Media Ground Rules for Guantanamo Bay, Cuba (GTMO)

Media Policy at Guantanamo Bay, Cuba
Agree To Abide

Media representatives must agree to and sign the attached Media Ground Rules prior to being allowed access to Naval Station, Guantanamo Bay, Cuba.

Failure to follow these ground rules and instructions may result in restricted access on GTMO, removal from the installation and revocation of press credentials. By signing this document, the News Media Representative (NMR) is agreeing to abide by these restrictions.

For further information regarding this policy, please contact OSD Public Affairs at 703-697-5131/5132.

Please sign the following, acknowledging that you have read and understand these ground rules and procedures, and agree to abide by them.

Acceptance of ground rules for media visits to Guantanamo Bay, Cuba

Name _____ Affiliation_____

Position _____ Work Phone_____

Cell Phone_____ Fax_____

Emergency contact information (Name and Phone number)

Name _____ Phone_____

I understand and will comply with the ground rules listed herein. I also understand that the U.S. Government assumes no liability or responsibility for my personal safety while on U.S. Naval Station, Guantanamo.

Signature _____ Date_____

A. Scope and Purpose of the Ground Rules

1. This policy establishes procedures with respect to media visits to Naval Station Guantanamo Bay, Cuba, (GTMO) and the media coverage of military commission proceedings. The Defense Department will facilitate media access to the maximum extent possible, in an effort to encourage open reporting and promote transparency, consistent with the Military Commissions Act and accompanying rules and regulations, and the need to protect operational and national security, and comply with international treaty obligations.

2. The ground rules are established to protect operational security and to ensure the security of personnel, as well as the integrity of military commission proceedings. They are also designed to provide guidance to News Media Representatives (NMR) concerning what information will be deemed to be "protected information" for purposes of these ground rules.

3. NMRs must agree to abide by the following rules as a condition of access to GTMO and military commission proceedings. Failure to comply with these ground rules could result in permanent expulsion of the NMR and/or removal of the parent news organization from further access to GTMO or to military commissions. Permanent removal of a news organization may occur where there have been repeated violations by various NMRs affiliated with the organization, or there are other strong indications that the organization does not intend to abide by the ground rules.

4. The receipt of this document does not guarantee media travel or access to GTMO operations and activities. Permitted presence on GTMO does not imply unlimited access to personnel or facilities.

5. The Office of the Assistant Secretary of Defense for Public Affairs OASD (PA) is responsible for the development and implementation of media ground rules at Guantanamo Bay. Any questions regarding their implementation should be directed to OASD (PA). These ground rules will be reviewed periodically and updated as appropriate. Any recommendations for changes should be submitted to OASD (PA).

6. Nothing in these ground rules affects criminal liability under any other provision of law.

B. Release Authority

Consistent with the media ground rules that are outlined here, the Department of Defense is the sole release authority for all military information contained in all media (e.g., audio visual, photography, graphics, sketches, etc.) gathered or produced within the Joint Task Force Guantanamo area of operation.

C. Protected Information

1. Protected Information necessarily includes classified information. Protected Information also includes (i) information the disclosure of which could reasonably be expected to cause damage to the national security, including intelligence or law enforcement sources, methods, or activities, or jeopardize the physical safety of individuals, and (ii) information subject to a properly-issued protective order by an official authorized to issue such orders by law or regulation.

2. NMRs shall not publish, release, publicly discuss, or share information gathered at GTMO, or in transit to or from GTMO on transportation provided by DoD (or other U.S. government entities), that is Protected Information for purposes of these ground rules.

3. A NMR will not be considered in violation of these ground rules for re-publishing what otherwise would be considered Protected Information, where that information was legitimately obtained in the course of newsgathering independent of any receipt of information while at GTMO, or while transiting to or from GTMO on transportation provided by DoD (or other U.S. government entities).

4. While at GTMO, and in transit to and from GTMO, NMRs may be exposed to aspects of detention and base operations the disclosure of which must be avoided for reasons of national security, force protection and compliance with international treaty obligations. These operations are part of the base operations that the general public is not invited or permitted to view. As a result, JTF-GTMO has designated aspects of these operations whose disclosure is not permitted, and NMRs at GTMO will be required, as a condition of their visits, to safeguard this information, which will be deemed Operational Protected Information. Operational Protected Information, as determined by JTF-GTMO, is identified in these ground rules.

D. General Photography and Video Limitations

1. At no time during a media visit is communication (verbal, written or other) with a detainee allowed. Attempting to communicate with a detainee and photographing or taking video of a detainee's attempts to communicate with members of the media are prohibited. If detainees become agitated at the presence of media, the media may be asked to leave for the safety and security of the detainees, NMR and the guard force.

