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Presenter: Secretary of The Navy Gordon England

Wednesday, June 23, 2004 1:30 p.m. EDT

Special Defense Department Briefing with Secretary of The Navy Gordon England

SEC. ENGLAND: Good afternoon.

If you don't mind, I'd like to start with an opening statement for maybe two, three minutes. Then we'll open this up to questions.

So first of all, thanks for being here. If we haven't met, I'm Gordon England. I'm the Secretary of the Navy. But I'm not with you in that capacity today. Rather, I've been designated by Secretary Rumsfeld to operate and oversee a process to conduct an annual review of each enemy combatant held by the Department of Defense in Guantanamo Naval Base in Cuba. Now these reviews will determine whether to release or continue to detain each combatant.

The DoD order that created this process has been in development within in our inter-agency process for some time. And after being given the responsibility to implement this order about a month ago, I formed a team to prepare detailed operational procedures for the conduct of this annual review. Now this will be a very deliberate and a thoughtful process. It'll be a balance between the security needs of our nation and the human rights of the individuals currently detained at Guantanamo Naval Base.

Briefly, the process will consist of a number of review boards, each with three military officers, who will make recommendations to me for decision. A majority of the board will make the recommendation, but a minority report can also be provided.

These boards will be supported by military officers who will assemble facts on each of the detainees from all agencies of the U.S. government. Another group of officers will work exclusively with each of the detainees to compile and present to the review board any facts from the detainee or from his home country.

In addition, the detainee himself, with appropriate translators, will be able to personally appear before the board.

The intent of this approach is to make all information about the detainee available to the board, so that fact-based determinations can be made: specifically, whether to release the detainee, release him to his home country with conditions, or to continue to detain the person at Guantanamo.

Our approach is to make this process very fair, clear, precise and transparent. Accordingly, we have been providing a copy of our detailed procedures to a variety of people and organizations for comment.

Earlier today I met with and solicited comments from eight of the nine government organizations, including the International Committee of the Red Cross, Amnesty International and the American Bar Association. In addition, over the past several weeks I've met with or spoken with a number of our leaders in the Senate and the House and solicited their views. In similar fashion, we've met with and requested input from the Department of State, Department of Justice, CIA and the Department of Homeland Security. Earlier, hopefully, we provided each of you a copy of the latest draft of our procedures, so I hope you also have a copy of these procedures.

In my judgment, the more thoughtful the comments that we receive from all these people and organizations, the better we can make our process. Our objective is to be able to initiate a review process late next week.

Now, this is a very important tasking and I take it very, very seriously. It's important that we do it right for the American people and for the detainees. It's also important that we do this rapidly and we do it with transparency. I do fully understand the gravity of the decisions that will be made, but am confident that with a precise, detailed and open approach, and with decisions based on all information available, this process will work effectively.

So I thank you for your interest today. I thank you for being here. And I look forward to your questions. But I do remind you that this authority and responsibility is rather narrowly defined, so I would appreciate it if you would try to keep your questions to this issue, which is this administrative review process we're putting in place for the Guantanamo detainees.

Charlie?

Q Mr. Secretary, you said that you expect that this process will begin late next week. Does that mean that you may be getting hearings for some of the detainees next week or making decisions next week or as early as next month? And is the whole idea of this to try to begin releasing some of these people rather quickly?

SEC. ENGLAND: Okay, let me talk about the timing. We would like to get the input -- I've asked people to provide their latest inputs to me by Monday, to our team by Monday, so we need to assimilate all those inputs and get them incorporated into our procedures, all those that we deem appropriate. So we will do that, hopefully, Monday or Tuesday, initiate the process.

When you go through the process, we actually notify countries that they can provide data. So we have to start looking at the cases and understand sort of the timing that we can actually have the first board hearing. It depends on what data's already available. I would hope that the boards -- in a matter of weeks we will actually have the boards meeting and making determinations -- that is, recommendations -- to me.

We are anxious to start this process. There's no question Secretary Rumsfeld is anxious to move this process along so we can start making these determinations and that we will release people whom we deem should be released, and, obviously, detain those people we feel should be detained. I view myself as an advocate to make this happen sooner rather than later, so I am pushing the process along, frankly, so we can start making these determinations.

Q I guess what I mean by the question about whether you want to release more people, is there a sense that perhaps a lot of people are being held who should/could be released?

