

8. Annexes

Annexe 1: Discours complet du Président Bush devant le Congrès le 20 septembre 2001

UNITED STATES CAPITOL
WASHINGTON, D.C.
SEPTEMBER 20, 2001

Mr. Speaker, Mr. President Pro Tempore, members of Congress,
and fellow Americans:

In the normal course of events, Presidents come to this chamber to report on the state of the Union. Tonight, no such report is needed. It has already been delivered by the American people.

We have seen it in the courage of passengers, who rushed terrorists to save others on the ground — passengers like an exceptional man named Todd Beamer. And would you please help me to welcome his wife, Lisa Beamer, here tonight.

We have seen the state of our Union in the endurance of rescuers, working past exhaustion. We have seen the unfurling of flags, the lighting of candles, the giving of blood, the saying of prayers — in English, Hebrew, and Arabic. We have seen the decency of a loving and giving people who have made the grief of strangers their own.

My fellow citizens, for the last nine days, the entire world has seen for itself the state of our Union — and it is strong.

Tonight we are a country awakened to danger and called to defend freedom. Our grief has turned to anger, and anger to resolution. Whether we bring our enemies to justice, or bring justice to our enemies, justice will be done.

I thank the Congress for its leadership at such an important time. All of America was touched on the evening of the tragedy to see Republicans and Democrats joined together on the steps of this Capitol, singing “God Bless America.” And you did more than sing; you acted, by delivering \$40 billion to rebuild our communities and meet the needs of our military.

Speaker Hastert, Minority Leader Gephardt, Majority Leader Daschle and Senator Lott, I thank you for your friendship, for your leadership and for your service to our country.

And on behalf of the American people, I thank the world for its outpouring of support. America will never forget the sounds of our National Anthem playing at Buckingham Palace, on the streets of Paris, and at Berlin’s Brandenburg Gate.

We will not forget South Korean children gathering to pray outside our embassy in Seoul, or the prayers of sympathy offered at a mosque in Cairo. We will not forget moments of silence and days of mourning in Australia and Africa and Latin America.

Nor will we forget the citizens of 80 other nations who died with our own: dozens of Pakistanis; more than 130 Israelis; more than 250 citizens of India; men and women from El Salvador, Iran, Mexico and Japan; and hundreds of British citizens. America has no truer friend than Great Britain. Once again, we are joined together in a great cause — so honored the British Prime Minister has crossed an ocean to show his unity of purpose with America.

Thank you for coming, friend.

On September the 11th, enemies of freedom committed an act of war against our country. Americans have known wars — but for the past 136 years, they have been wars on foreign soil, except for one Sunday in 1941. Americans have known the casualties of war — but not at the center of a great city on a peaceful morning. Americans have known surprise attacks — but never before on thousands of civilians. All of this was brought upon us in a single day — and night fell on a different world, a world where freedom itself is under attack.

Americans have many questions tonight. Americans are asking: Who attacked our country? The evidence we have gathered all points to a collection of loosely affiliated terrorist organizations known as al Qaeda. They are the same murderers indicted for bombing American embassies in Tanzania and Kenya, and responsible for bombing the USS Cole.

Al Qaeda is to terror what the mafia is to crime. But its goal is not making money; its goal is remaking the world — and imposing its radical beliefs on people everywhere.

The terrorists practice a fringe form of Islamic extremism that has been rejected by Muslim scholars and the vast majority of Muslim clerics — a fringe movement that perverts the peaceful teachings of Islam. The terrorists' directive commands them to kill Christians and Jews, to kill all Americans, and make no distinction among military and civilians, including women and children.

This group and its leader — a person named Osama bin Laden — are linked to many other organizations in different countries, including the Egyptian Islamic Jihad and the Islamic Movement of Uzbekistan. There are thousands of these terrorists in more than 60 countries. They are recruited from their own nations and neighborhoods and brought to camps in places like Afghanistan, where they are trained in the tactics of terror. They are sent back to their homes or sent to hide in countries around the world to plot evil and destruction.

The leadership of al Qaeda has great influence in Afghanistan and supports the Taliban regime in controlling most of that country. In Afghanistan, we see al Qaeda's vision for the world.

Afghanistan's people have been brutalized — many are starving and many have fled. Women are not allowed to attend school. You can be jailed for owning a television. Religion can be practiced only as their leaders dictate. A man can be jailed in Afghanistan if his beard is not long enough.

The United States respects the people of Afghanistan — after all, we are currently its largest source of humanitarian aid — but we condemn the Taliban regime. It is not only repressing its own people, it is threatening people everywhere by sponsoring and sheltering and supplying terrorists. By aiding and abetting murder, the Taliban regime is committing murder.

And tonight, the United States of America makes the following demands on the Taliban: Deliver to United States authorities all the leaders of al Qaeda who hide in your land. Release all foreign nationals, including American citizens, you have unjustly

imprisoned. Protect foreign journalists, diplomats and aid workers in your country. Close immediately and permanently every terrorist training camp in Afghanistan, and hand over every terrorist, and every person in their support structure, to appropriate authorities. Give the United States full access to terrorist training camps, so we can make sure they are no longer operating.

These demands are not open to negotiation or discussion. The Taliban must act, and act immediately. They will hand over the terrorists, or they will share in their fate.

I also want to speak tonight directly to Muslims throughout the world. We respect your faith. It's practiced freely by many millions of Americans, and by millions more in countries that America counts as friends. Its teachings are good and peaceful, and those who commit evil in the name of Allah blaspheme the name of Allah. The terrorists are traitors to their own faith, trying, in effect, to hijack Islam itself. The enemy of America is not our many Muslim friends; it is not our many Arab friends. Our enemy is a radical network of terrorists, and every government that supports them.

Our war on terror begins with al Qaeda, but it does not end there. It will not end until every terrorist group of global reach has been found, stopped and defeated.

Americans are asking, why do they hate us? They hate what we see right here in this chamber — a democratically elected government. Their leaders are self-appointed. They hate our freedoms — our freedom of religion, our freedom of speech, our freedom to vote and assemble and disagree with each other.