2. Photographs or video shall **not** be taken of the following:

a. Frontal facial views, profiles, ¾ views, or any view revealing a detainee's identity.

b. Identifiable JTF-GTMO personnel, without their consent.

c. Deliberate views of security protocols including security cameras, metal detectors, locks, keys, gates, reinforced doors or other security measures.

d. The JTF-GTMO coastline between the Windmill Beach entry gate, east to Kittery Beach; this restriction includes views of Camp Iguana and the security gate from Windmill Beach and views of the tactical observation post from Kittery Beach.

e. Panoramic views (an unobstructed or complete view of an area) of JTF-GTMO camp facilities and Office of Military Commissions (OMC) facilities that reveal access roads, facilities layout, security borders or locations of security checkpoints.

f. Views of Checkpoint Roosevelt and Checkpoint Houston or observation post "New York".

g. Deliberate views of fuel, water, electrical power or ammunition processing or storage facilities from within their enclosed boundaries including close-up views of valves, electrical power panels, fuel or water distribution pipes or fittings.

h. Deliberate views of antennas, RADAR or communications facilities or equipment from within their marked boundaries.

i. Bunker facilities on either side of AV-34/Courtroom One.

j. Military Convoys arriving or departing OMC facilities or JTF-GTMO operational area.

E. <u>Operational Security Review</u>

1. NMRs will submit all still and video imagery taken at JTF-GTMO to a security review. Media members are responsible to ensure video imagery can be played to television or played back on camera. To this end, media members are responsible for providing compatible video format playback device for material review.

2. An operational security review (OPSEC) of visual recordings will be conducted daily, as required, or at a minimum prior to departure from JTF-GTMO. All images and video are required to be screened prior to upload into any laptop and prior to release.

3. During the OPSEC review, imagery that is determined to be in violation of these ground rules will be deleted or cropped to achieve compliance. For photographs, the NMR may request two (2) images per person per day be cropped to meet security requirements. Cropping is defined as cutting off the parts of a digital photograph deemed to be in violation. Blurring, smudging, fading, superimposing a black line or spot over certain parts of a photograph, or any other digital manipulation is not a substitution for cropping.

4. Photos selected for cropping will be moved from NMR's photo storage media (e.g., SD card) and saved onto a government computer. The original photo will be deleted from the NMR storage media and stored on the government computer until the final

disposition of the photograph has been decided. The photos will then be cropped by a JTF-GTMO PA representative on the government computer, renamed and saved back to the government computer. The newly created file will then be transferred back to the NMR storage device. There is no appeal of JTF-GTMO's proposed cropping; if the NMR disagrees with the proposed cropping, the cropped image will be deleted and the original photo may be appealed to the JTF-GTMO CDR (or his or her designated military representative other than the JTF-GTMO PAO).

5. For videos, the NMR must bring his or her editing equipment to GTMO. The NMR will edit his or her video to meet security requirements in the presence of a JTF-GTMO PA representative. The editing process should take no longer then 10 minutes per day per NMR video. Disputed sections of video must be edited and stored while the JTF-GTMO PA decision is being appealed. For NMR who do not have such video editing capability, approval or deletion are the only options.

6. If the NMR disagrees with the judgment of the JTF-GTMO PAO that the photograph or video image is in violation of these ground rules, the NMR may request that a copy of the image (in compatible format) be forwarded for appeal to the JTF-GTMO CDR (or his or her designated military representative other than the JTF-GTMO PAO) who will have no more than 24 hours to review the photograph and render a final decision as to whether the photograph will be approved for publication. If the JTF-GTMO CDR (or his or her designated military representative other than the JTF-GTMO PAO) concurs with the judgment of the JTF-GTMO PAO then the image will be deleted.

F. Additional Rules and Procedures Specific to Military Commissions

1. The Defense Department will facilitate media access to military commissions to the maximum extent possible, in an effort to encourage open reporting and promote transparency, consistent with the Military Commissions Act and accompanying rules and regulations, and the need to protect operational and national security, and comply with international treaty obligations. In order to facilitate maximum access consistent with security requirements, the following Media Ground Rules have been established.

2. OASD (PA) is the sole approval authority for visits by media personnel in conjunction with military commission proceedings. OASD (PA) will coordinate media, briefings, interviews, and communications support in connection with commission proceedings.

