

FACT SHEET GUANTANAMO DETAINEES

Quick Facts

RELEASED IN FULL

- Total Detainees Currently in Custody: Approximately 618
- Total Detainees Released: Approximately 115

Authority to Detain

- We are at war. Active hostilities are ongoing. The United States has the authority under the law of armed conflict and the responsibility to detain enemy combatants.
- The capture and detention of enemy combatants, to remove them from the fighting, is consistent with the law of armed conflict. The U.S. complies with the law of armed conflict, including the tenet of humanity – a principle that the terrorists flagrantly violate.

Status

- Members of the Taliban and al Qaida are not entitled to Prisoner of War status under the Geneva Convention on Prisoners of War.
- Under the terms of the Third Geneva Convention of 1949, however, the Taliban are not entitled to POW status. Specifically, the Taliban did not qualify as lawful combatants (or POWs) under Article 4 of the Third Geneva Convention of 1949 because they failed to satisfy the following conditions:
 - Be part of a military hierarchy;
 - Wear uniforms or other distinctive signs visible at a distance;
 - Carry arms openly; and
 - Conduct their military operations in accordance with the laws and customs of war.

Treatment

- The United States has treated and will continue to treat enemy combatants 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.

Transfer

- Any determinations to transfer control of an enemy combatant to a foreign government would be made on a case-by-case basis and depend upon a variety of factors.
- There is no legal requirement to release or transfer enemy combatants prior to the cessation of the conflict.