



Department of Defense

Military Commission Instruction No. 1

April 30, 2003

SUBJECT: Military Commission Instructions

- References:
- (a) Military Commission Order No. 1 (Mar. 21, 2002)
 - (b) Military Order of November 13, 2001, "Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism," 66 F.R. 57833 (Nov. 16, 2001)
 - (c) Section 113(d) of Title 10 of the United States Code
 - (d) Section 140(b) of Title 10 of the United States Code
 - (e) Section 898 of Title 10 of the United States Code

1. PURPOSE

This Instruction establishes policies for the issuance and interpretation of Military Commission Instructions promulgated pursuant to references (a) and (b).

2. AUTHORITY

This Instruction is issued pursuant to Section 7(A) of reference (a) and in accordance with references (c) and (d).

3. APPLICABILITY

This Instruction, and, unless stated otherwise, all other Military Commission Instructions apply throughout the Department of Defense, including to the Office of the Secretary of Defense, the Military Departments, the Chairman and Vice Chairman of the Joint Chiefs of Staff and the Joint Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense, the Defense Agencies, the Department of Defense Field Activities, and all other organizational entities within the Department of Defense, to any special trial counsel of the Department of Justice who may be made available by the Attorney General of the United States to serve as a prosecutor in trials before military commissions pursuant to Section 4(B)(2) of reference (a), to any civilian attorney who seeks qualification as a member of the pool of qualified Civilian Defense Counsel authorized in Section 4(C)(3)(b) of reference (a), and to any

attorney who has been qualified as a member of that pool.

4. POLICIES AND PROCEDURES

- A. *Promulgation.* Military Commission Instructions will be issued by the General Counsel of the Department of Defense (hereinafter General Counsel). Each Instruction will issue over the signature of the General Counsel and, unless otherwise specified therein, shall take effect upon the signature of the General Counsel. Instructions will be numbered in sequence.
- B. *Professional Responsibility.* Compliance with these Instructions shall be deemed a professional responsibility obligation for the practice of law within the Department of Defense.
- C. *Compliance Breaches.* Failure to adhere to these Instructions or any other failure to comply with any rule, regulation, or Instruction applicable to trials by military commission convened pursuant to references (a) and (b) may be subject to appropriate action by the Appointing Authority, the General Counsel of the Department of Defense, or the Presiding Officer of a military commission. Such action may include permanently barring an individual from participating in any military commission proceeding convened pursuant to references (a) and (b), punitive measures imposed under reference (e), and any other lawful sanction.

5. CONSTRUCTION

Military Commission Instructions shall be construed in a manner consistent with references (a) and (b). Nothing in these Military Commission Instructions applies with respect to the trial of crimes by military commissions convened under other authority. In the event of an inconsistency, the provisions of references (a) and (b) shall govern as provided in Section 7(B) of reference (b). Pronouns referring to the male gender shall be construed as applying to both male and female.

6. NON-CREATION OF RIGHT

Neither this Instruction nor any Military Commission Instruction issued hereafter, is intended to and does not create any right, benefit, privilege, substantive or procedural, enforceable by any party, against the United States, its departments, agencies, or other entities, its officers or employees, or any other person. Alleged noncompliance with an Instruction does not, of itself, constitute error, give rise to judicial review, or establish a right to relief for the Accused or any other person.

7. RESERVATION OF AUTHORITY

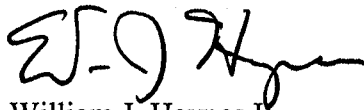
Neither this Instruction nor any Military Commission Instruction issued hereafter shall be construed to limit, impair, or otherwise affect any authority granted by the Constitution or laws of the United States or Department of Defense regulation or directive.

8. AMENDMENT

The General Counsel may issue, supplement, amend, or revoke any Military Commission Instruction at any time.

9. EFFECTIVE DATE

This Instruction is effective immediately.



William J. Haynes II
General Counsel of the Department of Defense