

The Military Commissions Act of 2006: Analysis of Procedural Rules and Comparison with Previous DOD Rules and the Uniform Code of Military Justice

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Military Commissions Act Crs Report 33688

Daniela Niemeyer



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The Military Commissions Act of 2006 Jennifer Elsea, 2009 In Nov 2001 Pres Bush issued a Mil Order MO authorizing trial by mil commission MC of certain non citizens suspected of participating in the war against terrorism The Supreme Court struck down MC established pursuant to the MO To permit MC to go forward Congress approved the MC Act of 2006 MCA After taking office Pres Obama took action to suspend the operation of MC pending a review of all Guantanamo detentions for the purpose of assessing options for the lawful disposition of each detainee This report provides a background and analysis of MC rules under the MCA It reviews the history of the implementation of MC in the global war on terrorism and provides an overview of the procedural safeguards provided in the MCA Comparison of Rights in Military Commission Trials and Trials in Federal Criminal Court Jennifer K. Elsea, 2011 This is a print on demand edition of a hard to find publication Attorney General Holder s decision to try certain detainees in federal criminal court including those accused of conspiring to commit the 9 11 terrorist attacks and to try other detainees by military commission has focused attention on the procedural differences between trials in federal court and those conducted under the Military Commissions Act Others have praised the decision as recognizing the efficacy and fairness of the federal court system This report provides a brief summary of legal issues raised by the choice of forum for trying accused terrorists and a table comparing selected military commissions rules under the Military Commissions Act to the corresponding rules that apply in federal court Tables

Military Commissions Act Of 2009 Jennifer K. Elsea, 2010-10 The use of military commissions MC to try suspected terrorists has been the focus of intense debate and litigation since Pres Bush in Nov 2001 issued his original Order authorizing such trials In May 2009 the Obama Admin announced that it was considering restarting the MC system with some changes Contents of this report MC Jurisdiction Personal Jurisdiction Subject Matter Jurisdiction Temporal and Spatial Jurisdiction Composition and Powers Procedures Accorded the Accused Open Hearing Right to be Present Right to Counsel Evidentiary Matters Discovery Admissibility of Evidence Coerced Statements Hearsay Sentencing Post Trial Procedure Review and Appeal Protection Against Double Jeopardy The War on Terror James P. Terry, 2013-05-30 A former Marine judge advocate and legal counsel to General Colin Powell James Terry explores the genesis of the United States approach to terror violence and the legal foundation for the nation s response to the conflicts in Afghanistan and Iraq Terry first reviews the entire spectrum of legal issues that arise before offering creative and practical legal and political solutions to counter terrorist activities The author examines the development of rules of engagement and their application in the terrorist environment while differentiating the law of self defense in this environment from more traditional conflicts He also addresses the role of interrogation and the line between harsh interrogation and torture and the jurisdictional claims that arise This volume examines a large number of topics related to the struggle and in a remarkably concise exploration makes them understandable to experts in international law as well as those who do not have a strong background in the field This

text provides a serious but concise review of the legal issues in 20 interrelated chapters All constitutional law scholars and political scientists will greatly benefit from reading this book No other text offers such a comprehensive or detailed review of the issues arising from the War on Terror

Enemy Combatant Detainees Jennifer K. Elsea, 2010 Contents 1 Intro 2 Early Developments in the Detention and Trial of Enemy Combatants Captured in the War on Terror Rasul v Bush Combatant Status Review Tribunals 3 Pre Boumediene v Bush Court Challenges to the Detention Policy Khalid v Bush In re Guantanamo Detainee Cases Hamdan v Rumsfeld Al Marri 4 Detainee Treatment Act of 2005 DTA 5 The Mil Comm Act of 2006 MCA Provisions Affecting Court Jurisdiction Provisions Re the Geneva Conventions 6 Post MCA Issues and Developments Possible Application to U S Citizens DTA Challenges to Detention 7 Boumediene v Bush Constitutional Right to Habeas Adequacy of Habeas Corpus Substitute Implications of Boumediene 8 Exec Order to Close Guantanamo and Halt Mil Commission Proceed 9 Redefining U S Detention Authority 10 Constitutional Considerations and Options for Congress Scope of Challenges Congressional Authority over Fed Courts Separation of Powers Issues 11 Conclusion Nat Def Author Provisions Habeas Corpus Amend Bills to Regulate Detention Figures

Terrorism Robert A. Friedlander, Howard Sidney Levie, Donald J. Musch, Yonah Alexander, Douglas C. Lovelace (Jr.), 1979 An extensive collection of significant documents covering all major and minor issues and events regarding terrorism Government reports executive orders speeches court proceedings and position papers are presented in full text reprint Oceana Website

