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Department of Defense
DIRECTIVE

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ASD(C31)

SUBJECT: Payment of Death Gratuity to Survivors of Certain DoD Personnel
Assigned to Intelligence Duties

- References:
- (a) Title 10, United States Code, Section 1489
 - (b) Title 5, United States Code, Sections 8101 and 8133
 - (c) DoD Military Pay and Allowance Entitlements Manual
 - (d) Missing Persons Act (Title 5, United States Code, Sections 5561-5568; and Title 37, United States Code, Sections 551-558)
 - (e) Title 22, United States Code, Section 3973
 - (f) Executive Order 12333, "United States Intelligence Activities," December 4, 1981

A. PURPOSE

This Directive implements reference (a) and establishes policy, prescribes procedures, and assigns responsibilities to govern the payment of death gratuities to survivors of certain DoD personnel assigned to intelligence duties.

B. APPLICABILITY

This Directive applies to the Office of the Secretary of Defense (OSD), the Military Departments, the Organizations of the Joint Chiefs of Staff (OJCS), the Defense Agencies and the Unified and Specified Commands (hereafter referred to collectively as "DoD Components").

C. DEFINITIONS

Terms used in this Directive are defined in Enclosure 1.

D. POLICY

1. It is DoD policy to pay a gratuity to the dependents of any member of the Armed Forces or of any employee of the Department of Defense assigned to duty with a DoD intelligence component, whose identity as such is disguised or concealed; or who is within a category of individuals determined by the Secretary of Defense to be engaged in clandestine intelligence activities; and who, after October 14, 1980, dies as a result of injuries (excluding disease) sustained outside the United States and whose death resulted from hostile or terrorist activities, or occurred in connection with an intelligence activity having a substantial element of risk.

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2. Inasmuch as it is not possible to identify in advance among the wide variety of intelligence organizations within the Department of Defense which specific assignments or which categories of individuals would come within the provisions of 10 U.S.C. 1489 (reference (a)), it shall be the responsibility of the head of the organization to which the individual is assigned to make a preliminary assessment as to potential eligibility and to initiate the necessary application if an Armed Forces member or civilian employee of the organization has been killed under circumstances the organization head considers should warrant gratuity payment. Procedures for submission and handling of such application appear in Section F., below.

3. Any payment authorized pursuant to 10 U.S.C. 1489 (reference (a)) shall be:

a. Equal to the annual basic pay or salary of the member or employee concerned at the time of death.

b. Considered as a gift, and shall be in lieu of payment of any lesser death gratuity authorized by law; provided such payment shall be in addition to pension, health insurance or other death-related benefit authorized by law.

c. Made, if the deceased is a DoD civilian employee, only if the survivor entitled to payment under this Directive is also entitled to elect monthly compensation under 5 U.S.C. 8133 (reference (b)) because the death resulted from an injury (excluding disease) sustained in the performance of duty, without regard as to whether such survivor elects to waive compensation under reference (b).

d. Made only to the following categories of surviving dependents in the order listed: first, to the surviving spouse; second, to the child or children in equal shares, if there is no surviving spouse; and third, to the dependent parent or parents in equal shares, if there is no surviving spouse or child.

e. Made in accordance with the procedures set forth in Section F., below.

4. The automatic death gratuity of approximately six months' compensation for deceased military members, as provided in DoD Military Pay and Allowances Entitlement Manual, Part 4, Chapter 5 (reference (c)) shall continue to be paid under existing procedures, even though an application for payment of the death gratuity under 10 U.S.C. 1489 (reference (a)) and this Directive has been or is expected to be submitted by the head of the DoD Component to which the deceased was assigned. Should the DoD Component head determine that a survivor is entitled to the death gratuity authorized by reference (a), this payment will be reduced by the amount necessary to compensate for any earlier payments of six months' compensation under reference (c). That amount shall be reimbursed to the Military Service which initially paid the automatic death gratuity.

5. In any case in which payment of the death gratuity under reference (a) depends upon a prior presumptive finding of death, such finding shall be made in accordance with provisions of the Missing Persons Act (reference (d)).

6. All interpretations, rulings, and legislative history applying to gratuity payments under authority of 22 U.S.C. 3973 (reference (e)) to State Department employees, that are not inconsistent with the provisions of reference (a) or with other legislation applicable to the Department of Defense, shall apply to eligibility determinations and to payments made under the authority of reference (a).

E. RESPONSIBILITIES

1. The Assistant Secretary of Defense (Command, Control, Communications and Intelligence) (ASD(C³I)) shall serve as the principal staff advisor and assistant to the Secretary of Defense for implementation of this Directive and shall, as required or requested, provide guidance to DoD Components.

