

November 13, 2001, "Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism."

(4) The Chief Defense Counsel shall ensure that all personnel assigned to the Office of the Chief Defense Counsel review, and attest that they understand and will comply with, 32 CFR part 9, and Military Order of November 13, 2001, "Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism," and all Supplementary Regulations and Instructions issued in accordance therewith. Furthermore, the Chief Defense Counsel shall regulate the conduct of Detailed Defense Counsel as deemed necessary, consistent with 32 CFR part 9, and Military Order of November 13, 2001, "Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism," and subordinate instructions and regulations, and specifically shall ensure that Detailed Defense Counsel have been directed to conduct their activities consistent with applicable prescriptions and proscriptions specified in Section II of the Affidavit And Agreement By Civilian Defense Counsel at Appendix B to 32 CFR part 14.

(5) The Chief Defense Counsel shall inform the Deputy General Counsel (Personnel and Health Policy) of the Department of Defense of all requirements for personnel, office space, equipment, and supplies to ensure the successful functioning and mission accomplishment of the Office of the Chief Defense Counsel.

(6) The Chief Defense Counsel shall supervise all Defense Counsel and other personnel assigned to the Office of the Chief Defense Counsel.

(7) The Chief Defense Counsel, or his designee, shall fulfill applicable performance evaluation requirements associated with Defense Counsel and other personnel properly under the supervision of the Chief Defense Counsel.

(8) The Chief Defense Counsel shall detail a judge advocate of any United States armed force to perform the duties of the Detailed Defense Counsel as set forth in 32 CFR 9.4(c)(2) and shall detail or employ any other personnel as directed by the Appointing Authority or the Presiding Officer in a particular case. The Chief Defense Counsel may not detail himself to perform the duties of Detailed Defense Counsel, nor does he form an attorney-client relationship with accused persons or incur any concomitant confidentiality obligations.

(i) The Chief Defense Counsel may, when appropriate, detail an additional judge advocate as Assistant Detailed

Defense Counsel to assist in performing the duties of the Detailed Defense Counsel.

(ii) The Chief Defense Counsel may structure the Office of the Chief Defense Counsel so as to include subordinate supervising attorneys who may incur confidentiality obligations in the context of fulfilling their supervisory responsibilities with regard to Detailed Defense Counsel.

(9) The Chief Defense Counsel shall take appropriate measures to preclude Defense Counsel conflicts of interest arising from the representation of Accused before military commissions. The Chief Defense Counsel shall be provided sufficient information (potentially including protected information) to fulfill this responsibility.

(10) The Chief Defense Counsel shall take appropriate measures to ensure that each Detailed Defense Counsel is capable of zealous representation, unencumbered by any conflict of interest. In this regard, the Chief Defense Counsel shall monitor the activities of all Defense Counsel (Detailed and Civilian) and take appropriate measures to ensure that Defense Counsel do not enter into agreements with other Accused or Defense Counsel that might cause them or the Accused they represent to incur an obligation of confidentiality with such other Accused or Defense Counsel or to effect some other impediment to representation.

(11) The Chief Defense Counsel shall ensure that an Accused tried before a military commission pursuant to 32 CFR part 9, and Military Order of November 13, 2001, "Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism," is represented at all relevant times by Detailed Defense Counsel.

(12) The Chief Defense Counsel shall administer all requests for replacement Detailed Defense Counsel requested in accordance with 32 CFR 9.4(c)(3). He shall determine the availability of such counsel in accordance with this part.

(13) The Chief Defense Counsel shall administer the Civilian Defense Counsel pool, screening all requests for pre-qualification and ad hoc qualification, making qualification determinations and recommendations in accordance with 32 CFR part 9, this part, and 32 CFR part 14, and ensuring appropriate notification to an Accused of civilian attorneys available to represent Accused before a military commission.

(14) The Chief Defense Counsel shall ensure that all Detailed Defense Counsel and Civilian Defense Counsel who are to perform duties in relation to a military

commission have taken an oath to perform their duties faithfully.

(15) The Chief Defense Counsel shall ensure that all personnel properly under the supervision of the Office of the Chief Defense Counsel possess the appropriate security clearances.

(c) *Detailed Defense Counsel.* (1) Detailed Defense Counsel shall be judge advocates of any United States armed force.

(2) Detailed Defense Counsel shall represent the Accused before military commissions when detailed in accordance with 32 CFR part 9, and Military Order of November 13, 2001, "Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism." In this regard Detailed Defense Counsel shall: defend the Accused to whom detailed zealously within the bounds of the law and without regard to personal opinion as to guilt; represent the interests of the Accused in any review process as provided by 32 CFR part 9; and comply with the procedures accorded the Accused pursuant to 32 CFR 9.5 and 9.6. Detailed Defense Counsel shall so serve notwithstanding any intention expressed by the Accused to represent himself.

(3) Detailed Defense Counsel shall have primary responsibility to prevent conflicts of interest related to the handling of the cases to which detailed.

(4) Detailed Defense Counsel shall fulfill all responsibilities detailed in 32 CFR part 9, and Military Order of November 13, 2001, "Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism," those set forth in this part, and those assigned by the Chief Defense Counsel.

(d) *Selected Detailed Defense Counsel.* (1) The Accused may select a judge advocate of any United States armed force to replace the Accused's Detailed Defense Counsel, provided that judge advocate has been determined to be available by the Chief Defense Counsel in consultation with the Judge Advocate General of that judge advocate's military department.

(2) A judge advocate shall be determined not to be available if assigned duties: as a general or flag officer; as a military judge; as a prosecutor in the Office of Military Commissions; as a judge advocate assigned to the Department of Defense Criminal Investigation Task Force or Joint Task Force Guantanamo; as a principal legal advisor to a command, organization, or agency; as an instructor or student at a service school, academy, college or university; or in any other capacity that the Judge Advocate General of the Military Department