

Combatant Status Review Tribunals

Purpose

A Combatant Status Review Tribunal (CSRT, phonetically “See-cert”), is a one-time administrative process designed to determine whether each detainee under the control of the Department of Defense at Guantanamo meets the criteria to be designated as an enemy combatant. Each detainee has the opportunity to contest such designation. It is not a criminal trial and is not intended to determine guilt or innocence; rather, it is an administrative process structured under the law of war to confirm the status of enemy combatants detained at Guantanamo as part of the Global War on Terrorism.

History

International law, including the Geneva Conventions, has long recognized a nation’s authority to detain combatants until the cessation of hostilities. Enemy combatants are not detained as punishment, but to prevent them from returning to the battlefield and engaging in further armed attacks against innocent civilians and U.S. Forces. Detention also serves as a deterrent against future attacks by denying the enemy the fighters needed to conduct war. In addition, interrogations during detention enable the gathering of important intelligence to prevent future attacks during ongoing hostilities.

Detainees at Guantanamo are not held as “Prisoners of War.” The President has determined that those combatants who are a part of al-Qaeda, the Taliban or their affiliates and supporters, or who support such forces do not meet the Geneva Convention’s criteria for POW status. Accordingly, there was no need to convene tribunals under Article 5 of the Geneva Convention. International law, including the Geneva Conventions, has long recognized a nation’s authority to detain unlawful enemy combatants without benefit of POW status. The U.S. Government treats unlawful combatants in accordance with Common Article 3 of the Geneva Conventions.

As a result of Supreme Court decisions in June 2004 (*Rasul, Hamdi*), the U.S. Government on July 7, 2004, established the Combatant Status Review Tribunal (CSRT) process at Guantanamo Bay Naval Base, Cuba. Consistent with the Supreme Court guidance, the CSRT process supplements DoD’s already existing screening procedures and provides an opportunity for detainees to contest their designation as enemy combatants, and thereby the basis for their detention. The tribunals draw upon guidance contained in the Supreme Court decision in *Hamdi* that would apply to U.S. citizen-enemy combatants in the United States. The CSRT panels, composed of three neutral commissioned officers, determine whether the preponderance of the evidence supports an enemy combatant determination.

Between July 2004 and March 2005, DoD conducted 558 CSRTs at Guantanamo. Based on a review of information known to DoD at that time, 38 detainees were determined to no longer meet the definition of enemy combatant and 520 detainees were found to be enemy combatants.

Procedural Protections of CSRTs

CSRTs offer many of the procedures contained in U.S. Army Regulation 190-8, which the Supreme Court specifically cited as sufficient for U.S. citizen-detainees entitled to due process under the U.S. Constitution. (Army Regulation 190-8 is used by the DoD when an individual's status is in doubt, and therefore an Article 5 tribunal is required.)

The CSRT also guarantees each detainee additional procedural rights, such as:

- The right to a personal representative to assist the detainee in preparing the detainee's case, presenting information to the tribunal, and questioning witnesses.
- The right to receive an unclassified summary of evidence in advance of the hearing, and to introduce relevant documentary evidence at the hearing.
- The CSRT rules require the government to search all files for, and provide to the tribunal, any "evidence to suggest that the detainee should not be designated as an enemy combatant."
- Additionally, if new information is learned relating to the enemy combatant status of a detainee, there is a process by which a new CSRT can be convened to reconsider the initial enemy combatant determination.