



DEPARTMENT OF DEFENSE
 OFFICE OF GENERAL COUNSEL
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OFFICE OF THE SECRETARY OF DEFENSE
 2002 MAY 13 AM 9:53

May 11, 2002; 11:00 A.M.

FOR: SECRETARY OF DEFENSE

FROM: Daniel J. Dell'Orto, Principal Deputy General Counsel *Daniel J. Dell'Orto*
5/11/02

SUBJECT: Establishment of Military Commissions

The following is a summary of our current status in standing up military commissions:

- Criminal Investigations. Ongoing.
- Reason to Believe Determinations. Task Force 170 is working on initial drafts. As appropriate, we will seek your approval to forward to the President.
- Substantive Law. An intradepartmental task force, chaired by this office, is refining a draft instruction regarding definitions and elements of crimes triable by military commission. We have briefed State and Justice Department lawyers and received informal input from them. Target completion: June 3.
- Commission-related Offices. We are coordinating a draft action memo to the Deputy Secretary for funding and personnel. Coordination due: May 15.
 - Office of the Chief Prosecutor. We have completed screening interviews of potential Chief Prosecutors. Target completion for final interviews by General Counsel and selected sages: May 24.
 - Office of the Chief Defense Counsel. Target completion for screening interviews of potential Chief Defense Counsel: May 17. Target completion for final interviews: May 31.
 - Legal Advisor for the Appointing Authority. We have completed screening interviews of potential Legal Advisors for the Appointing Authority. Target completion for final interviews: May 24.
- Appointing Authority. We have developed criteria and are collecting potential names for your decision. Target completion: May 31.
- Courtroom. If Guantanamo Bay is chosen for the venue, we will need to construct courtroom facilities. The Office of the Deputy Under Secretary of Defense (Installations & Environment) has begun developing cost estimates.

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- Commission members. We have developed criteria. Defining the pool and mechanism for selection should occur after selection of Appointing Authority and venue.
- Review Panel. We have developed criteria and are collecting potential names for your decision. Target completion: To be determined based on case status.
- Supplementary Instructions. We are refining draft instructions regarding reporting relationships, rights advisements, and substantive crimes. Will publish as necessary.

COORDINATION: NONE