SEC. ENGLAND: Charlie, I don't know. I mean, I have not looked at any of the cases, any of the files. I haven't looked at any of this because I really wanted to put a process together that was independent of the people themselves. I wanted to make sure we had as fair a process, fair as we could make it, balanced, as reasonable as we could, so we're putting the process together. I think once we start looking at these cases, depending on what the decisions are in terms of either release or transfer or detain, we'll have a better answer to your question.

So I can't prejudge it. I don't know.

Rick?

Q When would you anticipate the first review board would actually sit down and review an individual case?

SEC. ENGLAND: That would move within the next couple weeks.

Q So it won't just be notifying countries next week; you would actually get started with the reviews?

SEC. ENGLAND: Well, we will start accumulating data, looking at files, seeing what data's available. I believe some of this has already been done in terms of interagency data. If that's the case, we don't have to go through that process. All detainees may not want to get data from country. It may not be data they want to bring forward. So again, we'll have to look at each case and determine what's required. I would hope, I expect that out of all the cases, there's some we can act on quickly, hopefully in a matter of a couple weeks.

Q And can you give sort of a rule of thumb for what the standard's going to be for releasing

people? Or is it something that you can write down hard and fast, or is it going to be sort of, you know, a feel of whether this guy's given up jihad or something?

SEC. ENGLAND: Well, look, there's no question there's judgment involved, like there's always going to be judgment involved. I doubt if many of these are black and white cases. I would expect most are going to be gray. And that is, there will be judgments that will look at the totality of the data, the preponderance of the evidence. It will be a reasonable-man type of standard; I mean, what would a reasonable person conclude from all the data and the preponderance of the data.

We have, however, if you look in the draft that we provide you today, we do have some guidelines; that the boards do have some guidelines. Every board doesn't have a different standard. So we do have some guidelines, but the standard will be preponderance of evidence by reasonable people. And what the conclusion is you'll draw, I expect it could be different in every case, different data for each person.

Q But what are you looking for in that person?

SEC. ENGLAND: Well, primarily, first of all, are they a continuing threat to America. This is not a question of guilt or innocence, this is an administrative review process to determine if people should continue to be detained or released or transferred with conditions. So this is not determining guilt or innocence; this is determine the state of that person in terms of are they a continuing threat to America or, frankly, do they have intelligence value to America, because if they do, we obviously don't want to release them right away. So we will look at all those facts and make that determination. But it is a fact-based determination; get all the data we can, make the best decision we can based on those facts.

Q Is this effort connected at all to what the Navy inspector general is looking into at Guantanamo and Iraq? And could you talk a bit about what it is the admiral is doing?

SEC. ENGLAND: I really can't. He's doing a task for the secretary directly. It is the NAVY IG assigned to a special task, I believe, looking at the entire detainee issue.

But this is not concerned with that. Again, this is very narrow. This is looking specifically at detainees in terms of should they be released or should they be detained at Guantanamo.

Q Can you just address the issue of why a review board is necessary? Some of these detainees have been detained for two years; they've been interrogated extensively. Why isn't the military capable of making a judgment at this time by itself of the people down at Guantanamo as to who would be a risk to the United States and who wouldn't?

SEC. ENGLAND: Look, you don't want to make a mistake in this case. I mean, I think you do have to do this thoughtfully and deliberately. So you will see that the process we have put together is a very deliberate, I would say precise process that everyone can follow, so that when we come to a conclusion, we know that we made the right conclusion on this. So we want a very precise process

because we want to come out with the best quality answer we can. So we've put this process together, fact-based, accumulate all the facts, make the very best decision we can.

Q The last time we were briefed on this, there was talk that there wouldn't really be able -- there wouldn't be a public eye in terms of the public would -- not allowed to be -- sit in on any of these hearings, or there -- and there would be no notification of the press when these hearings were going on, if I'm actually correct in saying that.

Two questions. One, has any of that changed? Have you reviewed that, maybe changed those processes? Or -- and the second question is, any of these folks that you've talked to for input -- have they requested a more public viewing of this?

SEC. ENGLAND: First, we haven't talked to anyone yet, any of the detainees, because, of course, we haven't started this process. So we haven't talked to any of the detainees yet.

Will it be public? We're still having these discussions. My expectation is probably not, because these are classified proceedings. And to do it just for the unclassified portion, I'm not sure you could have an appropriate hearing sort of in stages of unclassified/classified, plus there may be security issues for the person themselves, the detainee. There's privacy issues for the detainee. So it's not clear to me that it's advantageous to make the hearing itself public.

