

A View From the MCDO

30 January 2020



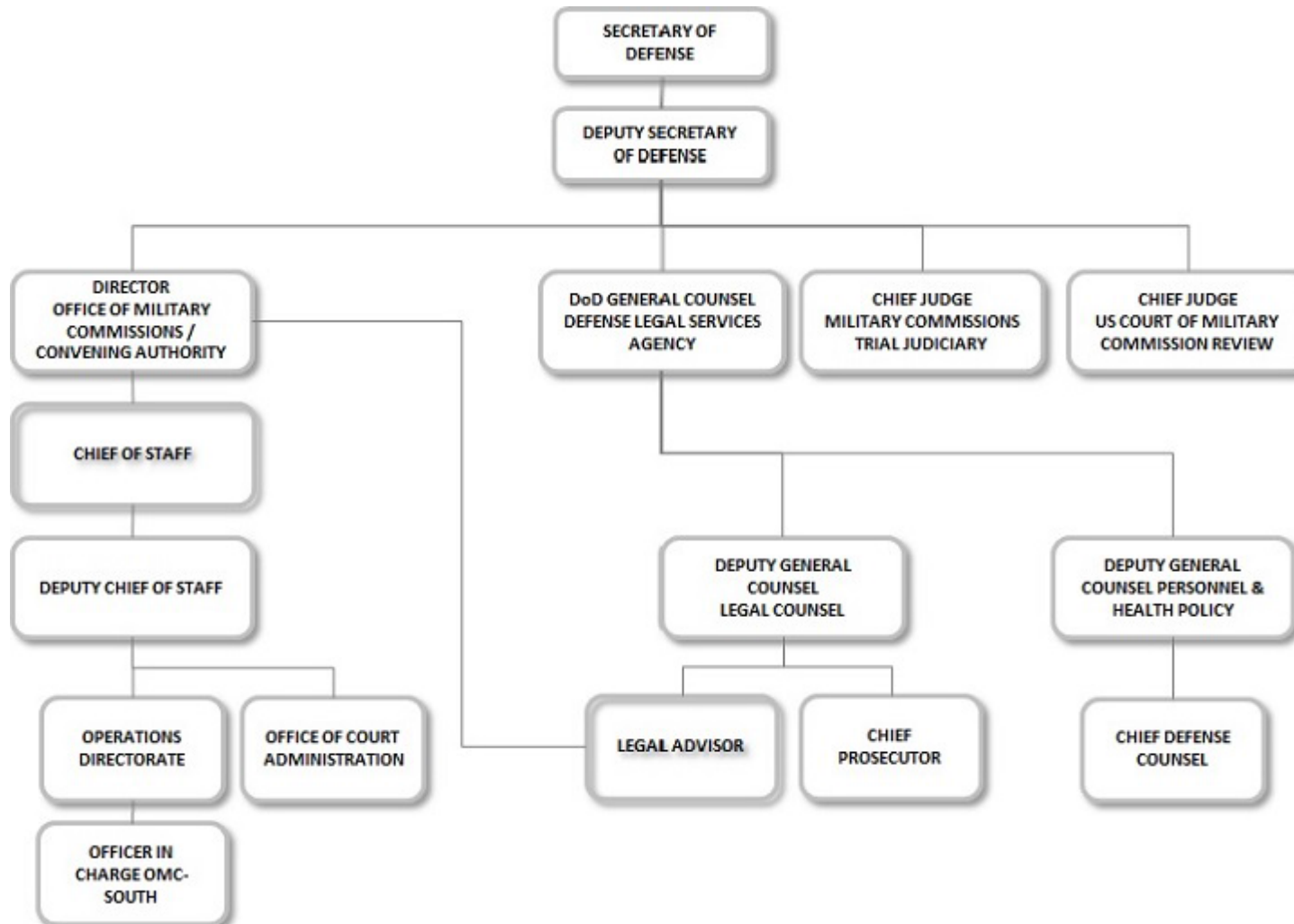
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Commissions Org Chart



Mission Statement

The Military Commissions Defense Organization provides ethical, zealous, independent client-based defense services under the Military Commission Act in order to defend the Rule of Law and maintain public confidence in the nation's commitment to equal justice under law.



