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Incoming Chairmen Ready to Investigate

Democratic-Led Panels to Probe Administration's Actions in War and Counterterrorism

By Charles Babington

Washington Post Staff Writer

Saturday, December 16, 2006; A05

Incoming Democratic committee chairmen say they will hold a series of hearings and investigations early next year to build the case for their call for a phased withdrawal of U.S. troops from Iraq and for possible action against defense contractors found to have wasted billions in federal funds.

The emerging plans to grill administration officials on the conduct of the war are part of a pledge for more aggressive congressional oversight on issues such as prewar intelligence, prisoner treatment at Abu Ghraib and Guantanamo Bay, and the government's use of warrantless wiretaps.

Among the most eager incoming chairmen is Sen. Carl M. Levin

<<http://projects.washingtonpost.com/congress/members/1000261/>> (D-Mich.), a lawyer with a professor's demeanor and a prosecutor's doggedness. As head of the Senate Armed Services Committee, Levin, 72, will be his party's point man on the Iraq war and on the Democrats' call to begin withdrawing troops in the coming months.

Levin said he also plans inquiries into "documentation of waste and fraud and abuse in the contracting areas" of the military. Aggressive oversight "is not just a budget issue," he said, but at some point "becomes a significant moral issue." In the House, Rep. John P. Murtha <<http://projects.washingtonpost.com/congress/members/m001120/>> (D-Pa.), another leading advocate of a phased withdrawal, has vowed to use his Appropriations subcommittee chairmanship to investigate the Iraq war, holding "two hearings a day for the first three or four months . . . to find out exactly what happened and who's been responsible for these mistakes."

In committee after committee next month, the gavel will be handed by Bush allies to ardent Democrats deeply frustrated by what they see as the GOP-led Congress's refusal to conduct meaningful oversight and to hold the executive branch accountable.

Sen. Patrick J. Leahy <<http://projects.washingtonpost.com/congress/members/1000174/>> (D-Vt.) said he will use his Judiciary Committee perch to conduct "real oversight" of the FBI and the Justice Department and to delve into "the abuse of billions of taxpayers' dollars sent as development aid to Iraq."

"I am not prepared to accept answers like 'I can't talk about it,' " Leahy said in a recent speech at Georgetown University's law school.

Levin, a sharp critic of the administration's use of prewar intelligence, will have new, substantial powers to press the White House for information and for a new direction in Iraq.

In a recent interview in his Senate office, Levin said the Senate Armed Services Committee's first priority will be to seek ways to stabilize Iraq and gradually disengage the United States from the war. But the committee will also hold retrospective hearings, he said, to determine whether administration officials manipulated intelligence before the war and whether the post-invasion provisional government abused its contracting powers and wasted huge sums of money.

"There is a responsibility from a lessons-learned perspective and an accountability perspective to fill in the blanks," said Levin, who voted against authorizing the war in 2002. "And there have been a number of blanks." Some lower-level military personnel have been held accountable for matters such as detainee mistreatment, he said, "but almost none in the intelligence community."

Having Levin replace John W. Warner

<<http://projects.washingtonpost.com/congress/members/w000154/>> (R-Va.) as chairman of the Senate Armed Services Committee will "hugely" change oversight, said Sen. John D. Rockefeller IV <<http://projects.washingtonpost.com/congress/members/r000361/>> (D-W.Va.), a longtime colleague. Rockefeller, incoming chairman of the Senate intelligence committee, also plans more aggressive hearings.

"Oversight doesn't have to be a hostile process," Rockefeller said. But he said he and Levin are determined to overcome the administration's long-standing refusal to hand over documents concerning the White House contention in 2002 and 2003 that Saddam Hussein had weapons of mass destruction. "The public must understand that you can't do that," Rockefeller said.

Warner is not considered an administration apologist, but the committee's posture is certain to be more combative as soon as Levin assumes the chairmanship, colleagues and analysts said.

Levin "takes issues of oversight and hearings and authorization very seriously, and he guards very carefully the prerogatives of Congress," said Kurt Campbell, a former Pentagon official now with the Center for Strategic and International Studies. Levin will quiz military commanders on their advice about Iraq, Campbell said, and he will dig deeply into allegations of mismanagement and favoritism in the granting of contracts and plum jobs after the fall of Hussein.

"I think the Republicans will bristle at some of the things he wants to do," Campbell said, "because this really gets to the question of whether the previous Congress dropped the ball."

Levin plans to use his new powers in his long-running dispute with the Bush administration over the conduct of Douglas J. Feith, former undersecretary of defense for policy. Levin says Feith exaggerated the relationship between Hussein's government and al-Qaeda when the Bush administration was trying to build public support for the Iraq invasion.

The administration's repeated refusal to give Levin 58 documents related to Feith's activities is about to be tested. "We're entitled to those documents," Levin said. "If necessary, I intend to subpoena those documents."

Levin's House counterpart, incoming Armed Services Committee Chairman Ike Skelton <<http://projects.washingtonpost.com/congress/members/s000465/>> (D-Mo.), also plans Iraq-related hearings. "His big priorities are support for our troops and their families; readiness, especially in the Army and Marine Corps; oversight; and Afghanistan, which he feels is the forgotten war," said his spokeswoman, Loren Dealy. "His concerns have been the lack of oversight in general. He feels it has not been adequate."

Levin said Iraq's future is his top priority. The situation "has got to be solved by the Iraqis politically," he said. "There is no military solution to it."

He said the 2003 invasion obligated the United States to help post-Hussein Iraq get back on its feet. "We have carried out that obligation," Levin said. "We've been there three years plus. We've given them the opportunity."

Levin said he plans later hearings on the abuses of Iraqi detainees at the Abu Ghraib prison and the treatment of terrorism suspects at Guantanamo Bay, Cuba, and elsewhere.

Under Warner, the committee showed some interest in those topics, Levin said, "but the subpoenas haven't gone out, obviously. We may have to issue subpoenas in that area as well."

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International Herald Tribune
Guantánamo officials clamp down on prisoners
By Tim Golden
Saturday, December 16, 2006

GUANTÁNAMO BAY, Cuba

As the first detainees began moving last week into Guantánamo's modern, new detention facility, Camp 6, the military guard commander stood beneath the high, concrete walls of the compound, looking out on a fenced-in athletic yard.

The yard, where the detainees were to have played soccer and other sports, was part of a plan to ease the conditions under which more than 400 men are imprisoned here, nearly all of them without having been charged. But that plan has changed.

"At this point, I just don't see using that," the guard commander, Colonel Wade Dennis, said. After two years in which the military sought to manage terrorism suspects at Guantánamo with incentives for good behavior, steady improvements in their living conditions and even dialogue with prison leaders, the authorities here have clamped down decisively in recent months.

Security procedures have been tightened. Group activities have been scaled back. With the retrofitting of Camp 6 and the near-emptying of another showcase camp for compliant prisoners, military officials said about three-fourths of the detainees would eventually be held in maximum-security cells. That is a stark departure from earlier plans to hold a similar number in medium-security units.

Officials said the shift reflected the military's analysis - after a series of hunger strikes, a riot last May and three suicides by detainees in June - that earlier efforts to ease restrictions on the detainees had gone too far.

The commander of the Guantánamo task force, Rear Admiral Harry Harris Jr., said the tougher approach also reflected the changing nature of the prison population, and his conviction that all of those now held here are dangerous men.

"They're all terrorists; they're all enemy combatants," Harris said in an interview. He added, "I don't think there is such a thing as a medium-security terrorist."

Harris, who took command on March 31, referred in part to the recent departure from Guantánamo of the last of 38 men whom the military had classified since early 2005 as "no longer enemy combatants." Shortly after Harris's remarks, another 15 detainees were sent home to Saudi Arabia, where they were promptly returned to their families.

Still, about 100 others who had been cleared by the military for transfer or release remain here while the State Department tries to arrange their repatriation.

The detainee population here has also been reshaped by the arrival in September of 14 terror suspects, including the man accused of being the mastermind of the attacks of Sept. 11, 2001, who had been held by the Central Intelligence Agency in secret prisons overseas.

U.S. officials said the so-called high-value suspects were being held apart from the rest of the Guantánamo prisoners, at a secret detention facility supervised by CIA officers. The 14

have been visited twice by representatives of the International Committee of the Red Cross, but have not yet been interrogated by military intelligence officials, these officials said.

