



# Department of Defense

## Military Commission Instruction No. 6

April 15, 2004

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**SUBJECT:** Reporting Relationships for Military Commission Personnel

- References:**
- (a) Military Commission Order No. 1 (Mar. 21, 2002)
  - (b) Military Order of November 13, 2001, "Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism," 66 F.R. 57833 (Nov. 16, 2001)
  - (c) Section 113(d) of Title 10 of the United States Code
  - (d) Section 140(b) of Title 10 of the United States Code
  - (e) Military Commission Instruction No. 1, current edition
  - (f) Department of Defense Directive 5105.70, "Appointing Authority for Military Commissions" (Feb. 10, 2004)

### **1. PURPOSE**

This Instruction establishes supervisory and performance evaluation relationships for military commission personnel.

### **2. AUTHORITY**

This Instruction is issued pursuant to Section 7(A) of reference (a) and in accordance with references (b), (c), and (d). The provisions of reference (e) are applicable to this Instruction.

### **3. POLICIES AND PROCEDURES**

- A. The Office of Military Commissions (OMC) shall consist of the Office of the Chief Prosecutor (OCP) and the Office of the Chief Defense Counsel (OCDC), and those offices and functions as otherwise designated by the Secretary of Defense, General Counsel of the Department of Defense, and/or the Appointing Authority. The Secretary of Defense has established the Appointing Authority for Military Commissions as an element of the Office of the Secretary of Defense by reference (f) with specific responsibilities and functions. The Office of the Appointing Authority includes the Legal Advisor to the Appointing Authority and other appropriate legal and support personnel.

B. *Supervisory and Performance Evaluation Relationships.* Individuals appointed, assigned, detailed, designated or employed in a capacity related to the conduct of military commission proceedings conducted in accordance with references (a) and (b) shall be subject to the relationships set forth below. Unless stated otherwise, the person to whom an individual "reports," as set forth below, shall be deemed to be such individual's supervisor and shall, to the extent possible, fulfill all performance evaluation responsibilities normally associated with the function of direct supervisor in accordance with the subordinate's Military Service performance evaluation regulations.

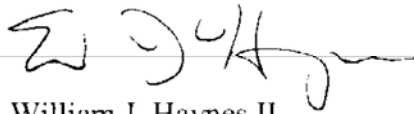
- 1) **Appointing Authority:** Any Appointing Authority designated by the Secretary of Defense pursuant to reference (a) shall report to the Secretary of Defense in accordance with reference (c).
- 2) **Legal Advisor to the Appointing Authority:** The Legal Advisor to the Appointing Authority shall report to the Appointing Authority.
- 3) **Chief Prosecutor:** The Chief Prosecutor shall report to the Legal Advisor to the Appointing Authority and then to the Appointing Authority.
- 4) **Deputy Chief Prosecutor:** The Deputy Chief Prosecutor shall report to the Chief Prosecutor and then to the Legal Advisor to the Appointing Authority.
- 5) **Prosecutors and Assistant Prosecutors:** Prosecutors and Assistant Prosecutors shall report to the Deputy Chief Prosecutor and then to the Chief Prosecutor.
- 6) **Chief Defense Counsel:** The Chief Defense Counsel shall report to the Deputy General Counsel (Personnel and Health Policy) of the Department of Defense and then to the General Counsel of the Department of Defense.
- 7) **Deputy Chief Defense Counsel:** The Deputy Chief Defense Counsel shall report to the Chief Defense Counsel and then to the Deputy General Counsel (Personnel and Health Policy) of the Department of Defense.
- 8) **Detailed Defense Counsel:** Detailed Defense Counsel shall report to the Deputy Chief Defense Counsel and then to the Chief Defense Counsel.
- 9) **Review Panel Members:** Members of the Review Panel shall report to the Secretary of Defense.
- 10) **Commission Members:** Commission members shall continue to report to their parent commands. The consideration or evaluation of the performance of duty as a member of a military commission is prohibited in preparing effectiveness, fitness, or evaluation reports of a commission member.
- 11) **Other Personnel:** All other military commission personnel, such as court reporters, interpreters, security personnel, bailiffs, and clerks detailed or employed by the Appointing Authority pursuant to Section 4(D) of reference (a), if not assigned to the Office of the Chief Prosecutor or the Office of the Chief Defense Counsel, shall report to the Appointing Authority or his designee.

C. *Responsibilities of Supervisory/Reporting Officials.* Officials designated in this Instruction as supervisory/reporting officials shall:

- 1) Supervise subordinates in the performance of their duties.
- 2) Prepare fitness or performance evaluation reports and, as appropriate, process awards and citations for subordinates. To the extent practicable, a reporting official shall comply with the rated subordinate's Military Service regulations regarding the preparation of fitness or performance evaluation reports and in executing related duties.

#### 4. EFFECTIVE DATE

This Instruction is effective immediately.



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