They want to overthrow existing governments in many Muslim countries, such as Egypt, Saudi Arabia, and Jordan. They want to drive Israel out of the Middle East. They want to drive Christians and Jews out of vast regions of Asia and Africa.

These terrorists kill not merely to end lives, but to disrupt and end a way of life. With every atrocity, they hope that America grows fearful, retreating from the world and forsaking our friends. They stand against us, because we stand in their way.

We are not deceived by their pretenses to piety. We have seen their kind before. They are the heirs of all the murderous ideologies of the 20th century. By sacrificing human life to serve their radical visions — by abandoning every value except the will to power — they follow in the path of fascism, and Nazism, and totalitarianism. And they will follow that path all the way, to where it ends: in history's unmarked grave of discarded lies.

Americans are asking: How will we fight and win this war? We will direct every resource at our command — every means of diplomacy, every tool of intelligence, every instrument of law enforcement, every financial influence, and every necessary weapon of war — to the disruption and to the defeat of the global terror network.

This war will not be like the war against Iraq a decade ago, with a decisive liberation of territory and a swift conclusion. It will not look like the air war above Kosovo two years ago, where no ground troops were used and not a single American was lost in combat.

Our response involves far more than instant retaliation and

isolated strikes. Americans should not expect one battle, but a lengthy campaign, unlike any other we have ever seen. It may include dramatic strikes, visible on TV, and covert operations, secret even in success. We will starve terrorists of funding, turn them one against another, drive them from place to place, until there is no refuge or no rest. And we will pursue nations that provide aid or safe haven to terrorism. Every nation, in every region, now has a decision to make. Either you are with us, or you are with the terrorists. From this day forward, any nation that continues to harbor or support terrorism will be regarded by the United States as a hostile regime.

Our nation has been put on notice: We are not immune from attack. We will take defensive measures against terrorism to protect Americans. Today, dozens of federal departments and agencies, as well as state and local governments, have responsibilities affecting homeland security. These efforts must be coordinated at the highest level. So tonight I announce the creation of a Cabinet-level position reporting directly to me — the Office of Homeland Security.

And tonight I also announce a distinguished American to lead this effort, to strengthen American security: a military veteran, an effective governor, a true patriot, a trusted friend — Pennsylvania's Tom Ridge. He will lead, oversee and coordinate a comprehensive national strategy to safeguard our country against terrorism, and respond to any attacks that may come.

These measures are essential. But the only way to defeat terrorism as a threat to our way of life is to stop it, eliminate it, and destroy it where it grows.

Many will be involved in this effort, from FBI agents to intelligence operatives to the reservists we have called to active duty. All deserve our thanks, and all have our prayers. And tonight, a few miles from the damaged Pentagon, I have a message for our military: Be ready. I've called the Armed Forces to alert, and there is a reason. The hour is coming when America will act, and you will make us proud.

This is not, however, just America's fight. And what is at stake is not just America's freedom. This is the world's fight. This is civilization's fight. This is the fight of all who believe in progress and pluralism, tolerance and freedom.

We ask every nation to join us. We will ask, and we will need, the help of police forces, intelligence services, and banking systems around the world. The United States is grateful that many nations and many international organizations have already responded — with sympathy and with support. Nations from Latin America, to Asia, to Africa, to Europe, to the Islamic world. Perhaps the NATO Charter reflects best the attitude of the world: An attack on one is an attack on all.

The civilized world is rallying to America's side. They understand that if this terror goes unpunished, their own cities, their own citizens may be next. Terror, unanswered, can not only bring down buildings, it can threaten the stability of legitimate governments. And you know what — we're not going to allow it.

Americans are asking: What is expected of us? I ask you to live

your lives, and hug your children. I know many citizens have fears tonight, and I ask you to be calm and resolute, even in the face of a continuing threat.

I ask you to uphold the values of America, and remember why so many have come here. We are in a fight for our principles, and our first responsibility is to live by them. No one should be singled out for unfair treatment or unkind words because of their ethnic background or religious faith.

I ask you to continue to support the victims of this tragedy with your contributions. Those who want to give can go to a central source of information, libertyunites.org, to find the names of groups providing direct help in New York, Pennsylvania, and Virginia.

The thousands of FBI agents who are now at work in this investigation may need your cooperation, and I ask you to give it.

I ask for your patience, with the delays and inconveniences that may accompany tighter security; and for your patience in what will be a long struggle.

I ask your continued participation and confidence in the American economy. Terrorists attacked a symbol of American prosperity. They did not touch its source. America is successful because of the hard work, and creativity, and enterprise of our people. These were the true strengths of our economy before September 11th, and they are our strengths today.

And, finally, please continue praying for the victims of terror and their families, for those in uniform, and for our great country. Prayer has comforted us in sorrow, and will help strengthen us for the journey ahead.

Tonight I thank my fellow Americans for what you have already done and for what you will do. And ladies and gentlemen of the Congress, I thank you, their representatives, for what you have already done and for what we will do together. Tonight, we face new and sudden national challenges. We will come together to improve air safety, to dramatically expand the number of air marshals on domestic flights, and take new measures to prevent hijacking. We will come together to promote stability and keep our airlines flying, with direct assistance during this emergency.

We will come together to give law enforcement the additional tools it needs to track down terror here at home. We will come together to strengthen our intelligence capabilities to know the plans of terrorists before they act, and find them before they strike.

We will come together to take active steps that strengthen America's economy, and put our people back to work. Tonight we welcome two leaders who embody the extraordinary spirit of all New Yorkers: Governor George Pataki, and Mayor Rudolph Giuliani. As a symbol of America's resolve, my administration will work with Congress, and these two leaders, to show the world that we will rebuild New York City.

After all that has just passed — all the lives taken, and all the possibilities and hopes that died with them — it is natural to wonder if America's future is one of fear. Some speak of an age of terror. I know there are struggles ahead, and dangers to face. But this country will define our times, not be defined by them. As long as

the United States of America is determined and strong, this will not be an age of terror; this will be an age of liberty, here and across the world.