Next year, after the Defense Department finishes rewriting rules for the military tribunals that the Bush administration first established in November 2001, the intelligence agency's prisoners are to be charged with war crimes. The timetable for their prosecutions remains uncertain.

Military officials said they would continue to try to improve conditions at the prison to the extent that security considerations allowed. They said they have abandoned special cell blocks for discipline and segregation, so that prisoners who violate rules are now punished simply by the withdrawal of various privileges in their regular cells. The authorities have also standardized rules for exercise, allowing each detainee at least two hours a day, they said.

Nonetheless, the tightening of security at the detention center represents a significant shift in Guantánamo's operations.

Since the spring of 2004, the military's handling of the detainees had been heavily influenced by the political and diplomatic pressures that grew out of the Abu Ghraib scandal and other cases of prisoner abuse. At the same time, Guantánamo's focus was shifting from interrogations to the long-term detention of men who, for the most part, would never be charged with any crime.

With little guidance from Washington, senior officers here began in 2005 to edge back toward the traditional Geneva Convention rules for prisoner treatment that President Bush had disavowed after 9/11, for the fight against terrorism, military officials said. Military officers began listening more attentively to the prisoners' complaints, and eventually met a few times with a council of detainee leaders.

Those talks were quickly aborted in August 2005. The hunger strikes were effectively broken last January, when the military began strapping detainees into padded "restraint chairs" to force-feed them through stomach tubes. But those protests gave way to several drug overdoses in May and the hangings in June of three prisoners -- all of whom had previously been hunger strikers.

The current Guantánamo commanders eschewed any criticism of their predecessors. But they were blunt in laying out a different approach.

Asked about his discussions with prisoners, Dennis said he basically had none. As for the handful of detainees who have continued to wage hunger strikes, including three who were being force-fed last week, he said they would be get no "special attention" from him.

"If they want to do that, hook it up," he said, apparently referring to the restraint chair system for force-feeding. "If that's what you want to do, that's your choice."

Harris said he had ordered a hardening of the security posture on the basis of new insights into the threat that the detainees pose. "We have learned how committed they are, just how serious they are, and how dangerous they are," he said.

Several military officials said Harris took over the Guantánamo task force with a greater concern about security, and soon ordered his aides to draw up plans to deal with hostage-takings and other emergencies.

He and Dennis both asserted that Camp 4 - where dozens of detainees rioted during an aggressive search of their quarters last May - represented a particular danger. Harris said

detainees there had used the freedom of the camp to train one another in terrorist tactics, and in 2004 plotted unsuccessfully to seize a food truck and use it to run over guards.

"Camp 4 is an ideal planning ground for nefarious activity," he said.

But according to several recent interviews with military personnel who served here at the time, the riot in May did not transpire precisely as military officials described it at the time. The disturbance culminated with what the military had said was an attack by detainees on a members of a Quick Reaction Force that burst into one barracks to stop a detainee who appeared to be hanging himself.

But officers familiar with the event said the force stormed in after a guard saw a detainee merely holding up a sheet and that his intentions were ambiguous. A guard also mistakenly broadcast the radio code for multiple suicide attempts, heightening the alarm, the officers said.

Harris conceded that an error "could have been" made, but said "it was certainly no accident" that the prisoners had slicked the floor of their quarters with soapy water and excrement, and fought the guards with makeshift weapons. He said he believed the guards acted properly.

The May 18 search took place after at least two prisoners were found unconscious from overdoses of hoarded drugs. The detainees who attacked the guards were known as an especially religious group, who had been angered in the past by searches of their Qurans.

After the three suicides in June, Camp 6 was substantially reconfigured. Staircases and catwalks were fenced in so that detainees could not jump from them to attack guards or try to kill themselves. Shower stalls were built higher so they could not be used for hangings. Exercise yards were divided up into a series of one-man pens.

The detainees will still look out the small windows of their computer-controlled cell doors to see the stainless steel picnic tables where they were once supposed to have shared their meals; they just will not be able to sit at those tables with other detainees.

Military officials confirmed that since the suicides in June, three detainees who were part of the council that negotiated with military commanders had been kept isolated from nearly all other prisoners in Camp Echo, a collection of bungalows where detainees often see their lawyers.

Those detainees include Shaker Aamer, a Saudi resident of Britain who is accused of having ties to al-Qaida; Ghassan al-Sharbi, a Saudi electrical engineer who was charged earlier with plotting to make bombs for Qaida forces in Afghanistan; and Saber Lahmar, an Algerian religious scholar seized in Bosnia.

Lawyers for both Aamer and Lahmar said that they had been alone for most of that time, and that the isolation was causing them psychological damage.

"They have thrown away the key and forgotten him even though he is spiraling down physically and psychologically," Lahmar's lawyer, Stephen H. Olesky, said.

Noting that Lahmar's petition for relief has been before a federal appeals court for nearly two years, he added, "They know we do not have a judge to take this case to, so they can pile on the detainee."

Dennis, the commander of the detention group, said Lahmar was being allowed to exercise and had access to any medical attention he required.

The Daily Telegraph

US military blocks Hicks's plea

US military authorities have blocked a request by Guantanamo Bay inmate, Australian David Hicks, to undergo an independent mental health assessment.

Hicks's Pentagon lawyer, US Major Michael Mori, told Fairfax newspapers a visit by Paul Mullen, clinical director of Victoria's Forensic Mental Service, planned for next month had been vetoed.

Hicks was entitled only to an assessment by US military psychologists, who had also been involved in his interrogation.

"I want him to get help," Major Mori said.

"He's not going to open up to his jailers."

Hicks has been imprisoned at Guantanamo Bay since January 2002 after being arrested in Afghanistan on or around December 9, 2001, during the US invasion.

He had pleaded not guilty to charges of conspiracy, attempted murder and aiding the enemy. However, the charges were dropped after the US Supreme Court in June declared illegal the military tribunals set up to try Hicks and other inmates.

The Australian Government believes Hicks could face charges next month with the enactment of new regulations governing the US military commission expected to try him.

Major Mori doubted the US assurances given to Australia Defence Minister Brendan Nelson and Foreign Affairs Minister Alexander Downer during their visit to Washington last week.

<http://www.news.com.au/dailytelegraph/story/0,22049,20950605-5001028,00.html>
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Herold News Daily

U.S. military rehearses terror hearings

2006/12

By MICHAEL MELIA, Associated Press Writer 4 minutes ago

GUANTANAMO BAY NAVAL BASE, Cuba - The U.S. military is rehearsing for hearings on whether 14 top terror suspects can be held indefinitely without charge as enemy combatants, but defense lawyers say the outcome is preordained.

At the hearings, a military panel will evaluate whether the men should be classified as "enemy combatants," a designation which allows them to be held indefinitely and prevents them from challenging their detention in the U.S. court system.

"The biggest thing we're doing is opening up the books, reviewing procedures and conducting rehearsals so that we do it correctly," said Navy Capt. Philip Waddingham, the lead officer at Guantanamo for the Pentagon -based office in charge of determining detainees' status.

It is unclear whether Mohammed and the others - who until recently were being held in secret CIA prisons - will agree to attend the hearings. If they do, the military says they will remain shackled and would be forbidden to talk to reporters.

Combatant Status Review Tribunals were held for 558 detainees between July 2004 and January 2005. All but 38 were deemed enemy combatants.

"There is no question that these 14 have no chance," said Brent Mickum, an attorney who represents two Britons at Guantanamo. "The decision has (already) been made that they are enemy combatants."

Bush announced on Sept. 6 that the 14 detainees had been transferred to Guantanamo. Mohammed, who was believed to be the No. 3 al-Qaida leader, has not been seen in public since he was captured in Pakistan in 2003. The others include the alleged architects of the USS Cole bombing in Yemen in 2000 and the 1998 bombings of the U.S. embassies in Kenya and Tanzania.

Waddingham said in September that he expected the hearings for the 14 new detainees to be held within three months. That timeframe has been pushed back to early 2007 as top officials at the Pentagon, the Justice Department and the military Joint Task Force in charge of the prison camps coordinate the proceedings, he said.

U.S. authorities repatriated a 28-year-old Bangladeshi man on Sunday after years of imprisonment in Guantanamo, a police official at the airport in Bangladesh's capital Dhaka said. The official, Tahera Banu, said the man was being interrogated.

