

## Guantánamo Periodic Review Boards

### ✓ **What are the Periodic Review Boards?**

President Barack Obama created the Guantanamo Periodic Review Board (PRB) process through Executive Order 13567 on March 7, 2011.<sup>1</sup> Congress then codified this order in section 1023 of the FY 2012 National Defense Authorization Act (NDAA),<sup>2</sup> and on January 30, 2018, President Donald Trump ordered they continue.<sup>3</sup> The Obama order established an interagency review process to evaluate the continued detention of those Guantanamo detainees who were designated for indefinite detention (currently 26 detainees). The PRBs are meant “to determine whether certain individuals detained at [Guantanamo] represent a continuing significant threat to the security of the United States such that their continued detention is warranted.”<sup>4</sup>

✓ **Who makes the decisions for the PRBs and how are decisions made?** The board is made up of senior officials from the Departments of Defense, Homeland Security, Justice, and State; the Joint Chiefs of Staff, and the Office of Director of National Intelligence. The board has access to all government information relevant to the detainee being reviewed, and considers this information alongside diplomatic considerations, security assurances, the detainee’s mental and physical health, and any other mitigating information. The board does not rely on any

information obtained through torture or cruel, inhuman, or degrading treatment.<sup>5</sup>

✓ **How many cases have been heard?** The PRBs have held 89 hearings, for 64 detainees (21 detainees have had two hearings and four have had three hearings). Decisions have been handed down for 64 detainees, with 19 detainees having received two decisions and three having received three decisions. Four detainees are waiting for decisions, and one additional hearing has been scheduled.<sup>6</sup> Though the executive order specifies that all initial reviews will commence “as soon as possible but no later than 1 year from the date of this order” (meaning March 2012), the hearings did not start until 2013 and all initial hearings were not completed until September 2016.

✓ **What have been the outcomes of the PRBs so far?** Of the 64 detainees who have received decisions, 38 have been cleared for transfer by the PRBs, and 26 detainees have been recommended for continued indefinite detention. Thirty-six of the 38 detainees cleared for transfer by the PRBs have been released from Guantanamo to their home countries or third countries.<sup>7</sup>

✓ **After initial PRB decisions, what is the process for subsequent hearings?** Those detainees whom the PRB declines to clear for transfer after their first hearings are entitled to

<sup>1</sup> <http://www.whitehouse.gov/the-press-office/2011/03/07/executive-order-periodic-review-individuals-detained-guant-namo-bay-nava>

<sup>2</sup> <https://www.fas.org/sgp/crs/natsec/R42143.pdf>

<sup>3</sup> <https://www.whitehouse.gov/presidential-actions/presidential-executive-order-protecting-america-lawful-detention-terrorists/>

<sup>4</sup> <http://www.prs.mil/>

<sup>5</sup> Ibid.

<sup>6</sup> <http://www.prs.mil/ReviewInformation/InitialReview.aspx>,

<sup>7</sup> <http://www.prs.mil/ReviewInformation/InitialReview.aspx>, <http://projects.nytimes.com/guantanamo/timeline>

subsequent “Full” reviews and hearings at least every three years, and their files will be reviewed every six months between those reviews.<sup>8</sup>

**How many detainees are waiting for PRBs?**

Twenty-two detainees have had initial, second, or third hearings and are waiting for additional hearings. This does not count those detainees waiting for PRB decisions.

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<sup>8</sup> <http://www.prs.mil/About-the-PRB/>