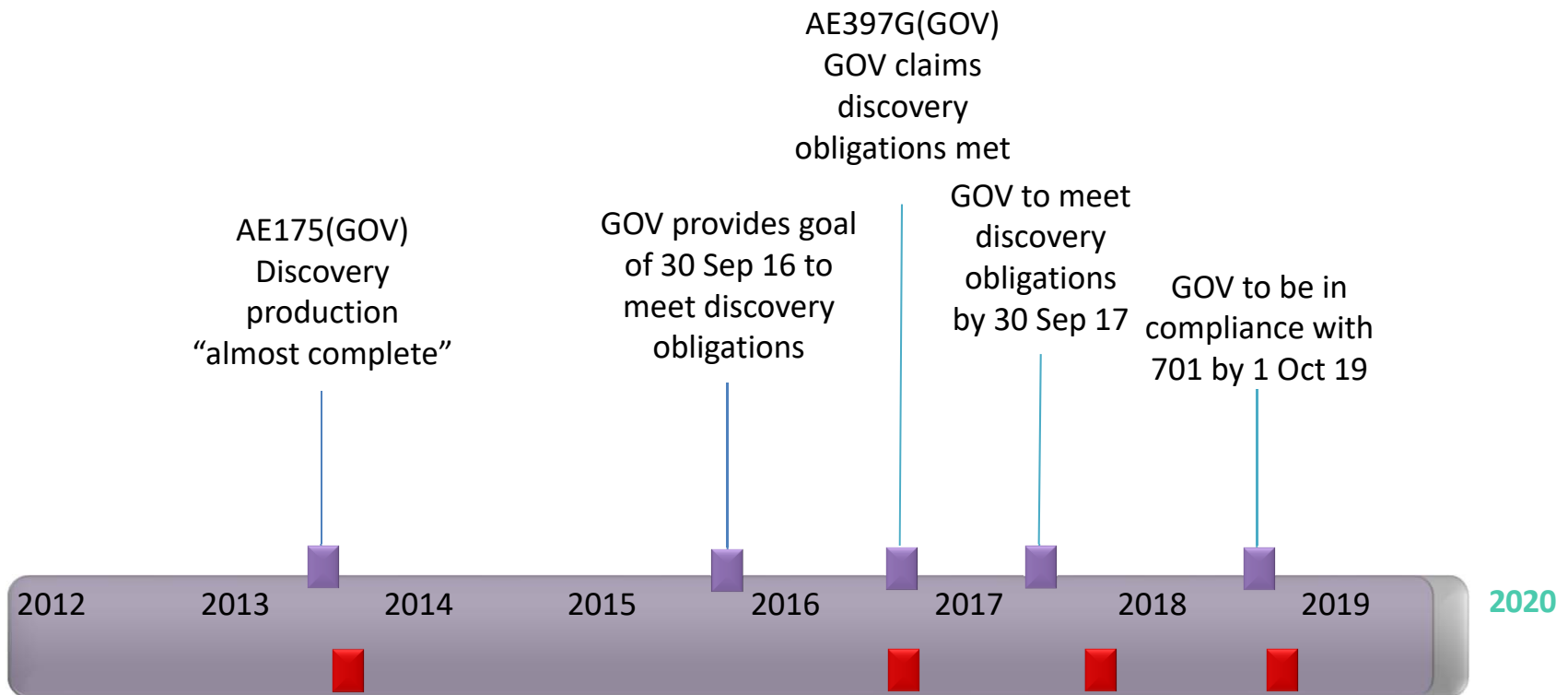
A TEAM OF TEAMS

- Located in Crystal City and Rosslyn & GTMO
- Every branch of service with reserve support from three of the four services
- Authorized 125 GS employees, 85 military members, a handful of contractors, and each team CA and/or MJ approved experts

What I Worry About

- Manpower & Resource Challenges
 - GTMO can't logistically handle these cases & has a housing shortage
 - Having enough people (I rate 210 and have about 150) & huge delays in hiring
 - Security Clearance Processing Time
 - No back-up for loss of Learned Counsel
 - Office Space (NCR 2 year late/ELC Expansion 1 year late & not completed)
 - None for three new cases, we lost 50% of P2P terminals and a large SCIF
 - Linguist for Discovery Project
 - \$6 Million – requested Feb 17, Approved Aug 17, Delivery Oct 19?, but no SCIF space for them
 - What happens when I get three more cases in a litigation posture?
- **Burnout (and FBI Investigations and Security Clearance threats add to that)**
- Ongoing tension between the Defending the Rule of Law & Protecting National Security
 - Ongoing intrusions into the Attorney-Client Relationship
 - Concern about confidentiality in meeting rooms – rooms recently swept
 - Former Paralegal Issue
 - History on this issue – to include 6 CDC Directed Investigations into Unexplained Home or Car Entries
 - AE 350(TTT) – Serious allegations against defense team members
 - Restrictions on Defense Function – Investigations & Client Meetings
 - Discovery Practices & Handling Restrictions
 - Public Access
- CA Turnover & Neutrality (We just get my 6th CA (and he just recused himself from 2 cases)) & Involvement of the CA's Office in MCDO Matters

Government Discovery Completion Promises in the 9/11 Case



- 14 June 2013: "Discovery production almost complete" AE175 [https://www.mc.mil/Portals/0/pdfs/KSM2/KSM%20I%20\(AE175\).pdf](https://www.mc.mil/Portals/0/pdfs/KSM2/KSM%20I%20(AE175).pdf)
- 11 Dec 2015 : Transcripts: "goal of having it complete by 30 Sep 2016"
[https://www.mc.mil/Portals/0/pdfs/KSM2/KSM%20I%20\(TRANS11Dec2015-PM1\).pdf](https://www.mc.mil/Portals/0/pdfs/KSM2/KSM%20I%20(TRANS11Dec2015-PM1).pdf) 30 Sep 2016 from oral argument
- 30 Sep 2016 AE397G Gov claimed to have complied with obligations
[https://www.mc.mil/Portals/0/pdfs/KSM2/KSM%20I%20\(AE397G\(GOV\)\).pdf](https://www.mc.mil/Portals/0/pdfs/KSM2/KSM%20I%20(AE397G(GOV)).pdf)
- 24 March 2017 "We'll be finished with it and we'll have complied... 30 September 2017"
[https://www.mc.mil/Portals/0/pdfs/KSM2/KSM%20I%20\(TRANS24Mar2017-AM2\).pdf](https://www.mc.mil/Portals/0/pdfs/KSM2/KSM%20I%20(TRANS24Mar2017-AM2).pdf)
- 26 July 2019 transcripts [https://www.mc.mil/Portals/0/pdfs/KSM2/KSM%20I%20\(TRANS26Jul2019-MERGED\).pdf](https://www.mc.mil/Portals/0/pdfs/KSM2/KSM%20I%20(TRANS26Jul2019-MERGED).pdf) 24707
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