

SUBJECT: Q AND A-GUANTANAMO DETAINEES CHARGED FOR 9/11

1. Summary: The Department of Defense announced today that charges have been sworn against 6 Guantanamo detainees for their involvement in the 9/11 attacks, beginning the process of their trial by military commission. Those attacks resulted in the death of 2,973 people, from over 90 countries and the filing of charges is the beginning of the process of holding these men responsible for the terrible events of 9/11. Posts are asked to draw from the points provided below in responding to foreign government and media requests regarding this announcement. End Summary.

2. Begin Questions and Answers:

--What are these defendants being charged with? These defendants are being charged with murder, destruction of property, material support for terrorism, and other serious charges related to the September 11th attacks.

--Khalid Sheikh Mohammed is charged as the mastermind of the 9/11 attacks, as he allegedly proposed the concept to Osama bin Laden as early as 1996, obtained approval and funding from bin Laden for the attacks, oversaw the entire operation, and trained the hijackers in all aspects of the operation in Afghanistan and Pakistan.

--Walid Muhammad Salih Mubarek Bin 'Attash is alleged to have administered an al Qaeda training camp in Logar, Afghanistan where two of the September 11th hijackers were trained. He is also alleged to have traveled to Malaysia in 1999 to observe airport security by US air carriers to assist in formulating the hijacking plan.

--Ramzi Binalshibh is alleged to have been selected by Osama bin Laden to be one of the 9/11 hijackers and that he made a "martyr video" in preparation for the operation. He was unable to obtain a US visa and, therefore, could not enter the United States as the other hijackers did. In

light of this, it is alleged that Binalshibh assisted in finding flight schools for the hijackers in the United States, and continued to assist the conspiracy by engaging in numerous financial transactions in support of the 9/11 operation.

--Ali Abdul Aziz Ali's role is alleged to have included sending approximately \$120,000 to the hijackers for their expenses and flight training, and facilitating travel to the United States for nine of the hijackers.

--Mustafa Ahmed Adam al Hawsawi is alleged to have assisted and prepared the hijackers with money, western clothing, traveler's checks and credit cards. He is also alleged to have facilitated the transfer of thousands of dollars between the accounts of alleged 9/11 hijackers and himself on September 11, 2001.

--Mohamed al Kahtani is alleged to have attempted to enter the United States on August 4, 2001, through Orlando International Airport where he was denied entry. It is also alleged that al Kahtani carried \$2,800 in cash and had an itinerary listing a phone number associated with Hawsawi.

--What does it mean that the defendants have been charged? The prosecutors' charges will now go to the military commissions Convening Authority, Judge Susan Crawford to decide which charges, if any, will be referred for trial by military commission. She will only refer those charges where she believes there is probable cause to believe the offenses have been committed.

--When will the trials begin? The announcement of charges begins a lengthy process to bring these individuals to justice. The most important goal is that the defendants receive fair trials, which will take time. We cannot speculate on a trial start date at this time.

--Why has it taken the United States so long to try these individuals? Doesn't it violate their right to a speedy trial? These cases are incredibly complex and have taken a great deal of time to prepare. The process of holding trials has also been delayed by litigation initiated by the detainees.

--Will these individuals be tried separately or as a group? The Department of Defense has stated its intention is try these individuals as a group. If the defendants object, it will up to the judge to determine whether the defendants should be tried together or separately.

--Will the government seek the death penalty for these individuals? The Chief Prosecutor has asked that the

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charges be deemed death penalty eligible. The Convening Authority will decide whether in fact the charges are death penalty eligible. If so, the death penalty is a

possibility for these defendants.

--Doesn't the application of the death penalty to these defendants violate international law? No. International Humanitarian Law contemplates the use of the death penalty for serious violations of the laws of war. The most serious war criminals sentenced at Nuremberg were executed for their actions.

--If the individuals are convicted and the defendants are not sentenced to death, where will they be held? Doesn't the US plan to close CTMO? It is premature to discuss where defendants would serve their sentences. As the President has said, we would like to move towards the day when we can close Guantanamo.

--Why is the United States not trying these defendants in its federal courts? Military commissions are a traditional tool for trying individuals suspected of war crimes, and have been used in conflicts from the Revolutionary War to World War II. They are recognized under the law of war, as well as under U.S. domestic law.

--Why isn't the United States using courts martial to try these defendants? The commission trials are very similar to courts-martial, with similar rules of procedure and evidence. The rules are modified on occasion to deal with the realities of prosecuting enemy combatants as opposed to U.S. servicemen.

--Are these military commissions fair? Yes. Under the Military Commissions Act, each accused gets the following rights:

- The right to remain silent and to have no adverse inference drawn from it;
- The right to be represented by counsel;
- The right to examine all evidence used against him by the prosecution;
- The right to obtain evidence and to call witnesses on his own behalf including qualified expert witnesses;
- The right to cross-examine every witness called by the prosecution;
- The right to be present during the presentation of evidence;
- The right of judicial review in the U.S. Court of Appeals in the D.C. Circuit and to seek review in the U.S. Supreme Court..

--Didn't the U.S. torture al Kahtani? The United States abides by its international commitments regarding torture. Torture is prohibited under U.S. law, and is abhorrent to American values. No evidence obtained through torture is admissible in trials by military commission.

--Will coerced evidence be admitted? No evidence obtained through torture is admissible. In addition, evidence obtained in violation of the McCain Amendment's prohibition on cruel, inhuman or degrading treatment is not admissible. For evidence obtained before the enactment of the McCain Amendment, where there is an allegation that evidence has

been obtained through coercive means, it is inadmissible unless the judge makes a specific finding that 1) the statement is reliable; 2) the statement is probative; and 3) the interests of justice would best be served by the statement's admission. The military judge's decision to allow in evidence would be reviewable by the U.S. federal courts if the defendant is convicted.

-- The Director of Central Intelligence told a U.S. Congressional committee last week that the CIA had used the waterboarding technique on Khalid Sheikh Mohammed. Will the government attempt to introduce information obtained from that process at the tribunal? The prosecutors will make an independent determination on what evidence to introduce at trial. The defense will have the opportunity to oppose the admission of any piece of evidence on the grounds it was obtained through coercion. It will then be up to the judge to determine whether or not to admit the evidence.

End Questions and Answers.

3. Minimize considered.

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