



DEPARTMENT OF DEFENSE  
CHIEF DEFENSE COUNSEL FOR MILITARY COMMISSIONS  
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14 June 2017

MEMORANDUM FOR CHIEF PROSECUTOR FOR MILITARY COMMISSIONS  
COMMANDER, JOINT TASK FORCE GUANTANAMO

SUBJECT: Improper Monitoring of Attorney-Client Meetings

This memorandum is to advise you that due to recently received information I have recommended to Military Commissions Defense Organization (MCDO) defense counsel, to include Learned Counsel, that they not conduct any attorney-client meetings at Guantanamo Bay, Cuba (GTMO) until they know with certainty that improper monitoring of such meetings is not occurring. On 30 November 2016, the Military Judge in *United States v. Khalid Shaikh Mohammed et al.* ordered that intrusive monitoring (i.e., listening and audio and video recording) of attorney-client meetings be formally prohibited in the standard operating procedures for Joint Task Force Guantanamo (JTF-GTMO) and the Joint Detention Group (JDG). The Military Judge further ordered that defense counsel must be advised in advance if a meeting with an accused is to be monitored. The Military Judge issued these orders because he recognized the legitimate concerns of defense attorneys that attorney-client meetings at GTMO were being improperly monitored by government personnel.

At present, I am not confident that the prohibition on improper monitoring of attorney-client meetings at GTMO as ordered by the commission is being followed. My loss of confidence extends to all potential attorney-client meeting locations at GTMO. Consequently, I have found it necessary as part of my supervisory responsibilities under 9-1a.2 and 9-1a.9 of the Regulation for Trial by Military Commission to make the above-described recommendation to all MCDO defense counsel. Whether, and to what extent, defense teams follow this advice is up to the individual defense team.

If you wish to discuss this matter I can be reached at 571-256-9780 or [john.baker@osd.mil](mailto:john.baker@osd.mil).

A handwritten signature in black ink, appearing to read "J. G. Baker", is positioned above the typed name.

J. G. BAKER  
Brigadier General, U.S. Marine Corps  
Chief Defense Counsel for  
Military Commissions

cc:  
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