Great harm has been done to us. We have suffered great loss. And in our grief and anger we have found our mission and our moment. Freedom and fear are at war. The advance of human freedom — the great achievement of our time, and the great hope of every time — now depends on us. Our nation — this generation — will lift a dark threat of violence from our people and our future. We will rally the world to this cause by our efforts, by our courage. We will not tire, we will not falter, and we will not fail. It is my hope that in the months and years ahead, life will return almost to normal. We'll go back to our lives and routines, and that is good. Even grief recedes with time and grace. But our resolve must not pass. Each of us will remember what happened that day, and to whom it happened. We'll remember the moment the news came — where we were and what we were doing. Some will remember an image of a fire, or a story of rescue. Some will carry memories of a face and a voice gone forever.

And I will carry this: It is the police shield of a man named George Howard, who died at the World Trade Center trying to save others. It was given to me by his mom, Arlene, as a proud memorial to her son. This is my reminder of lives that ended, and a task that does not end.

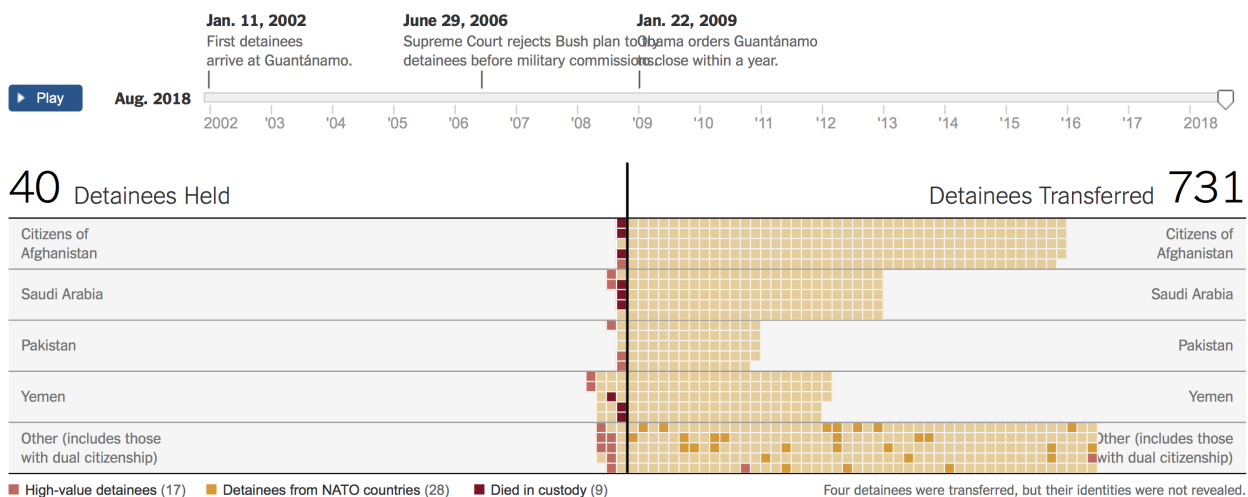
I will not forget this wound to our country or those who inflicted it. I will not yield; I will not rest; I will not relent in waging this struggle for freedom and security for the American people.

The course of this conflict is not known, yet its outcome is certain. Freedom and fear, justice and cruelty, have always been at war, and we know that God is not neutral between them.

Fellow citizens, we'll meet violence with patient justice — assured of the rightness of our cause, and confident of the victories to come. In all that lies before us, may God grant us wisdom, and may He watch over the United States of America.

Source : « Address to the Joint Session on the 107th Congress – September 20, 2001 », *Selected Speeches of President Georges W. Bush*, pp.65-73 [en ligne], https://georgewbushwhitehouse.archives.gov/infocus/bushrecord/documents/Selected_Speeches_George_W_Bush.pdf (Consulté en mai 2018)

Annexe 2: Schéma chronologie représentant les transferts des détenus de Guantanamo



Source: The New York Times, A History of the Detainee Population, [en ligne], <https://www.nytimes.com/interactive/projects/guantanamo> (dernière mise à jour le 2 mai 2018) (page consultée en juin 2018)

EXECUTIVE ORDERS

Presidential Executive Order on Protecting America Through Lawful Detention of Terrorists

— NATIONAL SECURITY & DEFENSE | Issued on: January 30, 2018



By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1. Findings.

- (a) Consistent with long-standing law of war principles and applicable law, the United States may detain certain persons captured in connection with an armed conflict for the duration of the conflict.
- (b) Following the terrorist attacks of September 11, 2001, the 2001 Authorization for Use of Military Force (AUMF) and other authorities authorized the United States to detain certain persons who were a part of or substantially supported al-Qa'ida, the Taliban, or associated forces engaged in hostilities against the United States or its coalition partners. Today, the United States remains engaged in an armed conflict with al-Qa'ida, the Taliban, and associated forces, including with the Islamic State of Iraq and Syria.
- (c) The detention operations at the U.S. Naval Station Guantánamo Bay are legal, safe, humane, and conducted consistent with United States and international law.
- (d) Those operations are continuing given that a number of the remaining individuals at the detention facility are being prosecuted in military commissions, while others must be detained to protect against continuing, significant threats to the security of the United States, as determined by periodic reviews.
- (e) Given that some of the current detainee population represent the most difficult and dangerous cases from among those historically detained at the facility, there is significant reason for concern regarding their reengagement in hostilities should they have the opportunity.

Sec. 2. Status of Detention Facilities at U.S. Naval Station Guantánamo Bay.