But we do want to make sure everybody understands how the hearings will be conducted, and that's why we're making our process very, very public.

So we've had this discussion. I would expect, though, frankly, that there are impediments to making the hearing public, because of security, and also I'm not sure that the detainee himself -- I mean, also has privacy rights. And so we'd have to work our way through.

Given that I don't think that's reasonable, in time, we may find out maybe we can do it.

Q I don't think I was being clear on the first part of the question. Any of the groups like the Red Cross or the ABA or Amnesty -- have any of them put any input into -- about opening them up?

SEC. ENGLAND: We met with all the groups today, as I mentioned, and we had some very good discussions. And they were very, very helpful. I mean, there were very, very helpful comments, suggestions, and I was very, very pleased they met with us. I've asked them to give me their comments, recommendations by Monday on -- across the wide range, give me their views across how we can make this whole process better. So Monday I'll know more precisely how they feel about all these issues. But -- so wait until Monday.

Q Mr. Secretary, just generally speaking, what is your answer to human rights groups, critics, who say that these detainees in Guantanamo are being held indefinitely in legal limbo, with no real fair way to establish whether they're swept up innocently or whether they in fact pose a threat, and that these

procedures you've outlined today don't meet that test either? What's your response to that general criticism?

SEC. ENGLAND: Well, these procedures do meet that test. I mean, this is a very fact-based approach. We bring out all the information available. The detainee himself can appear with interpreters, can bring in information from home countries, can bring in information from families; all the information available in the federal government. So this is a fact-based review board where all the data comes together to make a determination, should the person be released, again, transferred, or detained. So, I mean, we have a fiduciary responsibility not to release people who are going to do harm to America or to our friends and allies. But there's also rights of the detainee. And so this is to ascertain to the very best we can, reasonable people making this determination.

Q You used the word "transparent" earlier when you talked about the process. But you also say that the procedures will not be open, in all likelihood. How can they be transparent if they're not public?

SEC. ENGLAND: Look, there's courts of law that -- I mean, we don't have press at every court of law. I mean, that's right; sometimes it's damaging to do it that way. So, look, there's other administrative processes. I mean, you can't have everything open.

These are classified hearings. People aren't cleared for that. And you don't want to endanger people. So you can't have everything open, but you can have the process open. So the process itself is very transparent; people understand precisely how the process works, and there's great value to that. And by the way, I believe that that's very well received by the non-government organizations that we met with today.

Yes, sir?

Q Who pays for any efforts on the detainee's behalf? The things I'm thinking of are twofold. One, say there's some information or there's some witness or, you know, some family member in the far end of Saudi Arabia that might have something relative to his case, and there is some logistical cost involved of getting that information from that person. Is that something that the U.S. government will bear, something the home government will bear, or will the detainee have to come up with -- and his family come up with some way to pay for it?

The other part would be transport and sort of release. If the detainee is released, how does he get home?

SEC. ENGLAND: Okay, well, they're released through State Department; State Department makes those arrangements. My understanding is they are actually returned on military air. But the when and where and the timing and all of that is all through State Department. So we will be working closely with State Department in that regard. Cost? There won't be a cost to the detainee. Is that borne by the host country, State or DOD? Frankly, I don't know that question. But it won't be borne by the

detainee. The detainee will not have a financial liability in this regard.

Q You said that this wasn't to determine guilt or innocence. Will these hearings be given to every detainee, or will the ones who you have determined -- or who the military has determined will probably or possibly go before commissions, will they get hearings?

SEC. ENGLAND: No. The commission's another venue, not part of this. But other than those deemed to be part of the commission process, all the detainees, all the DOD detainees at Guantanamo will be part of this process.

Q But what you mean by those deemed to be part of the commission process, those who have already been -- (inaudible) -- commission, other than that, everybody will get a hearing?

SEC. ENGLAND: Yes. If you're not part of the commission process, then you are part of this annual review, that's part of this administrative process.

Q Mr. Secretary, I'm a little unclear what your role in all this is. Are you a bureaucratic overseer, or will you have final authority on who's released, who's detained and who's transferred?

SEC. ENGLAND: All of us hate to say yes on the bureaucratic overseer. (Laughs.) I operate the process. I operate and oversee, organize the process, and I also make the ultimate decision. So I organize the process, I operate the process. I'm putting organizations in place to operate this. And that's also defined in the procedures: what is the organization, how it operates, very precisely stated. I oversee it to make sure it's operating properly. The recommendations are then made to me by the three-member board, and I make the final decision regarding release, transfer or continue detention.