3. In each military commission proceeding, the military judge will specify in advance what information is considered Protected Information for purposes of that proceeding. Such information, in the absence of an inadvertent disclosure, shall not be released to the media. Protected Information necessarily includes classified information. Protected Information, for purposes of commission proceedings, also includes (i) information the disclosure of which could reasonably be expected to cause damage to the national security, including intelligence or law enforcement sources, methods, or activities, or jeopardize the physical safety of individuals, and (ii) information subject to

a properly-issued protective order by an official authorized to issue such orders by law or regulation.

4. If Protected Information is inadvertently disclosed during a session, NMRs are urged to respect any temporary media embargo issued by the military judge until any disputes about the status of the information are resolved.

5. While at GTMO to attend military commission proceedings, and in transit to and from GTMO for that purpose, NMRs may be exposed to aspects of detention and base operations the disclosure of which must be avoided for reasons of national security, force protection and compliance with international treaty obligations. These operations are not an inherent part of the public proceedings that occur in the military commissions, but rather are part of the base operations that the general public is not invited or permitted to view. As a result, JTF-GTMO has designated aspects of these operations whose disclosure is not permitted, and NMRs at GTMO will be required, as a condition of their visits, to safeguard this information, which will be deemed Operational Protected Information.

6. The GTMO Media Operation Center (GTMO MOC) is a place to conduct business. Alcohol will not be stored or consumed in the GTMO MOC or in and around the Hangar Conference Room. Media can use B18 which has a large refrigerator, chairs and TV as a social area. Media are free to store alcohol in their tent refrigerator or the in B18 refrigerator.

7. Media may conduct interviews in the Hangar Conference Room with prior coordination with the OASD (PA) representative.

8. JTF-GTMO tours: Tours of the current detention facilities, Camp X-Ray, and other facilities, are arranged through JTF-GTMO PA staff on a not-to-interfere basis with military commissions. These tours involve a significant amount of coordination and generally cannot be done during commissions proceedings. However, tours may be arranged as the hearing schedule and resources permit.

9. Appropriate clothing for camp tours consists of loose-fitting slacks (or jeans) and short/long sleeved shirts. Excluded are sleeveless shirts, tight-fitting clothing, brightly colored clothing and open-toed shoes.

G. <u>Media Viewing of Sessions</u>

1. As ordered by the military judge, sessions will be open for media observation to the maximum extent practical given the constraints of courtroom size and the requirement to safeguard protected information. Media unable to view from within the courtroom will be allowed to view proceedings via Closed Circuit TV (CCTV) feed to the GTMO MOC.

2. The level of access allowed for a given session is at the discretion of the military judge and is subject to change as the situation dictates. In an effort to balance the need to

safeguard protected information with the principle of openness, a three-tiered system will be used to determine the level of access allowed.

3. Open Sessions. This will be the standard posture for most commission sessions and allows for maximum openness. The military judge will normally allow Open Proceedings when no Protected Information is being discussed and there is a low risk of inadvertent disclosure of Protected Information. During Open Sessions, no fewer than 11 media representatives will be allowed in the courtroom. Media will be appropriately debriefed if Protected Information is inadvertently disclosed during a courtroom session and will be urged not to use the information. The remaining media representatives will be allowed to view sessions via CCTV in the viewing area of the GTMO MOC.

4. Open Sessions With Delay. In some cases, the military judge may determine that there is a significant risk of Protected Information being inadvertently discussed or inadvertently disclosed. In such cases involving Courtroom One, all media will view the proceedings from the GTMO MOC, where they will receive a feed from the CCTV. The CCTV feed will have a delay to allow security officers to interrupt the feed in the event of the disclosure of Protected Information. In such cases involving Courtroom Two, where the media and public observe proceedings from behind a glass partition, there will be a delay in the transmission of the audio portion of the proceedings to allow security officers to interrupt the feed in the event of the disclosure of Protected Information. These sessions are designed to continue to permit media access when a session would otherwise be closed.

5. Closed Sessions. The military judge will normally order Closed Sessions, or portions of Sessions, only when Protected Information is planned to be discussed. During Closed Sessions, no CCTV feed will be provided and no media will be in the courtroom. Procedural information on the session will be provided to the media members whenever possible, though some details may be excluded. It is anticipated that this procedure will only be used when absolutely necessary, and in accordance with the provisions of the Military Commissions Act. Whenever possible, a brief summary of unclassified information will be provided at the end of a closed session.

6. All NMRs observing the sessions in the courtroom are subject to the instructions of the military judge concerning such matters as behavior and appearance. Failure to comply with the military judge's instructions could result in a charge of contempt of court, which could curtail all further coverage by that media representative and, if a pattern of violation of orders is established, his/her news organization.

