

Issue: Status of Detainees at Guantanamo

The United States is currently approximately 650 individuals who were captured during combat operations in Operation Enduring Freedom in a secure detention facility at its naval base in Guantanamo Bay, Cuba. We are investigating and reviewing all cases in order to reach a final determination on the status of all detainees as soon as possible. Each detainee will be detained and/or prosecuted by the United States Government, will be transferred back to his home country for detention, investigation, and/or prosecution, or will be released if he no longer poses a threat to the United States or our allies. To date almost 70 detainees have been released or transferred.

- The United States is treating and will continue to treat all of the individuals detained at Guantanamo 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.
- The President has determined that the Geneva Convention applies to the Taliban detainees, but not to the al-Qaida detainees. Al-Qaida is not a state party to the Geneva Convention; it is a foreign terrorist group. As such, its members are not entitled to POW status.
- Although we never recognized the Taliban as the legitimate Afghan government, Afghanistan is a party to the Convention, and the President has determined that the Taliban are covered by the Convention. Under the terms of the Geneva Convention, however, the Taliban detainees do not qualify as POWs.
- Therefore, neither the Taliban nor al-Qaida detainees are entitled to POW status.
- Even though the detainees are not entitled to POW privileges, they will be provided many POW privileges as a matter of policy.

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All detainees at Guantanamo are being provided:

- water and three meals a day that meet Muslim dietary laws
- medical care
- clothing and shoes
- shelter, showers, towels and washcloths, soap and toilet articles
- foam sleeping pads and blankets
- the opportunity to worship
- correspondence materials, and the means to send mail
- the ability to receive packages of food and clothing, subject to security screening

The detainees are not be subjected to physical or mental abuse or cruel treatment. The International Committee of the Red Cross has visited and will continue to be able to visit the detainees privately. The detainees are permitted to raise concerns about their conditions and we address those concerns consistent with security.

The detainees receive much of the treatment normally afforded to POWs by the Third Geneva Convention. However, the detainees do not receive some of the specific privileges afforded to POWs, including: access to a canteen to purchase food, soap, and tobacco; a monthly advance of pay; the ability to have and consult personal financial accounts; and the ability to receive scientific equipment, musical instruments, or sports outfits

Many detainees at Guantanamo pose a severe security risk to those responsible for guarding them and to each other. Some of these individuals demonstrated how dangerous they are in uprisings at Mazar-e-Sharif and in Pakistan. The United States must take into account the need for security in establishing the conditions for detention at Guantanamo.

Background on Geneva Conventions. The Third Geneva Convention 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 among four treaties concluded in the wake of WWII to reduce the human suffering caused by war. These four treaties provide protections for four different classes of people: the military wounded and sick in land conflicts; the military wounded, sick and shipwrecked in conflicts at sea; military persons and civilians accompanying the armed forces in the field who are captured and qualify as prisoners of war; and civilian non-combatants who are interned or otherwise found in the hands of a party (e.g. in a military occupation) during an armed conflict.