<http://www.heraldnewsdaily.com/>

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Houston Chronicle

Dec. 18, 2006, 1:09AM

Navy vet held by U.S. in Iraq for months

Security worker who became an FBI informer gets a firsthand look at detention methods

By MICHAEL MOSS

New York Times

One night in mid-April, the steel door clanked shut on detainee No.200343 at Camp Cropper, the U.S. military's maximum-security detention site in Baghdad, Iraq.

American guards arrived at the man's cell periodically over the next several days, shackled his hands and feet, blindfolded him and took him to a padded room for interrogation, the detainee said. After an hour or two, he was returned to his cell, fatigued but unable to sleep.

When he was released after 97 days he was exhausted, depressed and scared.

Detainee 200343 was among thousands of people who have been held and released by the American military in Iraq, and his account has provided one of the first detailed views of the Pentagon's detention operations since Abu Ghraib.

Passed information to FBI

The detainee was Donald Vance, a 29-year-old Navy veteran from Chicago who went to Iraq as a security contractor. He wound up as a whistle-blower, passing information to the FBI about suspicious activities at the Iraqi security firm where he worked, including possible illegal weapons trading.

When U.S. troops raided the company at his urging, Vance and another American who worked there were detained as suspects by the military, which was unaware that Vance was an informer, according to officials and military documents.

Nathan Ertel, the American held with Vance, carried away military records that shed further light on the detention camp and its secretive tribunals. Those records include a legal memorandum explicitly denying detainees the right to a lawyer at detention hearings.

Their story illuminates the U.S. military's haphazard system of detention and prosecution that has evolved in Iraq, where detainees are often held for long periods without charges or legal representation, and where the authorities struggle to sort through the endless stream of detainees to identify those who pose real threats.

"Even Saddam Hussein had more legal counsel than I ever had," said Vance.
Treated 'humanely'

A spokeswoman for the Pentagon's detention operations in Iraq, 1st Lt. Lea Ann Fracasso, said in written answers to questions that the men had been "treated fair and humanely," and that there was no record of either complaining about their treatment.

She said officials did not reach Vance's contact at the FBI until he had been in custody for three weeks. Even so, she said, officials determined that he "posed a threat" and decided to continue holding him.

He was released two months later, Fracasso said, based on a "subsequent re-examination of his case" and his stated plans to leave Iraq.

Ertel, 30, a contract manager who knew Vance from an earlier job in Iraq, was released more quickly.

Vance is back in Chicago, still feeling the effects of having been a prisoner of the war in Iraq.

"It's really hard. I don't really talk about this stuff with my family," he says. "I feel half the man that I used to be."

<http://www.chron.com/disp/story.mpl/world/4409150.html>
<<http://www.chron.com/disp/story.mpl/world/4409150.html>>

aljazeera.com

"Gitmo detainees to be held even without evidence"

Guantanamo detainees would be held indefinitely even if there is insufficient evidence to bring them to trial, either because they are deemed a security threat or because there is nowhere to send them in case the military authorities at the U.S. detention facility in Cuba decide to release them, said John Bellinger, the legal adviser at the U.S. State Department; responsible for defending Guantanamo's legal status.

Since the establishment of Guantanamo <http://www.aljazeera.com/me.asp?service_ID=10356> jail in 2001, some 360 detainees have been released from it and sent to Albania, Afghanistan, Australia, Bahrain, Belgium, Denmark, Egypt, France, Germany, Iran, Iraq, Jordan, Kuwait, the Maldives, Morocco, Pakistan, Russia, Saudi Arabia, Spain, Sweden, Sudan, Tajikistan, Turkey, Uganda, the United Kingdom and Yemen.

Currently there are 435 "suspects" held at the U.S. detention camp, only 10 of which have so far been charged with terrorism and related charges.

14 detainees, described by the U.S. military as high value detainees, including Khalid Sheikh Mohammed, whom the U.S. accuses him of masterminding the September 11 attacks, are to face trial.

"The remaining people - other than the ones who have been approved for release - really do pose a threat," Mr. Bellinger claimed in an interview with the Daily Telegraph.

"Ten percent of the people we have released have gone right back to fighting generally in Afghanistan. It's hard to tell exactly how many people would go back to actual acts of terrorism, or whether they would just go back to fighting in Afghanistan."

"There are at this point no plans to transfer those people from Guantanamo <http://www.aljazeera.com/me.asp?service_ID=10356> out of Guantanamo <http://www.aljazeera.com/me.asp?service_ID=10356> ," he said. "At this point the trials will be held on Guantanamo."

The Bush <http://www.aljazeera.com/me.asp?service_ID=%2010215> administration has rejected numerous calls to shut down the detention facility in Cuba, established more than five years ago following September 11 attacks on the U.S.

Most of the detainees who have been held at Guantanamo <http://www.aljazeera.com/me.asp?service_ID=10356> since its establishment, part of American President's so-called war against international terrorism, were detained during the war in Afghanistan where the U.S. occupation toppled the ruling regime of Taliban.

http://www.aljazeera.com/me.asp?service_ID=12721
<http://www.aljazeera.com/me.asp?service_ID=12721>

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Pg. 1

At Guantanamo, Even 'Easy' Cases Have Lingered
Balky Intelligence Agencies, War-Torn Crime Scene Hinder Legal Process; Maj. Groharing's Village Hunt
By Jess Bravin

After an hours-long firefight in an Afghan village called Ab Khail, an enemy fighter hurled a grenade at Sgt. First Class Christopher Speer, causing fatal injuries. For more than a year, Maj. Jeffrey Groharing, a Marine Corps prosecutor, has been trying to bring the alleged killer to justice.

Winning a conviction should have been easy. The suspect, Omar Ahmed Khadr, a Toronto-born teenager whose relatives have ties to al Qaeda, was captured after the July 2002 skirmish and taken to Guantánamo Bay. Under an order President Bush issued in November 2001, Mr. Khadr could claim few of the rights afforded defendants in civilian courts or courts-martial.

But for Maj. Groharing, the case of U.S. v. Omar Khadr, slated for an American military commission at Guantánamo, has been a headache. Intelligence agencies refused to share their files with the prosecutor, fearing their methods or sources might be disclosed. Soldiers who witnessed the incident are scattered across the globe. Defense attorneys hurled a series of legal challenges that paralyzed proceedings. And the crime scene -- a remote village still contested by Taliban fighters -- was all but obliterated by American bombs, making it nearly impossible to conduct an independent investigation.

Such challenges help explain why the Bush administration failed to complete a single Guantánamo trial in the five years before the Supreme Court struck the system down in June. The decision threw into limbo the prosecution of Mr. Khadr and nine other Guantánamo prisoners who were charged prior to the high court ruling. Congress has since passed the Military Commissions Act, which grants defendants some of the rights President Bush previously had sought to deny. But even when the deck was stacked in the government's favor, prosecutors struggled to convict fighters captured overseas amid a continuing conflict.

"At the end of the day, the question is: Can you actually try a case under these conditions?" says Prof. Robert Chesney, a specialist in national-security law at Wake Forest University.

Maj. Groharing acknowledges that the Guantánamo cases have had "some fits and starts," and presented challenges that few other prosecutors face. He says the effort is nonetheless worthwhile.

"What's the alternative? To not hold him accountable? We are certainly not going to give him a pass for killing a U.S. service member and plotting to kill many more," the prosecutor says. "The difference between us and al Qaeda is that when we had him on the battlefield, we didn't summarily execute him," he says.

The U.S. has employed forms of military commissions in past conflicts, most recently World War II, when hundreds of Axis officials and soldiers were tried for offenses such as crimes against humanity and mistreatment of American prisoners of war. But those trials took place after fighting had ended and before the introduction of stricter courtroom and evidentiary standards, as laid out by the Geneva Conventions, the U.S. Uniform Code of Military Justice and other laws.

Air Force Col. Moe Davis, the chief Guantánamo prosecutor, estimates that about 70 of some 435 Guantánamo prisoners will eventually face trial for specific war crimes; the rest will be held until the U.S. determines they no longer pose a threat. Those expected to face military trial include Khalid Sheikh Mohammed and Ramzi Binalshibh, alleged plotters of the Sept. 11, 2001, terror attacks. President Bush transferred them in September from a secret Central Intelligence Agency prison to Guantánamo.