- (a) Section 3 of Executive Order 13492 of January 22, 2009 (Review and Disposition of Individuals Detained at the Guantánamo Bay Naval Base and Closure of Detention Facilities), ordering the closure of detention facilities at U.S. Naval Station Guantánamo Bay, is hereby revoked.
- (b) Detention operations at U.S. Naval Station Guantánamo Bay shall continue to be conducted consistent with all applicable United States and international law, including the Detainee Treatment Act of 2005.
- (c) In addition, the United States may transport additional detainees to U.S. Naval Station Guantánamo Bay when lawful and necessary to protect the Nation.
- (d) Within 90 days of the date of this order, the Secretary of Defense shall, in consultation with the Secretary of State, the Attorney General, the Secretary of Homeland Security, the Director of National Intelligence, and the heads of any other appropriate executive departments and agencies as determined by the Secretary of Defense, recommend policies to the President regarding the disposition of individuals captured in connection with an armed conflict, including policies governing transfer of individuals to U.S. Naval Station Guantánamo Bay.
- (e) Unless charged in or subject to a judgment of conviction by a military commission, any detainees transferred to U.S. Naval Station Guantánamo Bay after the date of this order shall be subject to the

procedures for periodic review established in Executive Order 13567 of March 7, 2011 (Periodic Review of Individuals Detained at Guantánamo Bay Naval Station Pursuant to the Authorization for Use of Military Force), to determine whether continued law of war detention is necessary to protect against a significant threat to the security of the United States.

Sec. 3. Rules of Construction.

(a) Nothing in this order shall prevent the Secretary of Defense from transferring any individual away from the U.S. Naval Station Guantánamo Bay when appropriate, including to effectuate an order affecting the disposition of that individual issued by a court or competent tribunal of the United States having lawful jurisdiction.

(b) Nothing in this order shall be construed to affect existing law or authorities relating to the detention of United States citizens, lawful permanent residents of the United States, or any persons who are captured or arrested in the United States.

(c) Nothing in this order shall prevent the Attorney General from, as appropriate, investigating, detaining, and prosecuting a terrorist subject to the criminal laws and jurisdiction of the United States.

Sec. 4. General Provisions.

(a) Nothing in this order shall be construed to impair or otherwise affect:

- (i) the authority granted by law to an executive department or agency, or the head thereof; or
- (ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

DONALD J. TRUMP
THE WHITE HOUSE,
January 30, 2018.

Annexe 4: Military Order – 13 Novembre 2001 – Président Georges W. Bush

Administration of George W. Bush, 2001 / Nov. 13
1665

get those food products from the farm to our tables.

The American agricultural industry is the leading global provider of food. Its remarkable rates of production are a continuing tribute to the ingenuity, diligence, and creativity of our country's farmers and ranchers. But agriculture is not just one industry among many—it is the very heart of our economy. The aggregate output of our food industry is unparalleled in human history. This enormous production makes farmers and ranchers key contributors to the collective wealth of our country. Their extraordinary efforts produce foodstuffs not just for our land but for the world, and they are driven by the American virtues of independence, industry, innovation, and sacrifice.

Our Nation's farmers and ranchers depend upon a complex chain of interrelationships with urban workers to get their products to national and world markets. Shippers, processors, marketers, tradespeople, grocers, truck drivers, food service providers, inspectors, researchers, and scientists are all part of the formula that feeds our land and the world. These urban/agriculture partnerships serve as catalysts for our overall commercial success; and their continued development is essential to sustaining our prosperity.

As we reflect upon the important role these partnerships play in the strength and success of our great Nation, we remember those who devote their lives to meeting an essential national and worldwide need. We are blessed by our agricultural abundance, by the committed and caring farmers and ranchers who strive to provide all we need to feed our people and the people of the world, and by all of those who help accomplish this important undertaking.

Now, Therefore, I, George W. Bush,

President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim

November 16 through November 22, 2001, as National Farm-City Week. I call upon all Americans, in rural and urban communities alike, to join in recognizing the accomplishments of our farms and ranches, and the hard-working individuals who produce an abundance of af-

fordable, quality agricultural goods that strengthen and enrich our country.

In Witness Whereof, I have hereunto set my hand this thirteenth day of November, in the year of our Lord two thousand one, and of the Independence of the United States of America the two hundred and twenty-sixth.

George W. Bush

[Filed with the Office of the Federal Register, 9:35 a.m., November 14, 2001]

NOTE: This proclamation was published in the *Federal Register* on November 15.

Military Order—Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism

November 13, 2001

By the authority vested in me as President and as Commander in Chief of the Armed Forces of the United States by the Constitution and the laws of the United States of America, including the Authorization for Use of Military Force Joint Resolution (Public Law 107-40, 115 Stat. 224) and sections 821 and 836 of title 10, United States Code, it is hereby ordered as follows:

Section 1. Findings.

(a) International terrorists, including members of al Qaida, have carried out attacks on United States diplomatic and military personnel and facilities abroad and on citizens and property within the United States on a scale that has created a state of armed conflict that requires the use of the United States Armed Forces.

(b) In light of grave acts of terrorism and threats of terrorism, including the terrorist attacks on September 11, 2001, on the headquarters of the United States Department of Defense in the national capital region, on the World Trade Center in New York, and on civilian aircraft such as in Pennsylvania, I proclaimed a national emergency on September 14, 2001 (Proc. 7463, Declaration of National Emergency by Reason of Certain Terrorist Attacks).

(c) Individuals acting alone and in concert involved in international terrorism possess

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1666 Nov. 13

both the capability and the intention to undertake further terrorist attacks against the United States that, if not detected and prevented, will cause mass deaths, mass injuries, and massive destruction of property, and may place at risk the continuity of the operations of the United States Government.

(d) The ability of the United States to protect the United States and its citizens, and to help its allies and other cooperating nations protect their nations and their citizens, from such further terrorist attacks depends in significant part upon using the United States Armed Forces to identify terrorists and those who support them, to disrupt their activities, and to eliminate their ability to conduct or support such attacks.

(e) To protect the United States and its citizens, and for the effective conduct of military operations and prevention of terrorist attacks, it is necessary for individuals subject to this order pursuant to section 2 hereof to be detained, and, when tried, to be tried for violations of the laws of war and other applicable laws by military tribunals.

(f) Given the danger to the safety of the United States and the nature of international terrorism, and

to the extent provided by and under this order, I find consistent with section 836 of title 10, United States Code, that it is not practicable to apply in military commissions under this order the principles of law and the rules of evidence generally recognized in the trial of criminal cases in the United States district courts.

