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MILITARY COMMISSIONS - AUGUST 6, 2003

CURRENT NEWS

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An August 4, article in the London Sunday Telegraph says that Britain doesn't want any British detainees at Guantanamo returned to Britain for trial. The concern, according to the article, is that Britain can't begin to put the individuals on trial and failing to do that would have significant repercussions for the Blair administration.

Messages

On the Military Commissions Process:

- Military Commissions have historically been used to try violations of the law of war. They take into account the unique battlefield associated with the global war on terrorism that is different from peacetime criminal law enforcement processes in the United States.
- Many of the same principles seen in civilian criminal courts everyday are also part of military commissions. For example, military commissions include the following protections among others: the presumption of innocence, proof of guilt beyond a reasonable doubt, an attorney to represent an accused, nothing said by an accused to his attorney may be used against him, and no adverse inference for choosing to remain silent.
- Commission Panel Members will have as their primary duty ensuring a full and fair trial, and we have every confidence this will happen.
- All accused tried before a military commission will be represented by a military defense counsel free of charge. Military commissions provide an additional option for accused enemy combatants to obtain civilian defense counsel at no expense to the government. This is no different than at Courts-Martial or other civilian criminal proceeding.
- Military commissions will be open to the maximum extent practicable, consistent with protecting national security information.

Reasons for holding detainees

- Detainees at Guantanamo pose a threat to U.S. security. They have demonstrated their will to cause harm to the U.S., its allies, and its interests by participating and supporting terrorism. The detainees will remain under control as long as necessary.
- We are constantly reviewing the detention of each detainee based on various factors, including law enforcement and intelligence, as well as whether the individual would pose a threat to the United States. Each factor needs to be carefully considered before a release may occur.

Humane treatment

- Those detained in Guantanamo Bay are "enemy combatants" and are being held in association with the war on terrorism.
- Detainees at Guantanamo are enemy combatants and do not meet the specific requirements of the Geneva Conventions to be considered prisoners of war.
- Consistent with U.S. policy, all detained enemy combatants are treated humanely and, to the extent appropriate and consistent with military necessity, in a manner consistent with the principles of the Third Geneva Convention of 1949. Among other things, detainees are given: adequate food, water, shelter, clothing, medical treatment, and the freedom to practice their religion.
- The Secretary of Defense has emphatically stated that the Department of Defense has no interest in detaining enemy combatants longer than necessary.
- Before we can release any detainee, we must first ensure that they are no longer a threat to the U.S. or its allies; that we have gleaned all information or intelligence that could be used to prevent further terrorist attacks; and that the individual is not somebody who should face prosecution for criminal activity. This is a slow methodical process that we are actively working.

Source: OGC

A/O: [REDACTED]

Coord: OGC, [REDACTED] SO/LIC, [REDACTED]