The majority of the defendants are relative unknowns whose alleged crimes fall short of the catastrophic hijacking attacks. Mr. Khadr was selected as an early prosecution target precisely because his case seemed so simple. Of the prisoners previously charged, Mr. Khadr is the only one accused of killing anybody. Sgt. Speer's combat death, alone of the 194 American military personnel killed by enemy fire in and around Afghanistan, is the only one that has prompted a murder charge.

In contrast to some other cases, "we have a crime scene, we have facts, we have witnesses," says Maj. Groharing.

Defense attorneys say the allegations against Mr. Khadr amount to nothing other than taking part in a battle he didn't start.

The Marine attorney assigned to represent Mr. Khadr, Lt. Col. Colby Vokey, initially was barred by his commander from communicating with reporters after filing an affidavit accusing Guantánamo prison guards of abusing detainees. Muneer Ahmad, an American University law professor helping represent Mr. Khadr, says: "It's hard to think this is a case prosecuted solely on its merits without regard to the political benefits to the administration."

Mr. Khadr, he adds, "has been punished for the perceived sins of his family."

Mr. Khadr's father, Ahmed Said Khadr, an Egyptian-born Canadian citizen, was closely identified with extremist Islamic causes. In the 1980s, Ahmed Khadr traveled to Pakistan and Afghanistan, where he became a confidant of Osama bin Laden. In 1993, Mr. Khadr moved his family to Afghanistan, where U.S. authorities say he funneled money to al Qaeda under cover of charity work.

Mr. Khadr's boys trained at al Qaeda-run camps and played with Mr. bin Laden's children, Khadr family members said in interviews with the Canadian Broadcasting Corp. According to Pentagon charges, "while traveling with his father, Omar Khadr saw or personally met senior al Qaeda leaders," including Mr. bin Laden, Ayman al-Zawahiri and Muhammed Atef.

After the U.S. invaded Afghanistan to topple the Taliban regime in October 2001, the Khadr family scattered. Ahmed Khadr was killed by Pakistani forces in an October 2003 battle that also left his youngest son paralyzed.

Omar, meanwhile, "received approximately one month of one-on-one, private al Qaeda basic training" arranged by his father, Pentagon charges say, including "the use of rocket-propelled grenades, rifles, pistols, grenades and explosives."

In late July 2002, U.S. forces picked up satellite telephone transmissions from a village about seven miles outside Khost, Afghanistan, says retired Army Sgt. First Class Layne Morris, part of the unit sent to reconnoiter. Mr. Morris's account of the day is corroborated by contemporary news reports, charging documents and other court papers, including a successful civil suit filed by Mr. Morris and the widow of Sgt. Speer in U.S. District Court in Utah.

The Khadr family's Canadian lawyer, Dennis Edney, contends that suit was illegitimate and that it may color Mr. Morris's credibility.

According to Mr. Morris and press accounts, a detachment of about 40 U.S. soldiers, along with a few allied Afghan militiamen, headed to Ab Khail. Mr. Morris recalls leading a five-man squad to a compound outside the main village, with a mud wall surrounding a homestead with buildings and animal pens.

The sergeant peered through the compound's green metal gate, spotting what he says were well-dressed Arabs with AK-47 machine guns sitting around a fire. "They looked at me and I looked at them," Mr. Morris says.

Mr. Morris backed up, ordered his soldiers into position and called for reinforcements. About 100 villagers were hanging around watching events unfold. About 45 minutes later, the rest of the detachment arrived, including Sgt. Speer. The Americans took cover and sent the Afghans into the compound to inquire further, Mr. Morris says.

The men inside immediately shot the Afghans dead and began firing guns and throwing grenades at the U.S. soldiers, Mr. Morris says. The ensuing battle was ferocious, costing Mr. Morris his right eye, wounding four other Americans and ending only after U.S. F-18s dropped two 500-pound bombs on the compound, destroying it.

U.S. soldiers, assuming the enemy fighters were all dead, advanced on the compound, Mr. Morris says. That's when Mr. Khadr, then 15, allegedly rose and threw a grenade that wounded Sgt. Speer, a 28-year-old medic.

The soldiers shot Mr. Khadr. When they got to his prone body, he begged them, in English, to finish him off, Mr. Morris says. U.S. soldiers said at the time in press interviews they restrained their desire to do so and instead ordered medical treatment. Mr. Khadr survived, but lost most sight in his left eye. His three companions, all Arabs, were dead.

Sgt. Speer, shrapnel lodged in his head, was taken to an Army hospital in Germany, where he died on Aug. 7. Mr. Khadr was sent to Guantánamo Bay.

Maj. Groharing, 36, had long nursed dreams of becoming a Marine. He didn't join the Corps until 1996 after graduating from the University of Nebraska law school and a brief but unexciting exposure to private practice. For most of his career, he worked as a defense attorney representing Marines accused of crimes. He sometimes found the role uncomfortable, he says, partly because it involved standing up to commanders who want the offenders punished.

In 2002, he was transferred from San Diego to Washington, D.C., for a job with the Marine Corps commandant's legal counsel. Eager for experience at the prosecution table, he next sought appointment to the Office of Military Commissions.

"I wanted to do something that needed to be done," says Maj. Groharing. After he arrived in June 2005, Guantánamo reporters nicknamed him "Kevin Bacon," after his resemblance to the actor who played a Marine prosecutor in the picture, "A Few Good Men."

Prosecutors had already requested that President Bush authorize charges against Mr. Khadr based on the voluminous array of potential evidence. Over three years of detention, Mr. Khadr had told interrogators about his father's activities and connections, shedding light on al Qaeda's organizational structure, military officials say.

Soldiers who took part in the battle could be called to testify, along with relatives of Sgt. Speer. Both would likely hold weight with the seven U.S. officers appointed as judges. To top it off, soldiers had recovered a video tape from Ab Khail, which the Pentagon says shows a smiling Mr. Khadr building and planting bombs.

In November 2005, the administration formally charged Mr. Khadr with conspiracy, murder by an unprivileged belligerent, attempted murder by an unprivileged belligerent and aiding the enemy. The charges stem from Mr. Khadr's classification as an unlawful combatant, or a person who has no right to commit acts of war; if he was adjudged to be part of a regular army, his actions likely would be considered legal under the rules of war.

Maj. Groharing went to Guantánamo to personally deliver the news. He recalls thinking that Mr. Khadr looked "somewhat hardened, far from a typical teenager" and "a bit arrogant, cocky."

Mr. Khadr didn't appear know who the Marine was. "He advised me he didn't want me to be his lawyer. I said, 'I'm not your lawyer,' " and handed him the charges.

Mr. Khadr already had an impressive legal team. His family in Canada had hired counsel. In addition, Prof. Ahmad and a faculty colleague, Richard Wilson, represented him in civil litigation challenging his detention at Guantánamo. To these were added an Army lawyer and Col. Vokey, an experienced military defense counsel.

Mr. Khadr's lawyers say none of the charges are crimes, citing a variety of legal arguments. They note the Supreme Court plurality has found that conspiracy is not a war crime, based on post-World War II precedents that considered the charge too vague.

Prof. Ahmed says murder by an unprivileged belligerent "has never been recognized as a violation of the laws of war," and was instead "invented" by the Bush administration. The other charge, aiding the enemy, makes no sense, the law professor adds, because Mr. Khadr owes no allegiance to the U.S. Lastly, because Mr. Khadr was 15 at the time of the alleged crime, he should be treated as a juvenile, says Prof. Ahmad, following historic precedent.

His attorneys allege Mr. Khadr was subjected to years of abuse, including being used as a "human mop" to clean up urine, being shackled until he soiled himself, and being threatened with deportation to Egypt, where he would be raped.

Col. Davis, the chief Guantánamo prosecutor, says the allegations are under review and have not to date been substantiated. Maj. Groharing says if he ever gets his case into a courtroom, he can deal with such objections by citing evidence collected prior to the interrogation.

That wasn't the only problem. The prosecution needed help from other Pentagon offices but instead found uneven support for the commission plan. The tribunals had originated with Bush political appointees rather than professional military lawyers, many of whom thought existing court-martial procedures were more than adequate. Defense Secretary Donald Rumsfeld had little time for the commissions, officials say, since administration lawyers concluded prisoners could be held indefinitely, regardless of whether they were tried or even acquitted.