(g) Having fully considered the magnitude of the potential deaths, injuries, and property destruction that would result from potential acts of terrorism against the United States, and the probability that such acts will occur, I have determined that an extraordinary emergency exists for national defense purposes, that this emergency constitutes an urgent and compelling government interest, and that issuance of this order is necessary to meet the emergency.

Sec. 2. Definition and Policy.

(a) The term “individual subject to this order” shall mean any individual who is not a United States citizen with respect to whom I determine from time to time in writing that:

(1) there is reason to believe that such individual, at the relevant times,

/ Administration of George W. Bush, 2001

(i) is or was a member of the organization known as al Qaida;

(ii) has engaged in, aided or abetted, or conspired to commit, acts of international terrorism, or acts in preparation therefor, that have caused, threaten to cause, or have as their aim to cause, injury to or adverse effects on the United States, its citizens, national security, foreign policy, or economy; or

(iii) has knowingly harbored one or more individuals described in subparagraphs (i) or (ii) of subsection 2(a)(1) of this order; and

(2) it is in the interest of the United States that such individual be subject to this order.

(b) It is the policy of the United States that the Secretary of Defense shall take all necessary measures to ensure that any individual subject to this order is detained in accordance with section 3, and, if the individual is to be tried, that such individual is tried only in accordance with section 4.

(c) It is further the policy of the United States that any individual subject to this order who is not already under the control of the Secretary of Defense but who is under the control of any other officer or agent of the United States or any State shall, upon delivery of a copy of such written determination to such officer or agent, forthwith be placed under the control of the Secretary of Defense.

Sec. 3. Detention Authority of the Secretary of Defense. Any individual subject to this order shall be—

(a) detained at an appropriate location designated by the Secretary of Defense outside or within the United States;

(b) treated humanely, without any adverse distinction based on race, color, religion, gender, birth, wealth, or any similar criteria;

(c) afforded adequate food, drinking water, shelter, clothing, and medical treatment;

(d) allowed the free exercise of religion consistent with the requirements of such detention; and

(e) detained in accordance with such other conditions as the Secretary of Defense may prescribe.

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Administration of George W. Bush, 2001 / Nov. 13
1667

Sec. 4. Authority of the Secretary of Defense Regarding Trials of Individuals Subject to this Order.

(a) Any individual subject to this order shall, when tried, be tried by military commission for any and all offenses triable by military commission that such individual is alleged to have committed, and may be punished in accordance with the penalties provided under applicable law, including life imprisonment or death.

(b) As a military function and in light of the findings in section 1, including subsection (f) thereof, the Secretary of Defense shall issue such orders and regulations, including orders for the appointment of one or more military commissions, as may be necessary to carry out subsection (a) of this section.

(c) Orders and regulations issued under subsection (b) of this section shall include, but not be limited to, rules for the conduct of the proceedings of military commissions, including pretrial, trial, and post-trial procedures, modes of proof, issuance of process, and qualifications of attorneys, which shall at a minimum provide for—

(1) military commissions to sit at any time and any place, consistent with such guidance regarding time and place as the Secretary of Defense may provide;

(2) a full and fair trial, with the military commission sitting as the triers of both fact and law;

(3) admission of such evidence as would, in the opinion of the presiding officer of the military commission (or instead, if any other member of the commission so requests at the time the presiding officer renders that opinion, the opinion of the commission rendered at that time by a majority of the commission), have probative value to a reasonable person;

(4) in a manner consistent with the protection of information classified or classifiable under Executive Order 12958 of April 17, 1995, as amended, or any successor Executive Order,

protected by statute or rule from unauthorized disclosure, or otherwise protected by law, (A) the handling of, admission into evidence of, and access to materials and information, and (B) the conduct, closure of, and access to proceedings;

(5) conduct of the prosecution by one or more attorneys designated by the Secretary of Defense and conduct of the defense by attorneys for the individual subject to this order;

(6) conviction only upon the concurrence of two-thirds of the members of the commission present at the time of the vote, a majority being present;

(7) sentencing only upon the concurrence of two-thirds of the members of the commission present at the time of the vote, a majority being present; and

(8) submission of the record of the trial, including any conviction or sentence, for review and final decision by me or by the Secretary of Defense if so designated by me for that purpose.

Sec. 5. Obligation of Other Agencies to Assist the Secretary of Defense.

Departments, agencies, entities, and officers of the United States shall, to the maximum extent permitted by law, provide to the Secretary of Defense such assistance as he may request to implement this order.

Sec. 6. Additional Authorities of the Secretary of Defense.

(a) As a military function and in light of the findings in section 1, the Secretary of Defense shall issue such orders and regulations as may be necessary to carry out any of the provisions of this order.

(b) The Secretary of Defense may perform any of his functions or duties, and may exercise any of the powers provided to him under this order (other than under section 4(c)(8) hereof) in accordance with section 113(d) of title 10, United States Code.

Sec. 7. Relationship to Other Law and Forums.

(a) Nothing in this order shall be construed to—

(1) authorize the disclosure of state secrets to any person not otherwise authorized to have access to them;

(2) limit the authority of the President as Commander in Chief of the Armed Forces or the power of the President to grant reprieves and pardons; or

(3) limit the lawful authority of the Secretary of Defense, any military commander, or any other officer or agent of the United States or of any State to

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1668 Nov. 13 / Administration of George W. Bush, 2001

detain or try any person who is not an

individual subject to this order.

(b) With respect to any individual subject

to this order—

(1) military tribunals shall have exclusive

jurisdiction with respect to offenses by

the individual; and

(2) the individual shall not be privileged

to seek any remedy or maintain any proceeding, directly or indirectly, or to have any such remedy or proceeding sought on the individual's behalf, in

(i) any court of the United States, or any State thereof, (ii) any court of any foreign nation, or (iii) any international tribunal.

(c) This order is not intended to and does not create any right, benefit, or privilege, substantive or procedural, enforceable at law or equity by any party, against the United States, its departments,

agencies, or other entities, its officers or employees, or any other person.

(d) For purposes of this order, the term “State” includes any State, district, territory, or possession of the United States.

