

The History of Guantánamo

“Guantanamo has become a symbol around the world for an America that flouts the rule of law.” – President Obama

- November 13, 2001 President Bush issues a Military Order establishing military commissions at Guantanamo. The order’s stated intent was to avoid “the principles of law and the rules of evidence generally recognized in the trial of criminal cases in the United States district courts.”
- January 11, 2002 First of 779 detainees brought to Guantanamo. Bush administration paid bounties of \$3,000-\$25,000 for detainees.
- October 11, 2002 Guantanamo officials “request that additional techniques beyond those in the [Army] field manual be approved for use,” some of which amount to torture or cruel, degrading and inhuman treatment.
- December 2002 FBI Officials complain to Defense Department of abuses at Guantanamo.
- January 2003 Judge Advocates repeatedly object to aggressive interrogation techniques at Guantanamo but “Pentagon officials ‘didn’t think this was a big deal, so they just ignored the JAGs.’”
- April 16, 2003 Rumsfeld approves 24 of the recommended techniques for use at Guantanamo, including dietary and environmental manipulation, sleep adjustment, false flag and isolation.
- May 30, 2003 FBI reasserts its objections to Guantanamo interrogation techniques to Guantanamo commander.
- August 2003 Rumsfeld sends Guantanamo commander to Iraq to “gitmo-ize” Iraqi detention facilities, promoting wide scale deployment of more aggressive interrogation methods in Iraq, leading to Abu Ghraib scandal.
- June 28, 2004 Supreme Court rules in *Rasul v. Bush* that the federal courts have jurisdiction to hear cases of wrongful imprisonment brought by detainees at Guantanamo Bay.
- June 28, 2004 Supreme Court rules in *Hamdi v. Rumsfeld* that detainees who are U.S. citizens have the rights of due process and the ability to challenge their enemy combatant status before an impartial authority.
- June 29, 2006 Supreme Court rules in *Hamdan v. Rumsfeld* that the military commissions established by the Bush administration violated the Uniform Code of Military Justice and the Geneva Conventions.
- September 29, 2006 Congress passes Military Commissions Act of 2006 in response to Supreme Court. MCA 2006 still rife with problems, including allowing evidence obtained through coercion, overly broad classified evidence rules and definition of “unlawful enemy combatant.”

- June 12, 2008 Supreme Court rules in *Boumediene v. Bush* that detainees at Guantanamo have the right to *habeas corpus*, i.e., the right to challenge the lawfulness of their detention.
- 2008 During the presidential election, broad bipartisan consensus emerges to close Guantanamo with then-Senator Barack Obama and Senator John McCain both calling for Guantanamo to close.
- January 20, 2009 Guantanamo holds 242 detainees as President Obama assumes office, out of the total 779 detained under the Bush administration.
- January 22, 2009 On his second day in office, President Obama signs an Executive Order establishing Guantanamo Review Task Force, and pledging to close the prison. Task Force discovers Bush administration had failed to keep systematic files on the detainees and any evidence against them.
- March 2009 Senator Mitch McConnell launches effort to oppose closing Guantanamo, taking to the Senate floor to repeatedly denounce closing the prison.
- May 21, 2009 President Obama gives National Archives speech, arguing that military commissions remain a viable option for certain detainees.
- October 28, 2009 Congress passes third iteration of military commissions with Military Commissions Act of 2009. The law fails due process standards by (a) permitting the admission of coerced testimony obtained at the point of capture; (b) defining who can be tried before military commissions over broadly, including juveniles and those not even engaged in hostilities; and permitting defendants to be tried ex-post facto for conduct not considered to constitute a war crime at the time it was committed.¹
- January 22, 2010 Guantanamo Review Task Force publishes report on detainees, dividing them into those who have been cleared for transfer, those eligible for prosecution, and those to be held without charge and not released.
- October 29, 2010 After evidence emerged that unsuccessful “underwear bomber” Umar Farouk Abdulmutallab may have spent time in Yemen and was equipped by Al Qaeda in the Arabian Peninsula, President Obama imposes a ban on transfers of any Guantanamo detainees to Yemen.
- December 22, 2010 In response to efforts to try Guantanamo detainees in U.S., Congress passes restrictions on transferring detainees to U.S. which President Obama signs into law despite veto threats.
- January 5, 2011 Ahmed Ghailani, the only Guantanamo detainee transferred to U.S. for prosecution, is convicted and sentenced to life in prison. Critics decry fact that he was not convicted on all charges.

¹ <http://www.humanrightsfirst.org/wp-content/uploads/pdf/07125-usls-hrf-rcm-analysis.pdf> and <http://law.unh.edu/assets/images/uploads/publications/unh-law-review-vol-09-no2-chaffee.pdf>

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- March 7, 2011 President Obama signs executive order creating Periodic Review Boards to assess detainee status and determine whether individual detainees no longer pose a significant security risk to the U.S. and can be cleared for transfer, or whether new evidence has surfaced warranting prosecution. The first boards are scheduled to get underway in November 2013, two and one half years later.
- April 4, 2011 Attorney General Holder abandons efforts to try Khalid Sheik Mohammed and the 9/11 defendants in New York after massive political backlash.
- May 2, 2011 Osama bin Laden killed.
- December 15, 2011 In response to the attempted cargo plane bombing in October 2011, Congress passes new restrictions on transferring Guantanamo detainees for purposes of repatriation or resettlement unless the secretary of defense, in concurrence with the secretary of state and consultation with the director of national intelligence, certifies that the country receiving the detainee will be able to prevent that detainee from engaging or reengaging in terrorist activity, among other factors.
- October 16, 2012 The military commission conviction of former Guantanamo detainee Salim Ahmed Hamdan on charges of material support for terrorism was overturned by the U.S. Court of Appeals for the District of Columbia Circuit. The conviction was reversed on the grounds that the charges at issue were not internationally recognized war crimes and, therefore, could not be authorized under the Military Commissions Act.
- January 25, 2013 Guantanamo detainee Ali Hamza Ahmed Sulayman al Bahlul's military commission conviction on charges of material support for terrorism, conspiracy and solicitation to commit war crimes, was overturned by U.S. Court of Appeals for the District of Columbia Circuit because these charges were not war crimes when the acts were committed.
- February 2013 Guantanamo detainees launch hunger strike to protest lack of due process, reaching a maximum of 106 of the then 166 detainees in July 2013.
- May 23, 2013 President Obama pledges in a major speech at the National Defense University to increase efforts to close Guantanamo. Designates senior counterterrorism official in White House, Lisa Monaco, to oversee interagency operations. Creates new position at Pentagon to bookend Special Envoy to close Guantanamo at State Department.
- July 24, 2013 Senate Judiciary Subcommittee holds first Guantanamo hearing in five years and publishes Pentagon figures showing it costs the U.S. \$2.5 million per detainee compared to a cost of \$34-78,000 per detainee if held in a comparable U.S. federal facility.
- August 23, 2013 After revelations that the government has monitored defense counsel emails and defense / attorney client communications, the chief of staff for the Pentagon official overseeing the tribunals called the problems "a hot mess." During one hearing, it was discovered that the CIA could censor military commission proceedings when someone hit a white noise button—authorities unbeknownst to the judge or defense counsel.