

Office of the Presiding Officer  
Military Commission

SEP 16, 2004

**SUBJECT: Presiding Officers Memorandum (POM) # 2-1 Appointment and Role of the Assistant to the Presiding Officers**

**This POM supersedes POM # 2, dated July 19, 2004**

1. Pursuant to Section 4(D), Military Commission Order No. 1, and Paragraph 3(B)(11), Military Commission Instruction No. 6, an Assistant to the Presiding Officers has been detailed and shall report to the Presiding Officer and work under his supervision to provide advice in the performance of the Presiding Officer's adjudicative functions. The Assistant may act on behalf of the Presiding Officer. The Assistant does not act, and does not have authority to act, on any matter or in any manner, on behalf of the Appointing Authority. (See Appointing Authority Memorandum, SUBJECT Reporting Relationships and Authority of the Assistant to the Presiding Officer, Military Commissions, 19 Aug 2004.)

2. Mr. XXXX has been detailed to be the Assistant. His duties are:

a. Serve as an attorney-assistant providing all necessary support to the Presiding Officers of Military Commissions in a broad array of legal issues, to include functional responsibility for legal and other advice on procedural, logistical, and administrative matters and services to the Presiding Officers, Military Commissions.

b. Responsible for handling significant, complex matters assigned by the Presiding Officer of the Military Commissions, which may require legal or other analysis of procedural, logistical, and administrative matters outside of normally assigned areas of responsibility.

c. Work under the supervision of the Presiding Officers to provide advice in the performance of adjudicative functions, *ex parte* if required, with respect to administrative, logistical, and procedural matters. (See ABA Model Code of Judicial Conduct Canon 3B(7)).

d. Act on the Presiding Officer's behalf to make logistical and administrative arrangements.

e. Draft, coordinate, staff, and publish guidelines for Commission Proceedings to include Presiding Officer Memoranda.

f. Process and manage policy, procedure, and similar actions and activities designed to contribute to the efficient operation of the Commission - both current and future operations.

g. Coordinate the integration of operations that affect in-court proceedings with OMC and JTF and other support personnel - to include the bailiff, security personnel, and court reporters - in providing services to the Commission.

h. To sign FOR THE PRESIDING OFFICER, or send emails in that capacity, concerning any matter that the Presiding Officer could direct, or does direct, except those that under Commission Law can only be performed personally by the Presiding Officer or involve the vote or decision of the Commission.

i. Other duties not listed above which are consistent with improving the processes, procedures, administration, and logistics of the Office of the Presiding Officer and the Commissions and which are not inconsistent with paragraph 3 below.

3. The Assistant is *not* authorized to:

a. Communicate or discuss any matter with any Commission member or alternate member (except the Presiding Officer) other than to arrange for their administrative and logistical needs.

b. Be present during any closed conference of the members.

c. Advise the Presiding Officer concerning the decision of any matter that requires the vote of the Commission; however, the Assistant may prepare those documents and drafts necessary or required to *process, record, and disseminate* any decision by the Commission.

d. Provide any substantive advice to the Presiding Officer on any matter that would require a vote or decision by the entire Commission. This prohibition includes any advice on findings, sentence, or motions or requests which require a vote by the Commission.

4. Except as approved in advance in writing by the Presiding Officer, Mr. XXXX is not permitted to perform any duties for the Federal Law Enforcement Training Center or the Department of Homeland Security that involve: advice to law enforcement concerning an active case or investigation; advice on how to detect, investigate, or prosecute alleged acts of terrorism or violations of international law; or any other matter that would create a perception in the minds of a reasonable person that the Assistant's home agency (the Federal Law Enforcement Training Center/Department of Homeland Security) has any part in the Commission process through the actions of the Assistant.

5. **Any** email which is sent to the Presiding Officer will be CC Mr. XXXX. If counsel believe there is a legal reason not to CC Mr. XXXX, counsel shall include that reason in the email to the Presiding Officer.

Signed by:

Peter E. Brownback III  
COL, JA, USA  
Presiding Officer