Q How are you going to juggle this responsibility with being Navy secretary, though? You've got what seems to be a full plate just being Navy secretary. How are you going to do this, juggle the priorities?

SEC. ENGLAND: Well, we just spend the time to do it. I mean, we will do this right. Like I said, I take this very seriously, so I'll take the time necessary to do it. We just work a little harder. It will work.

Q Related to that, sir -- it may be spelled out in here, I'm not sure, but when you say you make the final decision, is your final decision subject to review by the secretary, perhaps, or anyone else?

SEC. ENGLAND: No, it's not.

Q So what you say goes.

SEC. ENGLAND: That's correct.

Q Just to go back to a question earlier, really, I'm still a bit puzzled as to what this process adds to what already exists. I mean, we've been told since the Guantanamo detention center was set up that there is an inter-agency process which is looking at the same sorts of things that you're talking about here, the intelligence value, the question of whether a person is a threat. Is the implication of this that there are a lot of people in Guantanamo who haven't been through any process at all up to now?

SEC. ENGLAND: Well, this is an annual process. This is to make sure -- what I will make sure is that at least annually everyone in Guantanamo goes through this process. So at least annually, we will make sure that everyone goes through this process, gets re-reviewed at least annually. So this is an at least annual process. And I will tell you we will do it as quickly as we can. I mean, again, I am advocate to do this and to keep this process moving, so it doesn't become bureaucratic. Since I do have authority and the responsibility to operate, organize and oversee, I will make sure that the process -- we stay with it and we actually review every case at least annually.

Q Do you know if there are people there who haven't been through any process at all up to now, or review?

SEC. ENGLAND: I don't know that, no. I haven't looked at them. I expect that there's probably some haven't been through a process. There's just a lot of people. So it takes a while to go through that process.

I believe it will be very helpful to have a well-documented, precise process. I believe we've been learning this as we go. So hopefully we'll be able to learn as -- you know, from everything that's happened, and now we can get a better process in place, continuously improve the process. And I hope, by the way, that this process we continuously improve.

So while I said I've asked for inputs Monday from everyone regarding this process, I would expect that we will, over time, continuously improve the way we do this. I mean, I would expect there would be more inputs as time goes on. We will learn from our own experience, and we will hopefully continually make this better over time.

Q Do you expect that -- have you been to GTMO, and do you expect that you will ever personally question any of these people? Or you will rely mainly on recommendations and on paperwork provided you?

SEC. ENGLAND: Well, it's been -- I was at GTMO very early, when we were first setting up GTMO. I have not been there recently. I will be going down in the next couple weeks. I have had people in the meantime at Guantanamo as part of setting up this process. So I'll be there in a couple weeks.

I will make sure -- and I am sure I will be sitting in, Charlie, on some of the boards and looking at the data, doing my own quality control of the process to make sure it's operating, at least the way I feel it should be operating. That's part of my oversight role and part of my responsibility.

Q Mr. Secretary, what steps are you going to take to make sure you're not party to ex parte pressure? You're going to be like a judge, and judges try to take steps to make sure they're not pressured outside the courtroom, so to speak. What steps are you going to take to make sure you're insulated?

SEC. ENGLAND: Well, I'm independent. I mean, I have the authority to do this. The secretary's given me the authority and responsibility.

We get input from lots of organizations ahead of time. That is, people can provide us data prior to the board reviews. So interagencies can all provide information. So they have a responsibility to do it early in the process, so all the facts can be examined.

After that, it is the review board and myself in terms of recommendations and then decision.

Q You said repeatedly that this review will be driven by facts and data. But a lot of what's keeping these people there is their kind of subjective analysis of their intelligence value. Are you saying that the cold, hard fact that this person was or wasn't a member of al Qaeda would trump an analysis from an intelligence agency whether this person may or may not have future value as a detainee?

SEC. ENGLAND: Well, look, I mean, first of all, a little subjective -- you just hypothesized the case. But look, we want to look at all of the information from all the interagencies, information from the detainee, information from detainees' countries.

Obviously, they have different value in terms of the value of the information. I mean, just like any other data, you have to look at the weighted -- I mean, what's more relevant, what correlates, make the best decision. Look, at the end of the day, this will be judgment, but it will be judgment based on facts, data available -- again, the best decision a reasonable person can make in this situation. I mean, this is not going to be black and white. But hopefully it will as fair and equitable as we can make it for the individual, and make it safe and secure for America.