7. In the event technical difficulties interrupt the CCTV signal to the GTMO MOC and the military judge elects to continue without a CCTV feed to the GTMO MOC, the media in the courtroom will immediately be considered a pool and thus be required to share notes and observations with media in the GTMO MOC as soon as practical until the CCTV can be restored.

8. NMRs are not permitted to interact with the military judge or courtroom personnel, either during active sessions or breaks in the proceedings; they may interact with prosecution and defense counsel at the discretion of counsel. NMRs are also requested to respect the privacy of other military commission observers during trial recesses and not press for unsolicited interactions.

H. Additional Information

1. NMRs may request interviews of DoD personnel by submitting requests to the OASD (PA) representative at GTMO. Interviews with JTF-GTMO personnel, including senior commanders, support staff and detention camp personnel may be permitted and these individuals may be identified with their consent and the approval of the JTF-GTMO Commander.

2. Interviews with others not associated with JTF-GTMO or the military commissions proceedings, including with any Cuban, Haitian, or other migrant personnel, is expressly prohibited, unless specifically approved by the Commanding Officer, U.S. Naval Station Guantanamo Bay, Cuba.

3. Electronic devices are prohibited in the courtroom during courtroom sessions. This includes laptops, cell phones, and any other device with an "on/off switch." Paper notebooks, pens, pencils, and paper (including case-related documents) are permitted.

4. Video and audio recording and the taking of photographs in a courtroom during the proceedings and radio or television broadcasting of proceedings from a courtroom are prohibited.

5. Courtroom sketches may include the features of the defendant, judges, attorneys, witnesses and spectators, unless they have been declared "protected" by the judge. Sketch artists are requested to respect the wishes of victims' family members before sketching them and before using any such sketch in any publication. Courtroom sketches may not include the features of the members of the commission panel.

6. NMRs may conduct interviews with prosecutors and defense counsel participating in the commission proceedings, and with OASD (PA) and OMC personnel, with their consent, and these individuals may be identified by name, with their consent.

I. Courtroom Seating Rules for Coverage of Military Commissions

1. Courtroom seating for NMRs shall be made available to the maximum extent possible. In the event that the number of spectators exceeds the number of available seats, the following shall apply:

a. No fewer than eleven (11) seats shall be reserved in the courtroom for NMRs, including one designated for the sketch artist (if present).

b. If a NMR leaves the courtroom during a proceeding, they will not be allowed to return until a break in the proceedings is taken.

2. Courtroom seating will be decided by media pool. If the media cannot reach an agreement, the following rules will apply:

a. Courtroom seating will be allocated each day, by media category, and then by lottery with the sketch artist (if present) always having a seat. For allocation purposes, five media categories will be used to divide those seats: (3) print, (3) television, (3) wire and news service, (1) radio and (1) sketch artist. Lots will be drawn among participating outlets to assign courtroom seating. If a proceeding lasts more than one day, a new lottery will be conducted for each day.

b. Once a NMR has viewed one day's worth of sessions from within the courtroom, their name is withdrawn from the lottery until all media representatives in all categories who desire courtroom seating have had a turn in the courtroom.

c. Trading courtroom seating is not permitted. If a NMR draws a seat, they must use it or forfeit it. They may not trade, give away, or otherwise transfer the seat to another person. Seats turned back will be redistributed by lottery.

d. Once a day's session begins, seat allocations are considered used, provided the day's session lasts at least 30 minutes.

J. Procedures for Enforcement of Ground Rules

1. An NMR may seek to raise with a military judge that judge's designation of Protected Information, and, to the extent permitted by applicable law and military commissions rules, regulations, procedures and practice, the military judge may allow the NMR to be heard on the matter, in the event the NMR believes the Protected Information was in fact information that was legitimately obtained by the NMR in the course of newsgathering independent of any receipt of information at GTMO, or while transiting to or from GTMO on transportation provided by DoD (or other U.S. government entities). In the event the military judge undertakes to resolve the issue, OASD (PA) will defer to the military judge's ruling. In the event the military judge declines to rule on the issue after an opportunity to do so, the NMR is encouraged to bring the issue to OASD (PA) for appropriate consideration and disposition within the framework of these ground rules.

2. NMRs have an opportunity to challenge the designation of information as "Protected" where JTF-GTMO security personnel have so designated the information. A challenge to JTF-GTMO's designation of information as Protected shall be submitted in writing to the JTF-GTMO commander.

a. A challenge may also be submitted to the JTF-GTMO commander by OASD (PA) in order to resolve an issue raised by an NMR.

b. Written challenges must identify with specificity (i) the protected information at issue, (ii) the reason(s) for believing the protected designation is not (or is no longer) valid, and (iii) any supporting documentation relevant to substantiating that claim. A decision on the NMR's challenge will be rendered promptly.