(e) I reserve the authority to direct the Secretary of Defense, at any time hereafter, to transfer to a governmental authority control of any individual subject to this order. Nothing in this order shall be construed to limit the authority of any such governmental authority to prosecute any individual for whom control is transferred.

Sec. 8. Publication.

This order shall be published in the *Federal Register*.

George W. Bush

The White House, November 13, 2001.

[Filed with the Office of the Federal Register, 8:56 a.m., November 15, 2001]

NOTE: This military order was published in the *Federal Register* on November 16.

Exchange With Reporters on the Arrival of President Putin in Crawford, Texas

November 14, 2001

Q. Are you going to tour today? Are you going to take him around today?

President Bush. Yes, we’re going to take a tour.

Q. What are you going to do?

President Bush. Well, I want to show him some of my favorite spots on the ranch.

Q. Which are?

President Bush. Most of it. [*Laughter*]

Q. —it’s raining.

President Bush. Excuse me?

Q. It’s raining.

President Bush. The President brought

rain, for which we’re always grateful in the State of Texas.

Q. Is it great to be back at the ranch?

President Bush. I’m thrilled to be here. There is no better gift than rain.

NOTE: The exchange began at approximately 3:15 p.m. at the Bush Ranch. A tape was not available for verification of the content of this exchange.

Statement on the World Trade Organization’s Decision To Launch a New Round of Global Trade Negotiations

November 14, 2001

I commend the decision by the world’s trading nations meeting in Qatar to launch a new round of global trade negotiations. This bold declaration of hope by the World Trade Organization (WTO) has the potential to expand prosperity and development throughout the world and revitalize the global economy. It also sends a powerful signal that the world’s trading nations support peaceful and open exchange and reject the forces of fear and protectionism.

Today’s action advances the United States agenda to liberalize world trade—something that will benefit all Americans. By promoting open trade, we expand export markets and create high-paying jobs for American workers and farmers, while providing more choices and lower prices for goods and services for American families.

Today’s decision offers fresh hope for the world’s developing nations, with whom the United States worked closely in crafting an agenda for trade negotiations. It reflects our common understanding that a new trade round can give developing countries greater access to world markets and lift the lives of

Annexe 5: Memorandum du Président Bush sur le traitement des prisonniers talibans et d'Al-Qaïda

MEMORANDUM FOR:

SUBJECT:

THE WHITE HOUSE WASHINGTON

February 7, 2002

THE VICE PRESIDENT
THE SECRETARY OF STATE
THE SECRETARY OF DEFENSE
THE ATTORNEY GENERAL
CHIEF OF STAFF TO THE PRESIDENT
DIRECTOR OF CENTRAL INTELLIGENCE ASSISTANT TO THE PRESIDENT FOR NATIONAL
SECURITY AFFAIRS
CHAIRMAN OF THE JOINT CHIEFS OF STAFF

Humane Treatment of Taliban and al Qaeda
Detainees

nevertheless be consistent with the
principles of Geneva.

1. Our recent extensive discussions regarding the status of al Qaeda and Taliban detainees confirm that the application of Geneva Convention Relative to the Treatment of Prisoners of War of August 12, 1949, (Geneva) to the conflict with al Qaeda and the Taliban involves complex legal questions. By its terms, Geneva applies to conflicts involving "High Contracting Parties," which can only be states. Moreover, it assumes the existence of "regular" armed forces fighting on behalf of states. However, the war against terrorism ushers in a new paradigm, one in which groups with broad, international reach commit horrific acts against innocent civilians, sometimes with the direct support of states. Our nation recognizes that this new paradigm – ushered in not by us, but by terrorists – requires new thinking in the law of war, but thinking that should
2. Pursuant to my authority as commander in chief and chief executive of the United States, and relying on the opinion of the Department of Justice dated January 22, 2002, and on the legal opinion rendered by the attorney general in his letter of February 1, 2002, I hereby determine as follows:
 - a. I accept the legal conclusion of the Department of Justice and determine that none of the provisions of Geneva apply to our conflict with al Qaeda in Afghanistan or elsewhere throughout the world because, among other reasons, al Qaeda is not a High Contracting Party to Geneva.

- b. I accept the legal conclusion of the attorney general and the Department of Justice that I have the authority under the Constitution to suspend Geneva as between the United States and Afghanistan, but I decline to exercise that authority at this time. Accordingly, I determine that the provisions of Geneva will apply to our present conflict with the Taliban. I reserve the right to exercise the authority in this or future conflicts.
- c. I also accept the legal conclusion of the Department of Justice and determine that common Article 3 of Geneva does not apply to either al

Qaeda or Taliban detainees, because, among other reasons, the relevant conflicts are international in scope and common Article 3 applies only to "armed conflict not of an international character."

d. Based on the facts supplied by the Department of Defense and the recommendation of the Department of Justice, I determine that the Taliban detainees are unlawful combatants and, therefore, do not qualify as prisoners of war under Article 4 of Geneva. I note that, because Geneva does not apply to our conflict with al Qaeda, al Qaeda detainees also do not qualify as prisoners of war.

- 3. Of course, our values as a nation, values that we share with many nations in the

world, call for us to treat detainees humanely, including those who are not legally entitled to such treatment. Our nation has been and will continue to be a strong supporter of Geneva and its principles. As a matter of policy, the United States Armed Forces shall continue to treat detainees humanely and, to the extent appropriate and consistent with military necessity, in a manner consistent with the principles of Geneva.

- 4. The United States will hold states, organizations, and individuals who gain control of United States personnel responsible for treating such personnel humanely and consistent with applicable law.
- 5. I hereby reaffirm the order previously issued by the secretary of defense to the United States Armed Forces requiring that the detainees be treated humanely and, to the extent appropriate and consistent with military necessity, in a manner consistent with the principles of Geneva.
- 6. I hereby direct the secretary of state to communicate my determinations in an appropriate manner to our allies, and other countries and international organizations cooperating in the war against terrorism of global reach.