In the Pentagon bureaucracy, ambivalence translated into inertia, if not outright resistance. Intelligence agents refused to make key material available. Maj. Groharing tacked over his desk an intelligence report he received whose entire contents had been blacked out.

"There's an inherent conflict between what they're doing and what we're doing," Maj. Groharing says he realized. And the intelligence mission "trumps what we're doing."

Maj. Groharing says he was prepared to try his case based on the paper files and interviews with surviving U.S. servicemen. But Col. Vokey, the defense attorney, wanted to interview witnesses and gather evidence himself. Because that meant a trip to contested areas of Afghanistan and regions of Pakistan unfriendly to Americans, Maj. Groharing had to make arrangements for his adversary's travel, something the prosecutor considered "awkward."

Col. Vokey agrees, saying he didn't want to conduct his investigation with the prosecutor "looking over my shoulder." (Shortly before this article's publication, Col. Vokey said the ban on his communication with journalists had been lifted.)

By chance, lawyers in other military commission cases had business of their own in the region and the office planned a group trip. Maj. Groharing decided to go, too, so he could attend Col. Vokey's depositions and hunt down additional witnesses of his own.

The group flew to Islamabad, Pakistan, in May. Col. Vokey immediately came down with food poisoning "and that put him down for a week," the prosecutor says. "From that day on, he never had another kebab or naan."

After a stop in Peshawar, a border city where Ahmed Khadr once volunteered for a charity called Human Concern International, the group flew to Bagram air base in Afghanistan. From there, they took a helicopter to Khost, where an Army unit was assembled to escort the lawyers, now wearing Kevlar battle gear, to the crime scene.

At first, they couldn't find the village. When the convoy of six Humvees and some 25 soldiers finally rumbled into Ab Khail, villagers surrounded the U.S. group. The prosecutor wanted to find witnesses who would say that foreign fighters had been in the compound.

Several villagers "clearly remembered" the incident, Maj. Groharing says, before the village elder showed up and took charge of the encounter. "Anyone we tried to talk to, he would always jump in and answer for everyone else," the prosecutor says. The elder denied the very essence of the prosecution case: that al Qaeda fighters had fought U.S. soldiers in the village.

"There wasn't going to be a 'Perry Mason' moment where all of a sudden he admitted everything when I confronted him with the evidence," Maj. Groharing says.

Both the prosecutor and the defense attorney tried various feints to distract the elder. "We did talk to some folks on the side without him, but we also didn't want to upset the apple cart," Maj. Groharing says. "We wouldn't be doing a very good job of winning hearts and minds" by offending the local establishment.

The Americans examined the new compound, which had been built over the rubble of the previous buildings, noting a few reused bricks with bullet holes and spotting the shrapnel-damaged green metal gate, leaning unused against the compound's mud wall. After about three frustrating hours, they gave up and returned to Khost, Maj. Groharing says.

Their last stop was Jalalabad, a southern Afghan city where Ahmed Khadr ran an organization called Health and Education Project International. The U.S. says it was a front for financing al Qaeda. Col. Vokey wanted to interview the organization's current director.

Narrow streets and congested traffic made it impossible for their Humvees to maneuver, forcing the uniformed U.S. lawyers to walk the last few blocks. As they approached, explosions went off, Maj. Groharing recalls. Arriving at the address, they found a crowd watching the entire city block in flames.

"We were looking at the map and the grid coordinates and, no kidding, it's the place Col. Vokey wanted to see," Maj. Groharing says. The two lawyers, fearing for their safety, quickly left the scene.

The case against Mr. Khadr is now one of many held up by the Supreme Court's decision to strike down the Bush administration's original commission plan. Maj. Groharing says he expects to refile charges after the Pentagon draws up rules and procedures implementing the new system of military commissions, to be completed as soon as January. The Bush administration, meanwhile, plans to build a courtroom complex at Guantánamo by July 2007 at a cost of up to \$125 million.

But lawmakers of both parties have questioned the courtroom project, and the ultimate fate of military commission trials remains unclear. Last week a federal judge found Guantánamo prisoners had no right to challenge the Military Commissions Act, but the outgoing and incoming chairmen of the Senate Judiciary Committee, Sens. Arlen Specter (R., Pa.) and Patrick Leahy (D., Vt.), have said they plan to revisit the legislation.

Washington Post

JURISPRUDENCE

Blocking Justice

By Emily Bazelon

Sunday, December 17, 2006; Page B02

On Wednesday, a federal judge dismissed the habeas corpus petition of Salim Ahmed Hamdan, a detainee at Guantanamo Bay, Cuba. Latin for "you have the body," habeas corpus allows detainees to ask a court to order their warden to explain the basis for their detention. Hamdan's petition was dismissed because of the Military Commissions Act, which Congress passed last fall to take away the habeas rights of Guantanamo Bay detainees. The MCA is a classic example of "jurisdiction stripping." When the courts hand down rulings that Congress doesn't like, lawmakers sometimes retaliate by trying to take away their power to hear certain kinds of cases, or by strictly limiting what they can do.

That is also the story behind another case this week, in which the Supreme Court reversed a lower court's decision to grant a new trial in a murder case. At the original trial, the victim's family members wore large buttons with his picture on them, which the U.S. Court of Appeals for the 9th Circuit ruling violated the rights of the defendant, Mathew Musladin. Musladin brought a habeas corpus petition arguing that the buttons could have prejudiced the jury. Most of the Supreme Court justices agreed that seeing the victim's picture every day didn't exactly dispose the jury to be more fair. But the federal courts could not intervene, they ruled unanimously, because of a 1996 statute that allows them to give habeas relief only when the state courts have gotten the law utterly wrong.

Why does Congress get to take cases away from judges? In his book "America's Constitution," Yale law professor Akhil Reed Amar points out that judges weren't the heroes of the revolution. They were appointed by the British crown. The Constitution's drafters gave Congress weapons to use against the courts without giving judges much to defend themselves with. The president can draw his veto pen if Congress goes after him. The Supreme Court has to find a straight-faced way to declare a law unconstitutional when it weakens the judiciary's powers, Amar writes.

The MCA is such a law. It also may be unconstitutional in some cases. But Hamdan's case isn't one of them, according to last week's ruling by U.S. District Judge James Robertson. Hamdan's

problem is that he's a non-citizen whose contact with the United States has been "involuntary." The MCA stripped Hamdan of the right to habeas corpus granted by federal statute. There are also constitutional rights to habeas. But non-citizens don't have the sort of "substantial connection with our country" that justifies invoking the constitutional right to habeas corpus, the Supreme Court ruled in 1990 in *United States v. Verdugo-Urquidez*.

If Robertson is right that this ruling applies to Hamdan -- a question the Supreme Court will eventually settle -- hundreds of Guantanamo Bay detainees won't get federal habeas review either.

The limitations of habeas review, in the wake of Congress's tinkering, are on display in cases such as *Musladin's*. The legislation that Congress passed in 1996 says that the federal courts can't grant a habeas petition that state courts have turned down unless the state court decision "was contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court." That is a high bar. The ruling in *Musladin's* case underscores how high: The 9th Circuit was wrong to spend its time determining whether it was fair for the victim's family to wear the photo buttons in front of the jury. Instead, the federal courts can only look to see whether the Supreme Court has already said it's not fair.

There are reasons for federal judges to defer to state judges -- among them the principle of comity, according to which different branches of government show respect for one another, and the principle of finality, which in this context basically means that you get your habeas crack in the state courts, and that's enough. But habeas review has historically given defendants a chance to air their appeals outside the state system, with its giant caseloads and sometimes rushed rulings. Congress's 1996 habeas law has largely choked off this avenue. Consider Justice Anthony M. Kennedy's concurrence in *Musladin's* appeal. "Buttons proclaiming a message relevant to the case ought to be prohibited as a matter of course," he wrote, and called for a new rule to make it so -- in a future case. In other words, too late for Mathew *Musladin*.

If *Musladin's* predicament doesn't move you, consider that of Paul Gregory House. Twenty years ago, a Tennessee jury convicted him of a woman's murder after FBI testing appeared to show his semen on her clothing and her blood on his jeans. He was sentenced to death.

