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The Military Commissions Act of 2009 (MCA 2009): Overview and Legal Issues

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Military Commissions Act Crs Report 33688

James P. Terry



Military Commissions Act Crs Report 33688:

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

US Anti-Terrorism Handbook Volume 1 Strategic Information, Regulations, Operations IBP,2018-02-05 2011 Updated Reprint Updated Annually US Anti Terrorism Handbook Strategy Operations Programs **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 *Treatment of 'Battlefield Detainees' in the War on Terrorism* Jennifer K. Elsea,2010-06 Contents 1 Current Status as of 07 Critics Views Applicable Law 2 The Law of War Characterizing the Conflict Authority to Detain during an Internat Armed Conflict POWs Civilian Detainees Unlawful Belligerents Interp of GPW Article 4 GPW Art 4A 1 Does Al Qaeda Form Part of the Armed Forces of a Party to the Conflict GPW Art 4A 2 Does Al Qaeda Belong to a Party to the Conflict The Four Criteria Determining Status under GPW Art 5 Detention in Non Internat Armed Conflicts 3 Treat of Detainees at Guant namo Interrogation Trial and Punishment POWs Civilians Unlawful Belligerents Security Measures Repatriation Right to Redress 4 Congress s Role Detainee Treatment Act of 05 Military Commissions Act of 06 **Closing**

the Guantanamo Detention Center Michael John Garcia, 2009 On Jan 22 2009 Pres Barack Obama issued an Executive Order requiring the Guantanamo detention facility to be closed as soon as practicable This report provides an overview of major legal issues likely to arise as a result of actions to close the Guantanamo detention facility It discusses legal issues related to the transfer or release of Guantanamo detainees the continued detention of such persons in the U S and the possible removal of persons brought to the U S Discusses constitutional issues that may arise in the criminal prosecution of detainees Also discusses detainees right to a speedy trial the prohibition against prosecution under ex post facto laws and limitations upon the admissibility of hearsay and secret evidence *Naval Law Review* ,2010

The Intersection of Law and War Kristen Boon, Douglas Lovelace, 2012 Terrorism Commentary on Security Documents is a series that provides primary source documents and expert commentary on various topics in the worldwide effort to combat terrorism Among the documents collected are transcripts of Congressional testimony reports by such federal government bodies as the Congressional Research Service CRS and the Government Accountability Office GAO United Nations Security Council resolutions reports and investigations by the United Nations Secretary General and other dedicated UN bodies and case law from the U S and around the globe covering issues related to terrorism Most volumes carry a single theme and inside each volume the documents appear within topic based categories The series also includes a subject index and other indices that guide the user through this complex area of the law Volume 126 **The Intersection of Law and War** takes a fresh look at the ways in which law and war intersect in this modern age of multifaceted and multidimensional warfare Professor Douglas Lovelace Jr has organized Congressional Research Service reports and United Nations studies to discuss how U S law and international law bear on contemporary national security issues such as terrorism in the context of the war powers debate the use of drones for targeted killings maintaining and closing the U S detention facility at Guantanamo Bay and illegal border crossing into the United States

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

The Offences Against the State Act 1939 at 80 Mark Coen, 2021-03-11 This timely edited collection brings together experts in the fields of legal history criminal justice human rights and counter terrorism law to appraise Ireland s Offences Against the State Act on the eightieth anniversary of its enactment The origins development invocation and extension of the powers contained in the legislation are analysed and critiqued using a broad range of methodologies The book engages fully with the 1939 Act s scope and complexity including consideration of the impact of the Act on issues as diverse as trial by jury paramilitary organisations organised crime disclosure the rules of evidence freedom of expression and association parliamentary oversight of legislation and adherence to international human rights norms In addition the interplay of the Act with the universal themes of normalcy exceptionalism contagion and due process are explored throughout This book will appeal to an audience beyond those with a particular interest in the Act itself It combines historical and contemporary insights with theoretical and practical perspectives that will enrich the reader s understanding of emergency law wherever it arises

Foundations of Homeland Security Martin J. Alperen, 2011-03-08 This book is the complete guide to understanding the structure of homeland security its underlying law and policy Created from a broad and in depth yet edited collection of statutes policy papers presidential directives and other documents it cultivates a detailed understanding of the foundations of homeland security It is arranged in a topic by topic format structured to include only the documents and statues that affect a particular subject making for much easier understanding Thus the chapter on FEMA contains only the portions of the statutes and other documents that relate to FEMA There are twenty five topic areas It contains hundreds of end notes references and suggestions for further study This book offers important legal guidance that students law enforcement officers lawyers and other homeland security professionals need to accurately interpret understand and apply homeland security policy The Introduction provides an in depth overview of the subject of homeland security and includes a discussion of what is homeland security definitions of homeland security and terrorism what is homeland security law its development and what is a homeland security curriculum There are

contributing chapters about homeland security in Europe and homeland security in China and Japan

Legal Issues

Regarding Military Commissions and the Trial of Detainees for Violations of the Law of War United States. Congress. Senate. Committee on Armed Services,2009

The Air Force Law Review ,2013 Guantanamo Detention Center Anna C. Henning,2010 The detention of alleged enemy combatants at the U S Naval Station in Guantanamo Bay Cuba has been the focus of significant legislative activity during the 111th Congress The Supplemental Appropriations Act 2009 enacted in June 2009 contains several provisions relevant to Guantanamo detainees Section 319 of the act includes an ongoing reporting requirement Section 14103 restricts the use of funds for the transfer and release of the detainees in specified circumstances This report analyzes the relevant provisions of the Supplemental Appropriations Act 2009 and selected legislative proposals that have been introduced in the 111th Congress

US Counterterrorism and the Human Rights of Foreigners Abroad Monika Heupel,Caiden Heaphy,Janina Heaphy,2022-02-22 This book examines why the United States has introduced safeguards that are designed to prevent their counterterrorism policies from causing harm to non US citizens beyond US territory It investigates what made US policymakers take steps to put the gloves back on through five case studies on the emergence of such safeguards related to the right not to be tortured the right not to be arbitrarily detained the right to life in connection with targeted killing operations the right to seek asylum in connection with refugee resettlement and the right to privacy in connection with foreign mass surveillance The book exposes two mechanisms coercion and strategic learning which explain why the United States has introduced what the authors refer to as extraterritorial human rights safeguards thus demonstrating that the emerging norm that states have human rights obligations towards foreigners beyond their borders constrains policy choices This book will be of key interest to scholars and students of human rights counterterrorism US foreign policy human rights law and more broadly to political science and international relations The Open Access version of this book available at <http://www.taylorfrancis.com> has been made available under a Creative Commons Attribution Non Commercial No Derivatives 4.0 license

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 United States. Congress,1979 The Congressional Record is the official record of the proceedings and debates of the United States Congress It is published daily when Congress is in session The Congressional Record began publication in 1873 Debates for sessions prior to 1873 are recorded in *The Debates and Proceedings in the Congress of the United States 1789-1824* the Register of Debates in Congress 1824-1837 and the Congressional Globe 1833-1873

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