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**Detention at Guantanamo Bay
RELEASED IN FULL**

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Points to Make:

- The President has reaffirmed the United States' commitment to the Geneva Conventions.
- The United States is treating and will continue to treat all of the detainees humanely, and consistent with military necessity, in accordance with the principles of the Geneva Convention on prisoners of war. The ICRC has a presence at GTMO to monitor United States treatment of the detainees, and is being allowed to meet privately with them.
- Al Qaeda is a foreign terrorist group and cannot be considered a state party to the Geneva Conventions. Its members therefore are not covered by the provisions of the Conventions and are not entitled to POW status.
- Although Afghanistan is a party to the Geneva Conventions, and the Taliban are covered by the treaty, Taliban detainees are not entitled to POW status because they do not fit the legal criteria under Article 4.
- In addition to the ICRC access, we have granted and continue to consider requests for government access to their citizens at GTMO for law enforcement and intelligence purposes.
- The United States has made no decisions on the proper criminal charges or forum for prosecuting GTMO detainees.
- The Geneva Convention requires that a tribunal make a determination as to whether a person qualifies as a POW only if there is "any doubt". The Convention does not require review by a tribunal in every circumstance. There is no doubt that the al Qaida and Taliban detainees in question are not POWs.
- That said, we do have a careful process in place to screen the people taken to Guantanamo. They were screened at least twice before they were transferred. They were screened by U.S. armed forces before they were taken to Qandahar, and they were interviewed a second time in Qandahar. Although we believe that each detainee is an appropriate candidate for detention,

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we are prepared to review individual cases should any doubt arise.

- We are pleased that the European Parliament has acknowledged that the detainees currently held in Guantanamo do not fall within the definition of prisoners of war under the Geneva Convention.
- The U.S. remains committed to the Geneva Conventions and proud of its 50 years of compliance.
- (IF RAISED) Under the ICC primary responsibility for prosecution of crimes rests with national judicial systems. Even if the treaty were in force and covered crimes committed by the detainees, it would not obviate the need for their detention.

Background:

Many detainees at Guantanamo pose a severe security risk to those responsible for guarding them. The United States can lawfully consider the threat that these individuals pose to each other and to U.S. forces in tailoring the conditions of detention. The detainees are receiving humane treatment and more permanent facilities are being constructed.

The Geneva Convention Relative to the Treatment of Prisoners of War of 1949 is an international treaty designed to protect prisoners of war from inhumane treatment at the hands of their captors in conflicts covered by the Convention. It is the third of four major treaties negotiated in the aftermath of World War II to reduce the human suffering caused by conflicts.

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U:\HoytD\Grossman Points on GTMO

CLEARER: DRL/MLA:TCGfoeller ok
L/PM:DBowker ok
L/UNP:Mmalin ok
IO/SHA:Hperlow ok
EUR/ERA:DHoyt ok
EUR/ERA: Jspilsbury info
EUR/WE: Jcefkin ok
EUR/UBI: Phernandez ok
G:NBibbins ok
P:Sbryant ok
D:Kbue ok
WHA/CCA:Jcarragher ok
S/CT: Tmaertens info
S/P: Dvanclave ok
S/WCI: Mnewton ok