

## **BACKGROUND: President Obama signs Executive Orders on Detention and Interrogation Policy**

Today, January 22, the President met with the following retired general officers.

GENERAL PAUL J. KERN, USA (RET.)  
GENERAL DAVID M. MADDOX, USA (RET.)  
LIEUTENANT GENERAL ROBERT G. GARD JR., USA (RET.)  
VICE ADMIRAL LEE F. GUNN, USN (RET.)  
LIEUTENANT GENERAL CLAUDIA J. KENNEDY, USA (RET.)  
VICE ADMIRAL ALBERT H. KONETZNI JR., USN (RET.)  
LIEUTENANT GENERAL CHARLES OTSTOTT, USA (RET.)  
MAJOR GENERAL PAUL EATON, USA (RET.)  
REAR ADMIRAL DON GUTER, USN (RET.)  
REAR ADMIRAL JOHN D. HUTSON, USN (RET.)  
MAJOR GENERAL WILLIAM L. NASH, USA (Ret.)  
BRIGADIER GENERAL DAVID M. BRAHMS, USMC (RET.)  
BRIGADIER GENERAL JAMES P. CULLEN, USA (RET.)  
BRIGADIER GENERAL JOHN H. JOHNS, USA (RET.)  
BRIGADIER GENERAL RICHARD O'MEARA, USA (RET.)  
BRIGADIER GENERAL MURRAY G. SAGSVEEN, USA (RET.)

At the close of the meeting, he signed the following documents:

### **Executive Order regarding Guantanamo Bay detainees**

Executive Order requires closure of the Guantanamo detention center no later than one year from the date of the Order. Closure of the facility is the ultimate goal but not the first step. The Order establishes a review process with the goal of disposing of the detainees before closing the facility.

The Order sets up an immediate review to determine whether it is possible to transfer detainees to third countries, consistent with national security. If transfer is not approved, a second review will determine whether prosecution is possible and in what forum. The preference is for prosecution in Article III courts or under the Uniform Code of Military Justice (UCMJ), but military commissions, perhaps with revised authorities, would remain an option. If there are detainees who cannot be transferred or prosecuted, the review will examine the lawful options for dealing with them. The Attorney General will coordinate the review and the Secretaries of Defense, State, and Homeland Security as well as the DNI and the Chairman of the Joint Chiefs of Staff will participate.

The Executive Order directs the Secretary of State to seek international cooperation aimed at achieving the transfers of detainees.

The Order directs the Secretary of Defense to halt military commission proceedings pending the results of the review.

Finally, the Executive Order requires that conditions of confinement at Guantanamo, until its closure, comply with Common Article 3 of the Geneva Conventions and all other applicable laws.

### **Executive Order regarding Detainee Policy**

Executive Order creates a Special Task Force, co-chaired by the Attorney General and the Secretary of Defense, to conduct a review of detainee policy going forward. The group will consider policy options for apprehension, detention, trial, transfer, or release of detainees. Other Task Force participants include the Secretary of State, the Secretary of Homeland Security, the Director of National Intelligence, the Director of the Central Intelligence Agency, and the Chairman of the Joint Chiefs of Staff. The Special Task Force must submit its report to the President within 180 days.

### **Executive Order regarding Interrogation**

Executive Order revokes Executive Order 13440 that interpreted Common Article 3 of the Geneva Conventions. It requires that all interrogations of detainees in armed conflict, by any government agency, follow the Army Field Manual interrogation guidelines. The Order also prohibits reliance on any Department of Justice or other legal advice concerning interrogation that was issued between September 11, 2001 and January 20, 2009.

The Order requires all departments and agencies to provide the ICRC access to detainees in a manner consistent with Department of Defense regulations and practice. It also orders the CIA to close all existing detention facilities and prohibits it from operating detention facilities in the future.

Finally, the Order creates a Special Task Force with two missions. The Task Force will conduct a review of the Army Field Manual interrogation guidelines to determine whether different or additional guidance is necessary for the CIA. It will also look at rendition and other policies for transferring individuals to third countries to be sure that our policies and practices comply with all obligations and are sufficient to ensure that individuals do not face torture and cruel treatment if transferred. This Task Force will be led by the Attorney General with the Secretary of Defense and the Director of National Intelligence as co-Vice Chairs.

### **Presidential Memorandum on Review of the Detention of al-Marri**

The President instructed the Attorney General, the Secretaries of Defense, State, and Homeland Security, and the Director of National Intelligence to conduct a review of the status of the detainee Ali Saleh Kahlah al-Marri who is currently held at the Naval Brig in Charleston, South Carolina. This will ensure the same kind of legal and factual review is undertaken of the al-Marri case that is being undertaken of the Guantanamo cases