[CBG / AP & CNN – 2004.06.22]

/s/ George W. Bush

Annexe 6: Document signé par Donald Rumsfeld sur les techniques d'interrogatoires

UNCLASSIFIED

- C.
- P.D.



GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE
1600 DEFENSE PENTAGON
WASHINGTON, D. C. 20301-1600

2002 DEC -2 AM 11: 03

ACTION MEMO

November 27, 2002 (1:00 PM)

OFFICE OF THE
SECRETARY OF DEFENSE

DEPSEC _____

FOR: SECRETARY OF DEFENSE

FROM: William J. Haynes II, General Counsel *WJH*

SUBJECT: Counter-Resistance Techniques

- The Commander of USSOUTHCOM has forwarded a request by the Commander of Joint Task Force 170 (now JTF GTMO) for approval of counter-resistance techniques to aid in the interrogation of detainees at Guantanamo Bay (Tab A).
- The request contains three categories of counter-resistance techniques, with the first category the least aggressive and the third category the most aggressive (Tab B).
- I have discussed this with the Deputy, Doug Feith and General Myers. I believe that all join in my recommendation that, as a matter of policy, you authorize the Commander of USSOUTHCOM to employ, in his discretion, only Categories I and II and the fourth technique listed in Category III ("Use of mild, non-injurious physical contact such as grabbing, poking in the chest with the finger, and light pushing").
- While all Category III techniques may be legally available, we believe that, as a matter of policy, a blanket approval of Category III techniques is not warranted at this time. Our Armed Forces are trained to a standard of interrogation that reflects a tradition of restraint.

RECOMMENDATION: That SECDEF approve the USSOUTHCOM Commander's use of those counter-resistance techniques listed in Categories I and II and the fourth technique listed in Category III during the interrogation of detainees at Guantanamo Bay.

SECDEF DECISION:

Approved *D.R.* Disapproved _____ Other _____

Attachments
As stated

cc: CJCS, USD(P)

*However, I stand for 8-10 hours
A day. Why is stand, limited to 4 hours?*

D.R.

DEC 02 2002

Declassified Under Authority of Executive Order 12958
By Executive Secretary, Office of the Secretary of Defense
William P. Marriott, CAPT, USN
June 18, 2004

UNCLASSIFIED

Page 1 of 2
X04030-02

Presidential Documents

Executive Order 13492 of January 22, 2009

Review and Disposition of Individuals Detained At the Guantanamo Bay Naval Base and Closure of Detention Facilities

By the authority vested in me as President by the Constitution and the laws of the United States of America, in order to effect the appropriate disposition of individuals currently detained by the Department of Defense at the Guantanamo Bay Naval Base (Guantanamo) and promptly to close detention facilities at Guantanamo, consistent with the national security and foreign policy interests of the United States and the interests of justice, I hereby order as follows:

Section 1. Definitions. As used in this order:

(a) “Common Article 3” means Article 3 of each of the Geneva Conventions.

(b) “Geneva Conventions” means:

(i) the Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, August 12, 1949 (6 UST 3114);

(ii) the Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, August 12, 1949 (6 UST 3217);

(iii) the Convention Relative to the Treatment of Prisoners of War, August 12, 1949 (6 UST 3316); and

(iv) the Convention Relative to the Protection of Civilian Persons in Time of War, August 12, 1949 (6 UST 3516).

(c) “Individuals currently detained at Guantanamo” and “individuals covered by this order” mean individuals currently detained by the Department of Defense in facilities at the Guantanamo Bay Naval Base whom the Department of Defense has ever determined to be, or treated as, enemy combatants. **Sec. 2. Findings.**

(a) Over the past 7 years, approximately 800 individuals whom the Department of Defense has ever determined to be, or treated as, enemy combatants have been detained at Guantanamo. The Federal Government has moved more than 500 such detainees from Guantanamo, either by returning them to their home country or by releasing or transferring them to a third country. The Department of Defense has determined that a number of the individuals currently detained at Guantanamo are eligible for such transfer or release.

(b) Some individuals currently detained at Guantanamo have been there for more than 6 years, and most have been detained for at least 4 years. In view of the significant concerns raised by these detentions, both within the United States and internationally, prompt and appropriate disposition of the individuals currently detained at Guantanamo and closure of the facilities in which they are detained would further the national security and foreign policy interests of the United States and the interests of justice. Merely closing the facilities without promptly determining the appropriate disposition of the individuals detained would not adequately serve those interests. To the extent practicable, the prompt and appropriate disposition of the individuals detained at Guantanamo should precede the closure of the detention facilities at Guantanamo.

(c) The individuals currently detained at Guantanamo have the constitutional privilege of the writ of habeas corpus. Most of those individuals

have filed petitions for a writ of habeas corpus in Federal court challenging the lawfulness of their detention.

(d) It is in the interests of the United States that the executive branch undertake a prompt and thorough review of the factual and legal bases for the continued detention of all individuals currently held at Guantanamo, and of whether their continued detention is in the national security and foreign policy interests of the United States and in the interests of justice. The unusual circumstances associated with detentions at Guantanamo require a comprehensive interagency review.

(e) New diplomatic efforts may result in an appropriate disposition of a substantial number of individuals currently detained at Guantanamo.

(f) Some individuals currently detained at Guantanamo may have committed offenses for which they should be prosecuted. It is in the interests of the United States to review whether and how any such individuals can and should be prosecuted.

(g) It is in the interests of the United States that the executive branch conduct a prompt and thorough review of the circumstances of the individuals currently detained at Guantanamo who have been charged with offenses before military commissions pursuant to the Military Commissions Act of 2006, Public Law 109-366, as well as of the military commission process more generally.

Sec. 3. Closure of Detention Facilities at Guantanamo. The detention facilities at Guantanamo for individuals covered by this order shall be closed as soon as practicable, and no later than 1 year from the date of this order. If any individuals covered by this order remain in detention at Guantanamo at the time of closure of those detention facilities, they shall be returned to their home country, released, transferred to a third country, or transferred to another United States detention facility in a manner consistent with law and the national security and foreign policy interests of the United States.

Sec. 4. Immediate Review of All Guantanamo Detentions.

