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APPR: PRP ...
DRAFT: RWM ...
CLR 1: RCR ...
CLR 2: DBO ...
CLR 3: EDA ...
CLR 4: JDO ...
CLR 5: DPI ...
CLR 6: BBP ...
CLR 7: SMO ...
CLR 8: JMC ...
CLR 9: LVO ...

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S/WCI:RMILLER
10/09/04 (202)647-5093
S/WCI:PPROSPER

K 70B

DOD/SOLIC:MVACCARO DOD/OGC:EDAVIDSON L/PM:JDOLAN D:DPITTMAN
P:BBRINK S/CT:SMOLNAR DOJ:JMCATAMNEY CIA/CTC:LVOGT

S/WCI, L, P, S/CT

IMMEDIATE ALGIERS, MANAMA IMMEDIATE,
CAIRO IMMEDIATE, KUWAIT IMMEDIATE, RABAT IMMEDIATE+

IMMEDIATE JOINT STAFF, RUMIAAA/USSOUTHCOM MIAMI FL IMMEDIATE,
RUCAACC/USCENTCOM MACDILL AFB FL IMMEDIATE+

SENSITIVE

E.O. 12958: NA

TAGS: PTER, KAWC, PINR, PREL

SUBJECT: PRESS GUIDANCE FOR DOD RELEASE OF DRAFT MILITARY
COMMISSION INSTRUCTION

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2. (SBU) Text of News Release from DoD:

The General Counsel of the Department of Defense (DoD) today
released a draft military commission instruction entitled "Crimes

UNITED STATES DEPARTMENT OF STATE
REVIEW AUTHORITY: THEODORE SELLIN
DATE/CASE ID: 16 DEC 2004 200303827

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and Elements for Trials by Military Commission:
<http://www.defenselink.mil/news/Feb2003/d20030228dmci.pdf>."
This instruction lists and defines certain violations of the laws of war and other offenses triable by military commission.

DoD will be prepared to conduct full and fair legal proceedings should a military commission be convened. Although no charges have been referred against any individual potentially subject to the jurisdiction of a military commission, this instruction will help to ensure that DoD will be ready to fulfill its responsibilities if called upon.

The international law of armed conflict, from which the Crimes and Elements instruction is derived, is a broad and complex area of the law. There is no single legal document that comprehensively codifies this body of law. Rather, definitions of crimes are dispersed throughout dozens of sources including treaties and conventions, domestic and international statutes, judicial decisions, and the body of custom and practice recognized by the international community.

"Over the past few months, DoD and other government lawyers have analyzed these sources of law and consolidated in a single resource a list of certain crimes that potentially may be charged and tried before a military commission as well as the definitions of those crimes," said DoD Deputy General Counsel Whit Cobb. "In the event that a military commission is warranted, this instruction will assist all participants - including prosecutors, defense counsel, and military commission members - to understand what constitutes an offense that is triable under the law of armed conflict."

The draft Crimes and Elements Instruction is available at <http://www.defenselink.mil/news/Feb2003/d20030228dmci.pdf>. Those wishing to submit comments regarding the draft Crimes and Elements Instructions should fax comments to the Office of the General Counsel of the Department of Defense at 703-614-4432.

The General Counsel of the Department of Defense intends to finalize and publish the final instruction early in March.

End of Text.

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