Congressional Record Index, 1979 Includes history of bills and resolutions

Congressional Record United States. Congress, 1979-01-15

The Military Commissions Act of 2006, 2007 After reviewing the history of the implementation of military commissions in the global war on terrorism the report provides an overview of the procedural safeguards to be implemented pursuant to the MCA He challenged the lawfulness of the military commission under the UCMJ 19 and claimed the right to be treated as a prisoner of war under the Geneva Conventions 20 The Military Commissions Act of 2006 In response to the Hamdan decision Congress enacted the Military Commissions Act of 2006 MCA to grant the President express authority to convene military commissions to prosecute those fitting the definition under the MCA of alien unlawful enemy combatants Procedures for assigning military judges as well as the particulars regarding the duties they are to perform are left to the Secretary of Defense to prescribe except that the military judge may not be permitted to consult with members of the panel outside of the presence of the accused and counsel except as prescribed in 10 U S The military judge has the authority to decide matters related to the admissibility of evidence including the treatment of classified information but has no authority to compel the government to produce classified information

PROVIDING FOR CONSIDERATION OF H.R. 6166, MILITARY COMMISSIONS ACT,... REPORT... REPORT 109-688... U.S. CONGRESS, 109TH CONGRESS, 2ND SESSION. United States. Congress. House, 2007*

Military Commissions Act of 2006, September 25, 2006, 109-2 House Report 109-664, Part 2, 2006

Proposed Legislation--Military Commissions Act of 2006 United States. President (2001-2009 : Bush), 2006

Military Commissions Act of 2006 ,1953 **Crs Report for Congress** Congressional Research Service: The Libr,Louis Fisher,2013-11 On November 13 2001 President George W Bush issued a military order to provide for the detention treatment and trial of those who assisted the terrorist attacks on the two World Trade Center buildings in New York City and the Pentagon on September 11 In creating a military commission tribunal to try the terrorists President Bush modeled his tribunal in large part on a proclamation and military order issued by President Franklin D Roosevelt in 1942 after the capture of eight German saboteurs This report describes the procedures used by the World War II military tribunal to try the eight Germans the habeas corpus petition to the Supreme Court and the resulting convictions and executions Why was the tribunal created and why were its deliberations kept secret How have scholars evaluated the Court s decision in Ex parte Quirin 1942 The decision was unanimous but archival records reveal division and disagreement among the Justices Also covered in this report is a second effort by Germany two years later to send saboteurs to the United States The two men captured in this operation were tried by a military tribunal but under conditions and procedures that substantially reduced the roles of the President Standards of Military Commissions and Tribunals United States. Congress. House. Committee on Armed Services,2008 Amending Title 10, United States Code, to Authorize Trial by Military Commission for Violations of the Law of War, and for Other Purposes United States. Congress. House. Committee on Armed Services,2006 *Military Commissions Act of 2006, September 25, 2006, 109-2 House Report 109-664* United States. Congress. House,2006* *The Military Commissions Act of 2009 (MCA 2009)* Jennifer K. Elsea,2015-06-26 On November 13 2001 President Bush issued a Military Order M O pertaining to the detention treatment and trial of certain non citizens in the war against terrorism Military commissions pursuant to the M O began in November 2004 against four persons declared eligible for trial but the Supreme Court in Hamdan v Rumsfeld invalidated the military commissions as improper under the Uniform Code of Military Justice UCMJ To permit military commissions to go forward Congress approved the Military Commissions Act of 2006 MCA conferring authority to promulgate rules that depart from the strictures of the UCMJ and possibly U S international obligations Military commissions proceedings were reinstated and resulted in three convictions under the Bush Administration The Military Commissions Act of 2006 William H. Manz,2009 Enacted as part of President Bush s war on terror the Military Commissions Act has been controversial from the start It was passed after the Supreme Court s ruling in Hamdan v Rumsfeld invalidated Bush s system of military commissions for trying the Guantanamo Bay detainees because such commissions required congressional authorization In the same decision it also held that the standards of the Geneva Convention must be applied to terrorism suspects The Act amended the War Crimes Act of 1996 the Detainee Treatment Act of 2005 and the Uniform Code of Military Justice codifying and establishing procedures for commissions to try alien unlawful enemy combatants engaging in hostilities against the United States for war crimes and other specified offenses including murder attacking civilians hostage taking torture terrorism and providing material support for terrorism This important 5

volume set includes all the documents comprising the legislative history of The Military Commissions Act These include the various bill versions the congressional debate over its habeas corpus provisions and hearings held by the Senate Judiciary Committee and the House and Senate Armed Services Committee and President Bush s messages to Congress relating to the military commissions all of which reflect the heated debate over national security and constitutional rights **Advisory Commission Report: Commission recommendations and position papers ; Transcript of commission hearings**
United States. Department of Defense. Military Justice Act of 1983 Advisory Commission,1985

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