(a) **Scope and Timing of Review.** A review of the status of each individual currently detained at Guantanamo (Review) shall commence immediately.

(b) **Review Participants.** The Review shall be conducted with the full cooperation and participation of the following officials:

(1) the Attorney General, who shall coordinate the Review;

(2) the Secretary of Defense; (3) the Secretary of State;

(4) the Secretary of Homeland Security; (5) the Director of National Intelligence;

(6) the Chairman of the Joint Chiefs of Staff; and

(7) other officers or full-time or permanent part-time employees of the United States, including employees with intelligence, counterterrorism, military, and legal expertise, as determined by the Attorney General, with the concurrence of the head of the department or agency concerned. (c) **Operation of Review.** The duties of the Review participants shall

include the following:

(1) **Consolidation of Detainee Information.** The Attorney General shall, to the extent reasonably practicable, and in coordination with the other Review participants, assemble all information in the possession of the Federal Government that pertains to any individual currently detained at Guantanamo and that is relevant to determining the proper disposition of any such individual. All executive branch departments and agencies shall promptly comply with any request of the Attorney General to provide information in their possession or control pertaining to any such individual. The Attorney General may seek further information relevant to the Review from any source.

(2) **Determination of Transfer.** The Review shall determine, on a rolling basis and as promptly as possible with respect to the individuals currently detained at Guantanamo, whether it is possible to transfer or release the individuals consistent with the national security and foreign policy interests of the United States and, if so, whether and how the Secretary of Defense may effect their transfer or release. The Secretary of Defense, the Secretary of State, and, as appropriate, other Review participants shall work to effect promptly the release or transfer of all individuals for whom release or transfer is possible.

(3) **Determination of Prosecution.** In accordance with United States law, the cases of individuals detained at Guantanamo not approved for release or transfer shall be evaluated to determine whether the Federal Government should seek to prosecute the detained individuals for any offenses they may have committed, including whether it is feasible to prosecute such individuals before a court established pursuant to Article

III of the United States Constitution, and the Review participants shall in turn take the necessary and appropriate steps based on such determinations.

(4) **Determination of Other Disposition.** With respect to any individuals currently detained at Guantanamo whose disposition is not achieved under paragraphs (2) or (3) of this subsection, the Review shall select lawful means, consistent with the national security and foreign policy interests of the United States and the interests of justice, for the disposition of such individuals. The appropriate authorities shall promptly implement such dispositions.

(5) **Consideration of Issues Relating to Transfer to the United States.** The Review shall identify and consider legal, logistical, and security issues relating to the potential transfer of individuals currently detained at Guantanamo to facilities within the United States, and the Review participants shall work with the Congress on any legislation that may be appropriate.

Sec. 5. Diplomatic Efforts. The Secretary of State shall expeditiously pursue and direct such negotiations and diplomatic efforts with foreign governments as are necessary and appropriate to implement this order.

Sec. 6. Humane Standards of Confinement. No individual currently detained at Guantanamo shall be held in the custody or under the effective control of any officer, employee, or other agent of the United States Government, or at a facility owned, operated, or controlled by a department or agency of the United States, except in conformity with all applicable laws governing the conditions of such confinement, including Common Article 3 of the Geneva Conventions. The Secretary of Defense shall immediately undertake a review of the conditions of detention at Guantanamo to ensure full compliance with this directive. Such review shall be completed within 30 days and any necessary corrections shall be implemented immediately thereafter.

Sec. 7. Military Commissions. The Secretary of Defense shall immediately take steps sufficient to ensure that during the pendency of the Review described in section 4 of this order, no charges are sworn, or referred to a military commission under the Military Commissions Act of 2006 and the Rules for Military Commissions, and that all proceedings of such military commissions to which charges have been referred but in which no judgment has been rendered, and all proceedings pending in the United States Court of Military Commission Review, are halted.

Sec. 8. General Provisions.

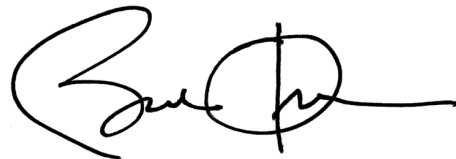
(a) Nothing in this order shall prejudice the authority of the Secretary of Defense to determine the disposition of any detainees not covered by this order.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

4900

Federal Register / Vol. 74, No. 16 / Tuesday, January 27, 2009 / Presidential Documents

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.



THE WHITE HOUSE, January 22, 2009.

Annexe 8: Liste des pays où les détenus ont été transférés (classés par ordre décroissant)

Transfer Countries

The New York Times and NPR have identified 59 countries to which detainees have been transferred from Guantánamo. In addition, there are 10 detainees for whom the transfer country is undetermined.

Country	Number Transferred
Afghanistan	203
Saudi Arabia	140
Pakistan	63
Oman	30
United Arab Emirates	24
Yemen	22
Algeria	17
Britain	15
Morocco	13
Sudan	12
Kuwait	12
Tajikistan	11
Albania	11
France	9
Kazakhstan	9
Slovakia	8
Iraq	7
Russia	7
Uruguay	6
Palau	6
Qatar	6
Georgia	6
Bahrain	5
Jordan	5
Bosnia and Herzegovina	5
Spain	5
Turkey	4
Bermuda	4
Switzerland	3
Italy	3
Mauritania	3
Belgium	3
Germany	3
Somalia	3
Tunisia	2
Serbia	2
Iran	2
Senegal	2
Libya	2
Montenegro	2
Ghana	2
El Salvador	2
Cape Verde	2
Australia	2
Ireland	2
United States	2
Portugal	2
Chad	1
Canada	1
Hungary	1
Bulgaria	1
Bangladesh	1
Latvia	1
Maldives	1
Estonia	1
Sweden	1
Uganda	1
Denmark	1
Egypt	1

Source: ASHKENAS Jeremy et al., The Guantanamo Docket – Transfert Countries dans *The New York Times*, (en ligne) <https://www.nytimes.com/interactive/projects/guantanamo/transfer-countries> (consulté en juin 2018)