



March 17, 2010

The Honorable Carl Levin
Chairman
Committee on Armed Services
United States Senate
Washington, DC 20510

The Honorable John McCain
Ranking Member
Committee on Armed Services
United States Senate
Washington, DC 20510

The Honorable Dianne Feinstein
Chairman
Select Committee on Intelligence
United States Senate
Washington, DC 20510

The Honorable Christopher S. Bond
Vice Chairman
Select Committee on Intelligence
United States Senate
Washington, DC 20510

Dear Senators:

In response to questions raised at an interagency briefing of the Senate Armed Services Committee on March 3, 2010, Chairman Levin asked agency representatives to provide a letter to the Armed Services Committee and the Senate Select Committee on Intelligence describing the role of the Intelligence Community in the review of Guantanamo detainees pursuant to Executive Order 13492. Specifically, the Chairman asked whether the Intelligence Community, including the Central Intelligence Agency (CIA) and the Defense Intelligence Agency (DIA), concurred in the decisions to approve the transfer of certain detainees to countries outside the United States.

Executive Order 13492 placed responsibility for the review of Guantanamo detainees with six agencies—the Department of Justice, Department of Defense, Department of State, Department of Homeland Security, Office of the Director of National Intelligence (ODNI), and Joint Chiefs of Staff. The interagency nature of the review was designed to ensure that all relevant viewpoints—including military, intelligence, homeland security, diplomatic, and law enforcement—were fully considered and that information informing the decisions was consolidated from across the government. After carefully considering each case, the six agencies reached unanimous agreement on disposition determinations for all 240 detainees subject to the review.

Consistent with the framework set forth in the Executive Order, the Attorney General, as the coordinator of the review, established the Guantanamo Review Task Force in February 2009.

The Task Force was staffed with career professionals, including intelligence analysts and officers from the CIA, the National Counterterrorism Center (NCTC), DIA, the Federal Bureau of Investigation (FBI), DHS, and the Department of Defense's Criminal Investigation Task Force (CITF); federal prosecutors; FBI agents; State Department representatives; senior military officers, military prosecutors; and national security lawyers. Over 100 staff members served on the Task Force over the course of the review, with a maximum of approximately 65 serving at any one time.

Task Force members reviewed relevant information and formulated recommendations for each detainee's disposition based on evaluations of the threat posed by the detainee, the ability of potential receiving countries to mitigate such a threat, the feasibility of prosecuting the detainee, and the legal basis for any continued detention under authority granted by Congress in 2001. Task Force members considered the totality of available information and gave careful consideration to the credibility and reliability of the information. The guiding principle from the Executive Order was to ensure that the disposition of each detainee was consistent with the national security and foreign policy interests of the United States and the interests of justice.

Members of the Task Force representing each of the six agencies drafted, reviewed, and discussed recommendations for transfer or continued detention, while prosecution recommendations were drafted primarily by prosecutors and investigative agents from the Departments of Justice and Defense. Threat assessments of each detainee were developed independent of legal or prosecutorial considerations and were based on all available information. Full and candid discussions were strongly encouraged; indeed, they were the model for the Task Force's deliberations. Task Force recommendations, which contained detailed classified assessments of each detainee, were submitted on a rolling basis to senior-level decision-makers.

Beginning in March 2009, an interagency Review Panel met on a weekly basis to consider the recommendations of the Task Force. The Review Panel was composed of senior-level officials from each of the six agencies identified in the Executive Order. Review Panel members were delegated authority from their respective agency heads ("Principals"). Senior officials from the CIA and FBI regularly attended the Review Panel meetings to further inform the decision-making process.

The Review Panel made disposition determinations only by unanimous agreement. Each agency identified in the Executive Order had an equal voice, and no determinations were made over the objection of any of the six agencies. The Review Panel's discussions over the course of more than 40 weekly meetings were highly deliberative. Questions were raised, and concerns were discussed in detail. At times, Panel members requested additional information before further considering the disposition of certain detainees, and these responses were factored into discussions as determinations were reached. The Review Panel achieved consensus and reached unanimous determinations for the large majority of detainees. When Review Panel members did not reach consensus, cases were referred to the Principals. All cases referred to the Principals also ultimately garnered unanimous agreement.

The Intelligence Community was fully represented at all stages of the detainee review process. Approximately 15 career intelligence analysts from the CIA, NCTC, and DIA served

on the Task Force over the course of the review (in addition to intelligence analysts and officers representing DHS, FBI, and CITF). These analysts played a critical role in representing the Intelligence Community and bringing to bear their analytic expertise and judgment. Their assessments of a detainee's threat level were a critical element of the Task Force's evaluations. To the extent an Intelligence Community representative on the Task Force disagreed with a recommendation on a particular detainee, the dissenting view was made known to the Review Panel or the Principals, as appropriate.

At the Review Panel, the Intelligence Community was represented by a senior official from ODNI whose views were informed by the intelligence analysts' work at the Task Force and by senior CIA and FBI officials who participated independently in Review Panel meetings. In all cases, if the Intelligence Community objected to a particular decision, ODNI had the ability to dissent from a Review Panel vote and elevate the decision to Principals.

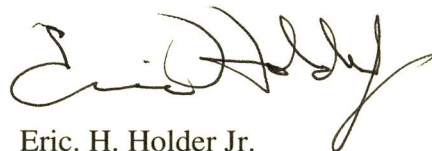
The DNI, as one of the six officials named in the Executive Order, was responsible for representing the Intelligence Community in this process. (As a component of the Department of Defense as well as the Intelligence Community, DIA also was represented at the Review panel and the Principal level by the Department of Defense and the Joint Chiefs of Staff.) After all of the deliberations described above, the DNI—either personally for cases considered by Principals or by delegation to the ODNI official on the Review Panel—agreed with the other five agencies on disposition determinations for all 240 detainees subject to the review. We attribute the ability to reach unanimous agreement in all 240 cases to the full and candid exchange of information and views at all levels throughout the review process.

We hope this information is helpful. If you have any further questions, please do not hesitate to contact us.

Sincerely,



Dennis C. Blair



Eric. H. Holder Jr.