3. If OASD (PA) believes that a NMR has violated these ground rules, it will, absent exigent circumstances, notify the NMR in writing of the concerns and provide the NMR an opportunity to be heard on whether a violation occurred and/or to present mitigating circumstances that bear upon any sanction, before taking any adverse action. An appeal of any adverse determination may be made to the Principal Deputy ASD/PA. The NMR's access to commission proceedings may be temporarily suspended while this process is underway. No final action will be taken to expel a reporter, deny future access or impose any other adverse action unless (i) the military judge makes a finding that a material violation of a Protective Order has occurred, or (ii) the JTF-GTMO commander makes a finding that a material violation of the ground rules provisions relating to Operational Protected Information has occurred, or (iii) the Assistant Secretary of Defense for Public Affairs (ASD/PA), in consultation with the General Counsel of the Department of Defense, makes a finding that a material violation of the ground rules has occurred; and, in each instance, ASD/PA, in consultation with the General Counsel, determines that the imposition of a sanction is needed to further an important governmental interest.

4. Nothing in this section is intended to interfere with a military judge's authority within his or her courtroom.

K. Administrative Requirements/Guidance for NMR Covering Military Commissions

1. The following support is provided during news media visits:

a. Transportation on military vehicles as required.

b. Use of military dining facilities. Costs for meals will be collected as required.

c. Billeting.

d. Emergency medical care, on a reimbursable basis.

e. Notification of the sponsoring news organization if a NMR becomes seriously ill or injured. The responsibility for notifying next of kin of all correspondents who become seriously ill or injured is the responsibility of the sponsoring news agency.

f. Access to unclassified communications facilities as appropriate when available.

2. Transportation to and from GTMO for military commissions is provided via military aircraft, in coordination with OASD (PA). Media representatives' travel plans must remain flexible due to unexpected operational missions or inclement weather, either of which could result in flight cancellation or delay.

3. Media that are located within 500 miles of Guantanamo Bay may apply for an exception to policy to fly commercially to Guantanamo Bay. Requests for this exception to policy must be made in writing to OASD (PA) at least 72 hours prior to departure. Media personnel must arrive at Guantanamo Bay on the same day as the OMC arrival flight and they must depart Guantanamo Bay prior to or on the same day as the OMC departure flight. Any media who cannot make flight arrangements to depart Guantanamo Bay prior to or on the same day as the OMC departure flight, must depart on the OMC flight back to Andrews Air Force Base.

4. Media representatives must obtain the proper paperwork prior to departure for GTMO, including Invitational Travel Orders (ITOs) issued by OASD (PA), and personal identification documents. NMR are required to sign these ground rules prior to departure.

5. Recommend NMRs pack appropriate supplies and clothing for this tropical climate. Please bring only the minimum amount of personal effects and equipment. Media representatives must provide their own personal and professional gear, including protective equipment cases, batteries, cables, satellite telephones and converters.

6. NMRs are reminded that casual clothing is appropriate for this visit. Appropriate clothing consists of loose-fitting slacks and short/long sleeved shirts. Excluded are sleeveless shirts, tight-fitting clothing and open-toed shoes. NMRs are encouraged to travel with sufficient cash, credit cards, copies of Invitational Travel Orders (supplied) and immunization records. Weapons of any type are not authorized.

7. NMRs must travel with their passports. Those who do not have a passport will not be permitted to travel. Additionally, NMRs who do not hold a U.S. passport must have a valid journalist visa.

8. Media representatives should notify their personal physicians as soon as possible to receive any necessary immunizations. Recommended immunizations include, but are not limited to: immune serum globulin, tetanus, diphtheria, oral polio, typhoid, yellow fever, and flu shot (between 1 Nov-1 Apr).

9. Access to military medical care at GTMO is strictly on a reimbursable basis. The Naval Station hospital is prepared to deal with many types of routine medical complaints but major medical issues may require medical evacuation to the continental U.S. on a reimbursable basis.

Appendix A

Definition of Terms

ASD/PA - The Assistant Secretary of Defense for Public Affairs.

CCTV - Closed-circuit television feed of military commission proceedings.

DoD - U. S. Department of Defense.

GTMO - U.S. Naval Station, Guantanamo Bay, Cuba.

JTF-GTMO - Joint Task Force, Guantanamo Bay Naval Station.

NMR - News-media representative.

OMC - Office of Military Commissions.

OASD (PA)- Office of the Assistant Secretary of Defense for Public Affairs.