

UNCLASSIFIED

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L Press Guidance
November 15, 2001

Prosecution of Terrorists in Military Commissions

Q: Do you have any response to criticism that prosecution of civilians by military tribunals contradicts past State Department objections?

A. -- **THE MILITARY COMMISSIONS CONTEMPLATED BY THE PRESIDENT'S ORDER ARE DESIGNED TO PROVIDE FAIR TRIALS. THEY FOLLOW A LONG TRADITION OF THE USE BY THE UNITED STATES OF MILITARY TRIBUNALS. THEY ARE PERMITTED BY EXISTING STATUTES AND CONSISTENT WITH INTERNATIONAL LAW.**

-- **WE HAVE FULL CONFIDENCE THAT ANY U.S. MILITARY COMMISSIONS WILL PROTECT THE RIGHTS OF ANY DEFENDANTS WHO MAY BE DESIGNATED BY THE PRESIDENT FOR TRIAL BEFORE THEM.**

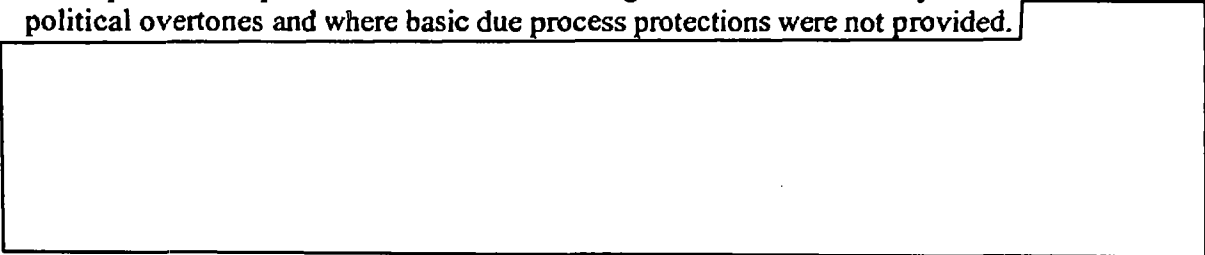
-- **THE PRESIDENTIAL ORDER REQUIRES THAT THERE BE A "FULL AND FAIR TRIAL."**

-- **MEMBERS OF AL QAIDA ARE "UNLAWFUL COMBATANTS" UNDER THE LAW OF ARMED CONFLICT, AND MAY BE TRIED FOR THEIR TERRORIST ACTS IN MILITARY COMMISSIONS.**

Background:

The President's order of November 13, 2001 authorizes the Secretary of Defense to establish military commissions to prosecute persons determined by the President (1) to be members of al Qaida, (2) to have engaged in or aided acts of international terrorism that have caused or threatened injury to the United States, or (3) to have knowingly harbored such persons. The President must also determine in each case that it is in the interest of the United States that the individual be subject to the order.

In the past, the Department has criticized other governments for military trials with political overtones and where basic due process protections were not provided.



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