2. The General Counsel of the Department of Defense (GC, DoD) shall provide such legal assistance as may be required to implement the terms of this Directive.

F. PROCEDURES

1. The head of the organization to which the deceased was assigned at the time of death who considers the death to fall within the circumstances described in 10 U.S.C. 1489 (reference (a)) as set forth in subsection D.1., above, shall forward a written application for approval of payment of the death gratuity to: the Director, Defense Intelligence Agency, if the deceased was assigned to a DIA Component; the Director, National Security Agency, if the deceased was assigned to an NSA Component, or to the Military Service intelligence chief if the organization concerned is not an element of DIA or NSA. Notice of the application shall be sent simultaneously to the surviving dependent(s). The surviving dependent(s) may initiate an application through the organization to which the deceased was assigned. This application shall describe pertinent information in sufficient detail to permit determination as to the appropriateness of the gratuity payment.

2. The Military Service intelligence chief shall forward to the Secretary of the Military Department concerned a recommendation for approval or disapproval of the application.

3. Each Secretary of a Military Department, the Director, DIA, and the Director, NSA, are authorized to approve applications submitted to them and to direct payment of the gratuity.

4. Within 30 days of receipt, the head of the organization in which the application originated and eligible survivors shall receive from the Secretary of the Military Department, the Director, DIA, or the Director, NSA, as appropriate, a written decision concerning the application. If the application is disapproved or if there is a delay in making the final determination, as in the case of presumed death, the reasons for such disapproval or delay shall be provided in writing to the organization from which the application originated and to eligible survivor(s).

5. Payment to the eligible survivor(s) shall be made from funds in the budget of the DoD Component to which the deceased was assigned, in accordance with subsection D.3., above.

6. If the application is disapproved, the head of the organization to which the deceased was assigned, or the dependent potentially eligible to receive the gratuity payment, may appeal in writing to the General Counsel, Department of Defense, who shall make a recommendation to the Secretary of Defense, whose decision shall be final.

G. EFFECTIVE DATE AND IMPLEMENTATION

This Directive is effective immediately. All DoD Components concerned shall forward a copy of implementing documents to the Assistant Secretary of Defense (Command, Control, Communications and Intelligence) (ASD(C3I)) within 120 days.


William H. Taft, IV
Deputy Secretary of Defense

Enclosure - 1
Definitions

Accession For	
NTIS CRA&I	☒
DTIC TAB	☐
Unannounced	☐
Justification	
By	
Distribution	
Availability Codes	
Dist	Avail & Usage S. Cont
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DEFINITIONS

1. Clandestine Intelligence Activities. Activities to collect foreign intelligence or counterintelligence by technical means or through personal contacts, by persons whose affiliation with the U.S. Government or with a DoD intelligence component is classified or has otherwise not been publicly acknowledged.

2. DoD Intelligence Components. Include the following organizations:

- a. The National Security Agency/Central Security Service.
 - b. The Defense Intelligence Agency.
 - c. The offices within the Department of Defense for the collection of specialized national foreign intelligence through reconnaissance programs.
 - d. The Assistant Chief of Staff for Intelligence, Army General Staff.
 - e. The Office of Naval Intelligence.
 - f. The Assistant Chief of Staff, Intelligence, U.S. Air Force.
 - g. The Army Intelligence and Security Command.
 - h. The Naval Intelligence Command.
 - i. The Naval Security Group Command.
 - j. The Director of Intelligence, U.S. Marine Corps.
 - k. The Air Force Intelligence Service.
 - l. The Electronic Security Command, U.S. Air Force.
 - m. The counterintelligence elements of the Naval Investigative Service.
 - n. The counterintelligence elements of the Air Force Office of Special Investigations.
 - o. The 650th Military Intelligence Group, SHAPE.
 - p. Other organizations, staffs and offices, when used for foreign intelligence or counterintelligence activities to which part 2, "Conduct of Intelligence Activities," of E.O. 12333 (reference (f)) applies.
3. Substantial Element of Risk. The risk of bodily harm or physical danger in the particular context of the given intelligence activity.

4. Surviving Dependent. The widow, widower, child or parent, with each such term having the same meaning as in 5 U.S.C. 8101 (reference (b)) as follows:

a. Widow. The wife living with or dependent for support on the decedent at the time of his death, or living apart for reasonable cause or because of his desertion.

b. Widower. The husband living with or dependent for support on the decedent at the time of her death, or living apart for reasonable cause or because of her desertion.

c. Child. One who at the time of the death of the employee is under 18 years of age or over that age and incapable of self-support, and includes stepchildren, adopted children and posthumous children, but does not include married children.

d. Parent. Includes stepparents and parents by adoption.