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Lawyers Cite Guantanamo Concessions

US said to be negotiating with prisoners

Charlie Savage
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WASHINGTON -- The US military is negotiating with prisoners at Guantanamo Bay prison and meeting some demands for improved living conditions -- including bottled water at every meal, better food, and more access to books -- according to two attorneys who separately learned of the development during recent visits with inmate clients.

The concessions were prompted by a hunger strike last month that allegedly resulted in dozens of detainees being hospitalized on intravenous fluids. To end the protest, the military allowed six detainee representatives to gather complaints and negotiate over living conditions with prison authorities, said attorney Rob Kirsch, whose notes from a visit this week were declassified yesterday.

"As a result of the hunger strike, a colonel . . . set up a committee which has six prisoners on it that meets together," Kirsch said. "They are from different areas of the camp. They are allowed limited ability to speak to other prisoners. They are allowed to meet for a few hours a week, and occasionally should be meeting with the colonel."

Kirsch, who represents six Algerian detainees, said one of his clients was among the group who negotiated with prison authorities, meeting for the first time on Aug. 1, he said.

At that meeting, the military agreed to give each detainee three fresh bottles of drinking water a day. Previously, inmates had access only to tap water that was piped into sinks in their cells. The poor quality of water was a chief complaint in the hunger strike.

"Because of the work of the committee and the promises made as of Aug. 1, prisoners began receiving three bottles of bottled water each day -- one with each meal -- compared to what they had previously gotten, which in some instances was only one a month," Kirsch said, citing his notes. "The fact that they are getting three bottles of clean water is, we think, a significant improvement over the horrible water they got before."

The prison command staff, responding to Globe questions in writing, said, "There is no new committee formed by the detainees. Camp leadership routinely receives and addresses concerns from detainees consistent with the spirit of the Geneva Conventions."

The staff spokesman did not offer a response to the assertion that detainees are now receiving three bottles of water per day for the first time. He wrote that the prison staff is working "to increase the selection of books in our library" and "is always working to improve the manner in which we provide safe and human [sic] detention of enemy combatants."

But attorney David Remes, whose notes from a visit to his Yemeni clients at the base last week were also declassified yesterday, confirmed Kirsch's account of negotiations with detainee representatives. He said his clients, too, told him that the military had promised the inmates better food and that they would no longer be issued differently colored clothing to signify their treatment.

Under a system established by the command staff in 2003, detainees who cooperate with guards and interrogators are allowed to wear white clothing, while those who do not cooperate wear

orange jumpsuits. In the recent negotiations, Remes said the detainees asked for the dual-uniform to be dropped.

"Some detainee representatives were negotiating the resolution of the hunger strike," Remes said. "I can confirm the bottled water, the improvement of the food, and the elimination of the uniform gradations as an independent matter. I don't know if that means they will all end up wearing white, or if they will all end up wearing olive gray, or something else."

The command staff, in its written response to the Globe, said: "Detainees continue to wear different colored clothing consistent with detainee compliance of camp rules." The statement made no reference to any plans to change the policy, and spokesmen declined to elaborate beyond the written response.

The improvement of conditions at Guantanamo Bay comes amid several other signs that the Bush administration is changing its policy toward the roughly 500 prisoners at the prison, most of whom are approaching their fourth anniversary of being held without trials.

In a court filing this week, Brigadier General Jay Hood, the commander of the prison operation, said the military was planning improvements in the living conditions for detainees who have been cleared to leave but cannot be sent home for various reasons. Hood said they would soon live in a special wing of the prison with air conditioning, better food, a television, and a DVD player.

Moreover, the State Department announced last week that it had finalized an agreement with Afghanistan to transfer custody of more than 100 accused Taliban prisoners as soon as a new prison is built. The administration said it is negotiating with several countries and hopes to transfer custody of 80 percent of the prison population within the year.

Eugene Fidell, president of the National Institute for Military Justice and a critic of the Bush administration's Guantanamo policy, said allowing detainees to have representatives to negotiate with prison authorities would bring Guantanamo closer in line with a traditional prisoner-of-war camp under the Geneva Conventions.

"It sounds more and more like a POW camp down there," Fidell said. "I would say that this is a sea change if it's true. And it would be very hard to roll it back once the crisis of a mass hunger strike has passed. Expectations take root. That's human nature."

That view was echoed by Mark Jacobson, who helped formulate Guantanamo policy at the Pentagon from 2001 until 2003. Jacobson said allowing detainees to have representatives would mark a major shift in how the military handles the prison population.

He said such a move would hold the risk of allowing the detainees to organize against their captors, but that it could also make them more compliant at a time when many detainees may be moved around in preparation for transfers home.