Then DNA testing showed that the semen on the victim's clothes came from her husband, and that the blood on House's jeans came from autopsy samples that spilled in the crime lab. Whoops. But House still had a big problem: His claims of innocence were barred by state procedural rules. Would the federal courts pry open the doors?

It was hardly a slam-dunk. Last June, in a dissent by Chief Justice John G. Roberts Jr., four justices said that the courts need not reconsider House's appeal, because he had not proved his innocence. But five justices said that House should get his second day in court because he had shown that it was likely that no reasonable juror would find him guilty beyond a reasonable doubt.

Even so, House doesn't get out of prison, nor is he spared the death penalty. He doesn't automatically get a new trial. Because of the 1996 habeas law, he has to plunge back into the procedural thicket.

Letting Congress strip the courts of the authority to hear certain claims or cases means giving more power to the people, who can elect their lawmakers but not their federal judges. From a pre-revolutionary vantage point, that made sense. But these days it's more often judges whom we can count on, if we can count on anyone, to stand up for the procedural rights of murder defendants and Guantanamo Bay detainees. Should Congress be able to block them?

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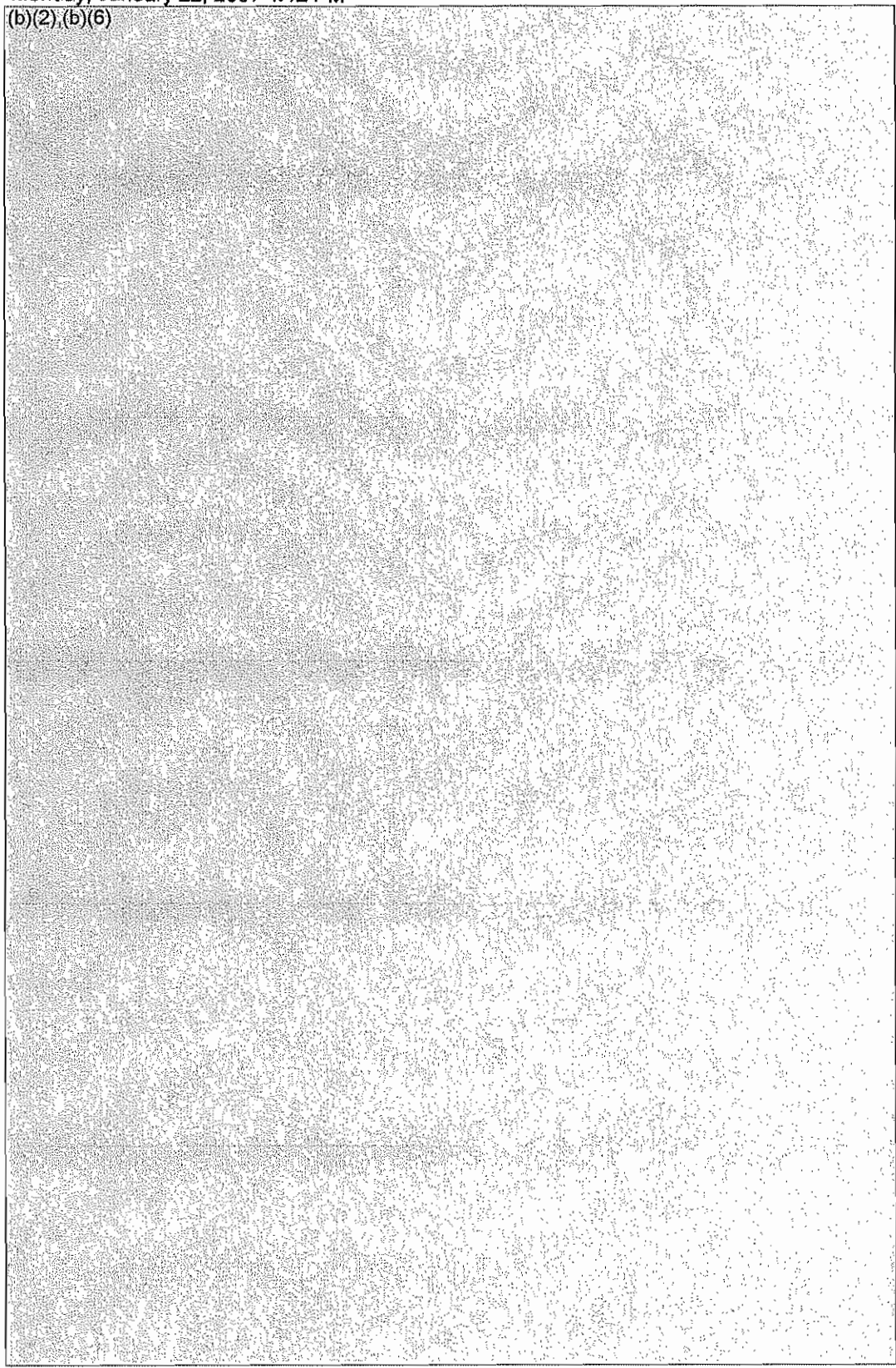
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GTMO Bird; Manual; German detainee; Moroccans; Afghan 15 returns to fight; U.K say close GTMO; U.K knew about CIA prisons; Detainee deaths

All:

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New York Times
January 19, 2007
Pg. 18

Pentagon Revises Its Rules On Prosecution Of Terrorists By Mark Mazzetti WASHINGTON, Jan. 18
- The Pentagon on Thursday unveiled its new courtroom rules for prosecuting prisoners held as terrorists, allowing military tribunals to consider hearsay evidence and testimony obtained through coercion, but not torture.

Pentagon officials said, however, that the new policy more closely resembled courts-martial governed by the Uniform Code of Military Justice than the previous procedures used to prosecute terrorist suspects.

Under legislation signed into law last year, the government is poised to restart tribunals that the Supreme Court halted last summer. Pentagon officials said military prosecutors had determined there was sufficient evidence to bring war crimes charges against 60 to 80 of the 395 prisoners detained at the military prison at Guantánamo Bay, Cuba.

The Pentagon detailed the new procedures in a 238-page manual released Thursday. The new procedures follow the guidelines Congress set down in the Military Commissions Act late last year.

Representative Ike Skelton, the Missouri Democrat who became chairman of the House Armed Services Committee this month when control of the House changed hands, pledged to scrutinize the new procedures so that they did not "run afoul" of the Constitution.

The new manual explicitly forbids military prosecutors from using evidence obtained through torture. At the same time, it makes a distinction between torture and coercion, allowing testimony that came as the result of coercive techniques used by military and intelligence officials until late 2005, when Congress passed a law banning cruel and inhumane treatment of prisoners.

In order for coerced testimony to be used in military commissions, a military judge would have to determine that it was both reliable and relevant to the case. The matter is particularly important because the Pentagon is planning for the trials of 14 "high value" detainees, who until they were moved to Guantánamo Bay in September were kept elsewhere in secret prisons run by the Central Intelligence Agency.

The prisoners detained at those sites, including Khalid Shaikh Mohammed, the accused mastermind of the terrorist attacks of Sept. 11, 2001, are believed to have been subjected to particularly harsh interrogation methods like "water boarding," which induces a feeling of drowning.

Daniel J. Dell'Orto, the Pentagon's principal deputy general counsel, told reporters on Thursday that the new procedures followed the guidelines of the Military Commissions Act and ensured that detainees receive, as called for by international law, "all the judicial guarantees which are recognized as indispensable by civilized people."

Pentagon officials said that none of the most significant prisoners would be among the first group to stand trial before the military commissions.

"Those cases are going to have to be developed carefully, and it's going to take some time, because they are extraordinarily complex," said Brig. Gen. Thomas L. Hemingway, a Pentagon official who helped draft the new guidelines.

The Bush administration established the military commissions in the months after the Sept. 11 attacks to prosecute "unlawful combatants" captured during counterterrorism operations around the globe, many of them in Afghanistan.

Last summer, the Supreme Court struck down the commissions as unconstitutional, forcing the White House and Congress to develop new guidelines.

Human rights groups on Thursday criticized the new procedures for straying from the military's traditional rules for courts-martial. Among other things, the rules allow too much leeway for government lawyers to keep defendants from viewing classified evidence, they said.

"Classified sources and methods are protected," said Jennifer Daskal, a lawyer at Human Rights Watch. "This creates the possibility that the defense will not learn the ways in which the evidence was obtained, which could have been through coercive techniques like water boarding and sleep deprivation."

