

Administration of Barack H. Obama, 2009

Statement on Military Commissions

May 15, 2009

Military commissions have a long tradition in the United States. They are appropriate for trying enemies who violate the laws of war, provided that they are properly structured and administered. In the past, I have supported the use of military commissions as one avenue to try detainees, in addition to prosecution in Article III courts. In 2006, I voted in favor of the use of military commissions. But I objected strongly to the Military Commissions Act that was drafted by the Bush administration and passed by Congress because it failed to establish a legitimate legal framework and undermined our capability to ensure swift and certain justice against those detainees that we were holding at the time. Indeed, the system of military commissions at Guantanamo Bay had only succeeded in prosecuting three suspected terrorists in more than 7 years.

Today the Department of Defense will be seeking additional continuances in several pending military commission proceedings. We will seek more time to allow us time to reform the military commission process. The Secretary of Defense will notify the Congress of several changes to the rules governing the commissions. The rule changes will ensure that: First, statements that have been obtained from detainees using cruel, inhuman, and degrading interrogation methods will no longer be admitted as evidence at trial; second, the use of hearsay will be limited, so that the burden will no longer be on the party who objects to hearsay to disprove its reliability; third, the accused will have greater latitude in selecting their counsel; fourth, basic protections will be provided for those who refuse to testify; and fifth, military commission judges may establish the jurisdiction of their own courts.

These reforms will begin to restore the commissions as a legitimate forum for prosecution, while bringing them in line with the rule of law. In addition, we will work with the Congress on additional reforms that will permit commissions to prosecute terrorists effectively and be an avenue, along with Federal prosecutions in Article III courts, for administering justice. This is the best way to protect our country, while upholding our deeply held values.

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Names: Bush, George W.; Gates, Robert M.

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