Q Is there a deadline that was set for when this year's process must end by?

SEC. ENGLAND: I'm not quite sure how to answer that. This is, again, everyone reviewed within a year. So within the next year, starting literally today, we will have everyone through this review process. We will staff up, organize, make sure this process is robust enough that we can accommodate -- that is, have a hearing for all the people at Guantanamo, all the detainees at Guantanamo.

Let me give Rick one. He had his up first. I'll get back to you.

Q Mr. Secretary, who will the military officers be who will sit on these boards? Where will they come from and what will their backgrounds be?

SEC. ENGLAND: Rick, we have a set of qualifications and a questionnaire for all the officers.

The senior presiding officer will be colonel level or a Navy captain, so an O-6 will be the presiding senior officer. The other officers will be an O-4, meaning major or lieutenant commander; but major, typically, I think you would recognize. They'll be from all the services. So we will have a pool of people available. I'll know their qualifications, I'll know their background. And they'll have a questionnaire. And from that pool I will select people.

Q Are they all going to be lawyers or --

SEC. ENGLAND: No, they will not be. In fact, none of them will be lawyers, because this will be an administrative process, and it's not going to be a legal -- it's going to be an administrative, fact-based administrative process. Again, this is not guilt or innocence. And we don't want to put people in compromising positions. You know, they're used to client-lawyer relationships. We don't have those kind of relationships. Determine the facts.

Q So if I could just get a little more. Will the officers be reassigned to Guantanamo and stay there for long periods of time, or will they come down for a case or two and go back to their regular assignments?

SEC. ENGLAND: Well no, it will have to be more than a case or two because, I mean, we'll be hearing quite a few cases. All of this will be going on at the same time; be people accumulating facts, having hearings. So this is going to be a lot of activity for a lot of detainees all going on simultaneously. So this will have to be teams of people dedicated. I can't tell you today how long those assignments would be, but, I mean, certainly they're months or a year, but, you know, some reasonable period of time.

Plus, we'd like them to have experience at this. As time goes on, we'd like them to get better at it and pass on that experience. So we haven't -- we don't have that specific mechanism yet, but I would expect it would be months if not a year.

Q Well, if you're going to start late next week, you better get your mechanism in place there.

SEC. ENGLAND: Well, but we're not starting with all of them. I mean, we're going to start with the first board, and then we have to grow this. So it will grow as we work into it.

Q Will the ICRC be sitting in on any of these hearings? Will they be allowed to sit in?

SEC. ENGLAND: I doubt it, again, because of the classified nature of this. So I don't think so. I mean, again, a somewhat open question. We're still debating can you have someone sit in on part of this. But I would expect -- my expectation is between the classification aspect, perhaps security aspect even for the individual himself, privacy aspects -- still in discussion. Maybe we'll get some input from the NGOs next week. So we'll look at this. I don't expect it will happen, but I don't rule it out.

How about one more question?

Q Any sense of why this wasn't done, you know, two years ago? Why now, against the backdrop of all this pressure and public opinion on interrogation technique?

SEC. ENGLAND: Well, a lot has been going on. I mean, a lot of detainees have been released. So, I mean, this is not brand new. The annual review, I think, is new. But a lot has gone on in terms of releasing detainees, so a lot of progress has been made, and I would characterize this as the next step in that process.

Q So we shouldn't look at this as just another example of damage control by the administration in light of the prison scandal --

SEC. ENGLAND: No, this has been under way for some time. I mean, this whole process has been under way. It just happens it's finally coming to fruition now, but this whole process in terms of working now has been interagency for many, many months. I think even the drafts were published three, four, five months ago. So no, this has been in work for a good time.

Last one.

Q Both over here and at Homeland Security, you've been one of the senior officials in the U. S. government on the war in terror. Over the last 2-1/2 years, how have you regarded the hundreds of people that have been held at Guantanamo Bay? How do you view them?

SEC. ENGLAND: Well, I mean, I view them as people who are held, I mean, in time of war. This has been a threat to America, and so we've responded appropriately. I mean, we've held people that we consider to be threats to America. But time's gone on. The question is, are they still threats to America? And that's the question these boards will determine. Again, it's not guilt or innocence, it's what is the situation today and going forward in terms of a threat to America. And that is what we will decide, and that's what the decision will be based on.

Everybody, thanks very much.

Q Thank you.

SEC. ENGLAND: Good to see you all again. Thank you.

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