

## New to Job, Gates Argued for Closing Guantánamo



Brennan Linsley/Associated Press

An inmate peering from his cell at the detention center at Guantánamo Bay, Cuba, which has been used to hold terrorism suspects.

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WASHINGTON, March 22 — In his first weeks as defense secretary, [Robert M. Gates](#) repeatedly argued that the detention facility at Guantánamo Bay, Cuba, had become so tainted abroad that legal proceedings at Guantánamo would be viewed as illegitimate, according to senior administration officials. He told President Bush and others that it should be shut down as quickly as possible.

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Angel Franco/The New York Times

Camp Delta, the fenced-in core of the Guantánamo prison.

Mr. Gates's appeal was an effort to turn Mr. Bush's publicly stated desire to close Guantánamo into a specific plan for action, the officials said. In particular, Mr. Gates urged that trials of terrorism suspects be moved to the United States, both to make them more credible and because Guantánamo's continued existence hampered the broader war effort, administration officials said.

Mr. Gates's arguments were rejected after Attorney General [Alberto R. Gonzales](#) and some other government lawyers expressed strong objections to moving detainees to the United States, a stance that was backed by the office of Vice President [Dick Cheney](#), administration officials said.

As Mr. Gates was making his case, Secretary of State [Condoleezza Rice](#) joined him in urging that the detention facility be shut down, administration officials said. But the high-level discussions about closing Guantánamo came to a halt after Mr. Bush rejected the approach, although officials at the [National Security Council](#), the Pentagon and the State Department continue to analyze options for the detention of terrorism suspects.

The base at Guantánamo holds about 385 prisoners, among them 14 senior leaders of [Al Qaeda](#), including [Khalid Shaikh Mohammed](#), who were transferred to it last year from secret prisons run by the [Central Intelligence Agency](#). Under the Pentagon's current plans, some prisoners, including Mr. Mohammed, will face war crimes charges under military

trials that could begin later this year.

“The policy remains unchanged,” said Gordon D. Johndroe, a spokesman for the National Security Council.

Even so, one senior administration official who favors the closing of the facility said the battle might be renewed.

“Let’s see what happens to Gonzales,” that official said, referring to speculation that Mr. Gonzales will be forced to step down, or at least is significantly weakened, because of the political uproar over the dismissal of [United States attorneys](#). “I suspect this one isn’t over yet.”

Details of the internal discussions on Guantánamo were described by senior officials from three departments or agencies of the executive branch, including officials who support moving rapidly to close Guantánamo and those who do not. One official made it clear that he was willing to discuss the internal deliberations in part because of Mr. Gonzales’s current political weakness. The senior officials discussed the issue on ground rules of anonymity because it entailed confidential conversations.

The officials said Mr. Gates and Ms. Rice expressed their concerns about Guantánamo in conversations with Mr. Bush and others, including Mr. Gonzales, beginning in January and onward. One widely discussed alternative would move the prisoners to military brigades in the United States, where they would remain in the custody of the Pentagon and would be subject to trial under military proceedings. There is widespread agreement, however, that moving any detainees or legal proceedings to American territory could bring significant complications.

Some administration lawyers are deeply reluctant to move terrorism suspects to American soil because it could increase their constitutional and statutory rights — and invite an explosion of civil litigation. Guantánamo was chosen because it was an American military facility but not on American soil.

Placing the detainees in military brigades on United States territory might fend off some of those challenges. The solution may eventually require a new act of Congress establishing legal standing for the detainees and new rules for their trial and incarceration if brought to the United States.

Mr. Gates’s criticism of Guantánamo marks a sharply different approach than the one taken by his predecessor, [Donald H. Rumsfeld](#). It also demonstrated a new dynamic in the administration, in which Mr. Gates was teaming up with Ms. Rice, who often was at loggerheads with Mr. Rumsfeld. The State Department has long been concerned about the adverse foreign-policy impact of housing prisoners at Guantánamo.

In the end, Mr. Gates did succeed in killing plans to build a \$100 million courthouse and detention complex at Guantánamo, after he argued that the large and expensive project would leave the impression of a long-lasting American detainee operation there and that the money could be more effectively spent elsewhere by the Pentagon. Mr. Gates approved a far more modest facility at one-tenth of the cost.

The setback in his effort to close Guantánamo was described by senior Pentagon officials as Mr. Gates’s only significant failure during an effort in his first three months in office to shift course from policies pursued by Mr. Rumsfeld. The outcome suggests that Mr. Bush, Mr. Cheney and Mr. Gonzales remain committed to a detention plan that has become one of the most controversial elements of the administration’s counterterrorism program.

Mr. Cheney’s spokeswoman, Lee Anne McBride, said via e-mail that “we don’t discuss internal deliberations.”

Mr. Bush has repeatedly said he ultimately wants to shutter the detention operations at Guantánamo. But he has also said it is not possible to do so any time soon.

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