

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

IN RE:

**GUANTANAMO BAY
DETAINEE LITIGATION**

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) **Misc. No. 08-442 (TFH)**
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) **Civil Action No. _____**
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**DECLARATION OF ATTORNEY GENERAL
ERIC H. HOLDER, JR.**

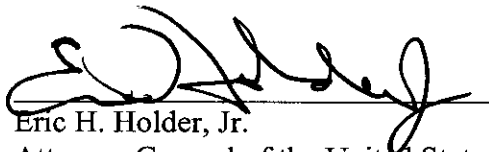
1. I am the Attorney General of the United States. I submit this Declaration in connection with Respondents’ Memorandum Regarding the Government’s Detention Authority Relative to Detainees Held at Guantanamo Bay.
2. I am informed that there are habeas petitions pending in this Court involving more than 200 individuals detained by the Department of Defense at Guantanamo Bay, Cuba. The Supreme Court in *Boumediene v. Bush* has instructed that these petitioners are entitled to a “prompt hearing.” Mindful of the Supreme Court’s admonition, the Government is submitting herewith an explanation of its detention authority upon which it intends to rely in this litigation, notwithstanding its continuing intensive efforts to develop fully its prospective detention policies.
3. Promptly determining the appropriate disposition of those detained at Guantanamo Bay is a high priority for the President. On January 22, 2009, the President issued two Executive Orders – Executive Orders 13492 and 13493 – initiating reviews to determine the appropriate disposition of the detainees held there and to develop prospective detention policy.
4. Pursuant to Executive Order 13493, an interagency Special Task Force on Detention Policy has been created to “conduct a comprehensive review of the lawful options available to the Federal Government with respect to the apprehension, detention, trial, transfer, release, or other disposition of individuals captured or apprehended in connection with armed conflicts and counterterrorism operations, and to identify such options as are consistent with the national security and foreign policy interests of the United States and the interests of justice.”

5. This Special Task Force consists of participants from the Department of Justice, the Department of Defense, the Department of State, the Department of Homeland Security, the Office of the Director of National Intelligence, the Central Intelligence Agency, and the Joint Chiefs of Staff. Officials from the Department of Defense and Department of Justice are serving as Co-Chairs of the Special Task Force.
6. Executive Order 13493 gives the Special Task Force approximately six months to complete its consideration of these complex issues, requiring the Special Task Force to provide periodic preliminary reports to the President, and to present a final report within 180 days of the date of Executive Order 13493.
7. Executive Order 13492, also implicating the proper scope of detention authority, directs the closure of the detention center at Guantanamo Bay and orders a legal and factual review of each detainee's status, with a view toward determining whether the detainee can be transferred or released, prosecuted for criminal conduct in an appropriate forum, or subjected to some other lawful disposition.
8. Section 3 of Executive Order 13492 provides that "[a] review of the status of each individual . . . shall commence immediately. The review shall determine whether the continued detention of any such individual is lawful and in the national security and foreign policy interests of the United States and the interests of justice."
9. I have appointed Matthew Olsen, the former Acting Assistant Attorney General for the National Security Division, to lead the interagency Task Force involved in the review mandated by Executive Order 13492. That Task Force also includes participants from the Department of Justice, the Department of Defense, the Department of State, the Department of Homeland Security, the Office of the Director of National Intelligence, and the Joint Chiefs of Staff. The Task Force is obtaining information pertinent to the disposition of individuals currently detained at Guantanamo Bay. Based on its review of that information, the Task Force will provide recommendations to a Review Panel consisting of senior-level officials from the Department of Justice, the Department of Defense, the Department of State, the Department of Homeland Security, the Office of the Director of National Intelligence, and the Joint Chiefs of Staff, regarding appropriate dispositions of the detainees.
10. The reviews addressing the disposition of detainees at Guantanamo Bay and the vital issue of detention policy are ongoing. In conjunction with these reviews, the Executive Branch has refined the Government's position with respect to the detention authority to be asserted in this litigation, as stated in Respondents' Memorandum Regarding the Government's Detention Authority Relative to Detainees Held at Guantanamo Bay.
11. The Task Forces will continue to deliberate regarding these issues as part of their work. The development of detention policy requires consultation and coordination among all of the agencies involved in the Executive Order reviews. Important and difficult legal, diplomatic, and national security issues are at stake. As they continue

to consider these significant issues pursuant to the President's directives, the Task Forces will advise the Civil Division of any policy developments that may affect the petitioners in the habeas litigation.

This Declaration is submitted pursuant to 28 U.S.C. § 1746. I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 13, 2009.



Eric H. Holder, Jr.
Attorney General of the United States