Mr. Dell'Orto said that while defendants would not be allowed to see classified evidence, defense lawyers would be given an unclassified summary of the material.

There are currently 395 detainees held at Guantánamo Bay, but it is likely that only a fraction of those will be prosecuted before military commissions. Even if prisoners are not charged, officials said, the United States still has the right to detain them indefinitely or hand them over to their native governments.

"It doesn't mean that they are not unlawful combatants. It doesn't mean that they shouldn't be detained," said Bryan Whitman, a Pentagon spokesman.

Besides Mr. Mohammed, according to the government, the former C.I.A. detainees currently at Guantánamo Bay include senior members of Al Qaeda believed to be responsible for the bombing of the United States destroyer Cole in 2000 in Yemen and the 1998 attacks on American embassies in Kenya and Tanzania.

The prosecutors for the trials of those men will be a mix of military and civilian lawyers.

Pentagon issues guidelines for Guantánamo Bay detainees' trials By Julian E. Barnes Los Angeles Times WASHINGTON - The Pentagon paved the way Thursday for trials of detainees being held at Guantánamo Bay, issuing new rules that activate the nation's controversial law on interrogating and prosecuting suspected terrorists.

With the rules in place, the military plans to charge 60 to 80 of the approximately 395 detainees there. Trials are likely to begin this spring, officials said, but it is unlikely the so-called "high value" detainees formerly held by the CIA will be among the first to be given a hearing.

The first 10

Instead, the military is likely to issue new charges against the 10 detainees who were first brought to court under the old commission rules that were tossed out by the Supreme Court last year. Their trials have been on hold since the court's ruling last June.

The rules implement the controversial compromises worked out last year by Congress, including provisions that ban the use of statements obtained through torture but allow some coerced statements to be admitted with the permission of a judge. The law was enacted in the weeks before the midterm election, pushed by Republicans as a national-security issue.

Protections excluded

With its new rules, the Pentagon, as expected, created a legal system for the detainees that eliminates the use of Miranda rights or search warrants, legal protections that officials say make little sense for suspects captured on the battlefield.

But the rules unveiled Thursday touched off a new debate over the role of harsh interrogations in prosecutions. In some cases, the rules appear to go further than the military-commissions act itself in relaxing usual U.S. courtroom standards by allowing use of potentially tainted evidence.

Obtaining evidence

For instance, under normal practices, any evidence obtained illegally - for example, through torture or abusing a witness - is excluded. Under the rules issued by the Pentagon on Thursday, statements obtained through torture cannot be used as evidence. But if the questionable treatment of a detainee yielded a piece of physical evidence, such as the location of an incriminating document, that information could be used.

Angry reaction

Human-rights organizations reacted angrily to that rule, arguing that the use of tainted evidence sent the message that torture could sometimes be justified. "As long as you are willing to use what was obtained by torture, you are endorsing torture," said Jumana Musa, an advocacy director for Amnesty International.

The military-commission law does not explicitly refer to the exclusion of evidence obtained through torture. Administration officials have argued that if Congress wanted all physical evidence obtained through torture to be thrown out, it would have said so.

http://seattletimes.nwsourc.com/html/nationworld/2003531598_detainees19.html
<http://seattletimes.nwsourc.com/html/nationworld/2003531598_detainees19.html>

International Herald Tribune
Guantanamo inmate's lawyer, family slam new military tribunals as unfair

The Associated Press
Thursday, January 18, 2007

SYDNEY, Australia

Australia's sole remaining inmate at Guantanamo Bay has no chance of receiving a fair trial under the new U.S. military tribunal system, his lawyer and family said Friday.

The Pentagon released the new rules on Thursday in a 238-page manual which stipulates that a detainee's lawyer cannot reveal classified evidence in a client's defense until the government has reviewed it. Suspects would be allowed to view summaries of classified evidence, not the material itself.

The new regulations are intended to track a law passed last autumn by the U.S. Congress restoring President George W. Bush's plans to have special military commissions try terror-war prisoners. Those commissions were struck down in June by the Supreme Court.

Maj. Michael Mori, the Pentagon-appointed lawyer for Australian prisoner David Hicks, said Friday the new rules "just don't provide for a fair trial."

"Actually things are worse under this new system," he said, referring to provisions that could allow terror suspects to be convicted, and perhaps executed, on hearsay - a witness quoting someone else.

The law governing the new tribunals also strips non-U.S. citizens held under suspicion of being enemy combatants of their right to challenge their detention in civilian courts with petitions of habeas corpus.

"The right to a speedy trial - that is gone," Mori said. "Any right against self-incrimination has been taken away, the right to confront your accuser."

The lawyer said he was examining avenues for a legal challenge, but said the Supreme Court would not rule on such a case before 2010, by which time Hicks would have been in detention for up to nine years.

Hicks' father, Terry, said he was concerned the new trials would allow evidence obtained by coercion.

"When you boil it all down to the bottom of the pot, it's still the same as before. It's still an unfair and an unjust system," said Terry Hicks who has expressed concern about his son's mental health after he refused to take a phone call from Terry last year - a rare contact that took months to organize.

Hicks, a former kangaroo skinner from southern Australia, was captured in Afghanistan by the Northern Alliance during the U.S.-led invasion in late 2001 and transferred to Guantanamo in January 2002.

He was originally charged with attempted murder, conspiracy to commit war crimes and aiding the enemy, and was selected to face a U.S. military tribunal. But his case was thrown into limbo when the U.S. Supreme Court declared the tribunals illegal last year.

Australia's Attorney General Philip Ruddock said he welcomed the new tribunal system and called on the United States to bring Hicks to trial "without delay."

<http://www.iht.com/articles/ap/2007/01/19/asia/AS-GEN-Australia-Guantanamo-Inmate.php>
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Bloomberg.com

German Terror Inquiry Hears Former Guantanamo Inmate's Evidence By Claudia Rach Jan. 18 (Bloomberg) -- Germany's previous government bears some responsibility for the imprisonment at the Guantanamo camp of a German-born Turk, the man's lawyer told a parliamentary inquiry, raising questions about the role in the case of ministers now serving in the current German administration.

The German Foreign Ministry only administrated Murat Kurnaz's case and wasn't proactive in freeing him, his lawyer, Bernhard Docke, told the inquiry. Docke also said he suspects that the government under then-Chancellor Gerhard Schroeder refused Kurnaz entry into Germany in the fall of 2002, when the U.S. originally offered to release him from the prison camp.

"Until this day I see no real reason why Germany, if it had the offer from the U.S., didn't take it up," after both sides had established that Kurnaz wasn't a terror suspect, Docke said today. "If Kurnaz would have been German, he would already have been free in fall 2002," he said.

The testimony presented to the inquiry, called to investigate the government's role in fighting terrorism, raises questions over what Foreign Minister Frank-Walter Steinmeier, who at the time was Schroeder's chief of staff and hence in charge of intelligence, knew about the case and whether he bears political responsibility.

Further Questions

The inquiry now intends to establish why Kurnaz couldn't return home, a matter that raises further questions over the role of Deputy Interior Minister August Hanning, who at the time was head of the BND Federal Intelligence Service, and whether he may have rejected Kurnaz's return to Germany.

Former Foreign Minister Joschka Fischer told Kurnaz's mother in a letter that German help was limited because Kurnaz had Turkish citizenship and the U.S. was only negotiating with the home nations of inmates, Docke said today.

Murat Kurnaz, in his testimony today, said he was arrested on a trip to Pakistan in October 2001 and handed over by the authorities to the Americans, who transferred him to a U.S. prison in Kandahar, Afghanistan, from where he was later moved to Guantanamo. Already in Kandahar, Kurnaz was confronted with details about his life in the northern German city of Bremen that were part of an investigation by the city's authorities, he said.

Docke said he suspects that German authorities had handed over information to the U.S. that confirmed their suspicion he was a member of the al-Qaeda terrorist network, and that his client was therefore transferred to Guantanamo jail.

'Obvious'

"I can't prove that Germany gave information to the U.S. but I consider such a connection as obvious," Docke said.

The inquiry is also investigating whether the questioning of Kurnaz in Guantanamo by German officials in February 2002 was appropriate. The government at the time condemned the prison camp, yet was prepared to question Kurnaz over indications that he may have been involved in a possible Islamic terrorist cell in Bremen.

