federal prosecution is warranted, or otherwise determines that the case may attract significant public attention.

DOD SUPPLEMENTAL GUIDANCE – E. PROSECUTION OF CASES.

Prosecution of Cases and Grants of Immunity.

A. The authority of court-martial convening authorities to refer cases to trial, approve plea agreements, and issue grants of immunity under the UCMJ extends only to trials by court-martial. To ensure such actions do not preclude appropriate action by federal civilian authorities in cases likely to be prosecuted in the U.S. district courts, court-martial convening authorities will ensure appropriate consultation has taken place before trial by court-martial, approval of a plea agreement, or issuance of a grant of immunity in cases for which such consultation is required.

B. There are two types of immunity in the military justice system.

1. A person may be granted transactional immunity from trial by court-martial for one or more offenses under the UCMJ.

2. A person may be granted testimonial immunity, which is immunity from the use of testimony, statements, and any information directly or indirectly derived from such testimony or statements by that person in a later court-martial.

C. Before issuing a grant of immunity under the UCMJ, the applicable court-martial convening authority will ensure there has been appropriate consultation with DOJ in respect to offenses for which consultation is required by the August 1984 MOU.

D. A proposed grant of immunity in a case involving espionage, subversion, aiding the enemy, sabotage, spying, or violation of rules or statutes concerning classified information or the foreign relations of the United States will be forwarded to the General Counsel of the Department of Defense for the purpose of consultation with DOJ. The General Counsel of the

Department of Defense will obtain the views of other appropriate elements of DoD that should be considered during consultation with DOJ.

E. The authority of court-martial convening authorities extends only to grants of immunity from action under the UCMJ. Only the Attorney General of the United States or other authorities designated under Sections 6001-6005 of Title 18, United States Code, may authorize action to obtain a grant of immunity with respect to trials in the U.S. district courts.

DOD SUPPLEMENTAL GUIDANCE – F.6 JOINT INVESTIGATIONS.

Joint Investigations.

When DoD procedures concerning apprehension, search and seizure, interrogation, eyewitnesses, or identification differ from those of DOJ, DoD procedures will be used, unless the DOJ prosecutor has directed that DOJ procedures be used instead. DCIO criminal investigators should bring to the attention of the DOJ prosecutor, as appropriate, situations when use of DOJ procedures might impede or preclude prosecution under the UCMJ.

GLOSSARY

G.1. ACRONYMS.

ACRONYM	MEANING
DCIO	Defense Criminal Investigative Organizations
DoJ	Department of Justice
FBI	Federal Bureau of Investigation
IG DoD	Inspector General of the Department of Defense
MOU	memorandum of understanding
UCMJ	Uniform Code of Military Justice

G.2. DEFINITIONS.

The following term and its definition is for the purpose of this issuance.

TERM	DEFINITION
DCIOs	The United States Army Criminal Investigation Command; Naval Criminal Investigative Service; U.S. Air Force Office of Special Investigations; and Defense Criminal Investigative Service, Office of the IG DoD.

REFERENCES

DoD Directive 5106.01, “Inspector General of the Department of Defense (IG DoD),” April 20, 2012, as amended

DoD Directive 5145.01, “General Counsel of the Department of Defense (GC DoD),” December 2, 2013, as amended

Manual for Courts-Martial, United States, current edition

Memorandum of Understanding between the Departments of Justice and Defense Relating to the Investigation and Prosecution of Certain Crimes, August 1984

United States Code, Title 10, Chapter 47 (also known as “The Uniform Code of Military Justice (UCMJ)”)

United States Code, Title 18