Docke's efforts to free Kurnaz, who was released from Guantanamo without charge in August 2006 after four and three-quarter years, only became more promising when German Chancellor Angela Merkel came to office, he said. She called for Guantanamo jail to be closed and urged

during her meeting with President George W. Bush in January last year for the U.S. to free him.

Kurnaz's case is also subject to an investigation by the German parliament's Defense Committee, where he testified yesterday in private, briefing lawmakers on his allegations that two German special-forces soldiers beat him up while he was detained in Kandahar in January 2002.

Prosecutors in Germany are already considering filing charges against the two soldiers after Kurnaz identified them from photographs and told investigators one of the men hit his head against the ground and kicked him, the prosecutor's office in the German city of Tuebingen said on Jan. 8. Authorities in Tuebingen and Karlsruhe said they plan to question the soldier and a second member of the KSK special-forces unit who was on guard duty in Kandahar at the time Kurnaz says he was beaten.

<http://www.bloomberg.com/apps/news?pid=20601100&sid=a10a4uAfe2aQ&refer=germany>
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Gulf News

Court acquits former Guantanamo detainees

Rabat: Five Moroccans previously held at the US prison at Guantanamo Bay were acquitted of terrorism-related charges in Morocco yesterday, the state news agency reported.

The state MAP news agency said the five suspects had been charged with belonging to a criminal organisation, funding a criminal group and forging passports - common charges in Morocco against suspects believed to have been involved in terrorism. The five also were charged with refusing to denounce crimes against state security.

No other details about the trial or the charges were immediately available.

In November, three former Guantanamo detainees were convicted in Morocco for creating a criminal group and forging documents, and sentenced to three to five years in prison.

<http://archive.gulfnews.com/articles/07/01/20/10098151.html>
<<http://archive.gulfnews.com/articles/07/01/20/10098151.html>>

Arab American News.com

Canada: Attorneys try to help Gitmo detainees

By: Reuel Amdur / The Arab American News Mark Denbeaux is a veteran of the civil rights struggles. He was there at Selma during that historic voter registration campaign. He was there when Martin Luther King Jr. delivered his "I have a dream" speech. Now, somewhat longer in the tooth, he is a professor at Seton Hall Law School in Newark, New Jersey, but he still has that fire in the belly when it comes to human rights. That's why the internment camp at Guantanamo stuck in his craw right from the start.

His son Joshua is a more conservative guy. He is also a lawyer, his practice focusing on commercial litigation. His take on Guantanamo was somewhat different. "At the beginning, I was not against it," he said. "I figured that those interned would be given a trial, with the guilty being punished and the others released. Then it slowly dawned on me. There would be no trials. That is so un-American."

He began to come over to his father's side on the issue. He especially finds the government's refusal to give the Red Cross and human rights organizations access to the prisoners to be foolish. It leaves the government unable to defend itself against allegations of torture, "even if untrue."

So father and son went down to Washington for a training session organized by what is unofficially called the Guantanamo Bar Association. They were assigned a couple Tunisian clients and went to visit them in 2005 and 2006, with an interpreter in tow.

They were unable to contact their clients ahead of time, as there was no phone access possible. The men were distrustful of the lawyers. "Why wouldn't they be?" asked Joshua. The lawyers might just as easily been other interrogators.

Their clients, Rafik al-Hami and Mohammed Rahman, arrived in Guantanamo late in 2002. It appears that Rahman was sold to the Americans by Pakistanis. According to Joshua, two-thirds of the Guantanamo prisoners were sold by Pakistani bounty-hunters, people whose position in Pakistan is uncertain at this time. As well, it appears that they operated without always being given the names of people to pick up. Rather, it was a sales job on their part.

Rahman was, according to Joshua, labeled an enemy combatant because of some alleged contact that he had had with someone who was under suspicion. He says that authorities are fully convinced that Rahman is not an enemy combatant but is being held at Guantanamo because they don't know what to do with him, since he refuses to go back to Tunisia.

Al-Hami was held in prison in Teheran and turned over by Iran to the Americans in 2001, who jailed him in Kabul for a year, where he says he was tortured, before transfer to Guantanamo. It is alleged that he took part in military training under the Taliban régime. Joshua argues that such training would not in itself make him a terrorist. Besides, he wondered how this information was obtained. If by torture, it would be questionable.

The actual interviews were held under rather unfavorable conditions. The men were chained to the floor, and the whole scene was filmed. Rahman complained about untreated heart problems. During the first visit, Rahman's mood appeared normal, but in 2006 he seemed to have lost all hope. He was unwilling to talk or even to look at the lawyers.

It is unclear what the two lawyers can do for their clients. Last year legislation was passed that forbids any recourse to civilian tribunals, but that law is being challenged in the courts. Yet, time drags on slowly for men spending years in isolation, living with uncertainty about the future.

<http://www.arabamericannews.com/newsarticle.php?articleid=7333>
<<http://www.arabamericannews.com/newsarticle.php?articleid=7333>>
Miami Herald

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Ex-Prisoner, Now 19, Is Back In U.S. Custody An Afghan fighter who was detained at Guantánamo Bay when he was about 15 is a prisoner again, captured in a battle with U.S. troops.

By Ben Fox, Associated Press

GUANTANAMO BAY NAVY BASE, Cuba -- Nearly three years after his release, an Afghan teen who was among three youths from his country held here has been recaptured in Afghanistan for fighting against U.S. forces, a senior camp official says.

The Afghan, who was about 15 when he was swept up along with hundreds of others and taken to Guantánamo Bay, is among a few former prisoners who have been killed or recaptured following their release by U.S. authorities, said Paul Rester, director of the Joint Intelligence Group at the detention center.

The former detainee would now be about 19.
Won't come back

He was captured more than a year ago after a shootout with U.S. troops, according to Rester, who said in an interview that there are no plans to bring him back to Guantánamo Bay, where the military holds nearly 400 men on suspicion of links to al Qaeda or the Taliban.

"He's not been brought back here," he said. "We're not bringing anybody here." Authorities did not release the young man's name, and the detention center commander, Navy Rear Adm. Harry B. Harris, said details about his capture remain classified. A Pentagon spokesman also declined to comment.

It was unknown where he was being held in Afghanistan, where the United States holds about 620 prisoners.

The United States has released nearly 380 detainees from Guantánamo Bay, and Defense Department officials say at least 20 have taken up arms again. Those include at least two Russians arrested by authorities in Russia and two other Afghans, the officials said.

"A portion of that 20, we've killed them so we know they've returned to the fight," Harris told the Associated Press. "Some of them are in jail today so we know they returned to the fight."

Disclosing details about the former detainees could compromise U.S. intelligence gathering, Harris said.

Age was estimated

The twice-captured detainee was one of three Afghans whose ages were estimated to be under 16 by the military, based on medical tests at Guantánamo. U.S. authorities did not know their precise ages.

Human rights groups said the juveniles may have been younger than 15 and urged their release, saying it was wrong to hold them as enemy combatants at the remote detention center at a Navy base in southeast Cuba. The International Committee of the Red Cross, which had visited the juveniles, said it was concerned about keeping them away from their families and the possible psychological effect of detaining them so young.

Attorneys who monitor the detention center said they had been unaware that the young Afghan had been taken back into custody.

Miami Herald

January 22, 2007

British: Close Guantanamo

British lawmakers who toured the Guantánamo detention camp have recommended actions that would speed up its closure.

By David Stringer, Associated Press

LONDON - A panel of British lawmakers urged the government Sunday to work with the United States to develop an alternative to holding terror suspects in Guantánamo -- aiming to speed up the closure of the much-criticized U.S. military prison.

The Commons Foreign Affairs Select Committee also called for an overhaul of the Geneva Convention, suggesting that Prime Minister Tony Blair should lead efforts to update the international convention to reflect the challenge of extremist terrorism.

Seven panel members in September visited the detention center, located on a U.S. Naval base on the eastern tip of Cuba, a report published Sunday said.

The panel's report said, "The international community as a whole needs to shoulder its responsibility in finding a longer-term solution" to the indefinite detention of terrorist suspects at Guantánamo.

"We recommend that the government engage actively with the U.S. administration and with the international community to assist the process of closing Guantánamo as soon as may be