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Check on U.S. power

OUR OPINION: FEDERAL COURT DEFINES LIMITS OF PRESIDENT'S AUTHORITY

Editorial
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A federal judge's recent ruling regarding the detention of prisoners at Guantánamo Bay, Cuba, shows why court review of government policy is necessary, particularly in wartime.

U.S. District Court Senior Judge Joyce Hens Green ruled that terror suspects can petition the court for release, thereby clearing the way for possible relief for more than 60 Guantánamo detainees who already have cases pending. The judge declared unconstitutional the president's flawed "enemy-combatant" review panels; these were created by the Pentagon in an attempt to satisfy a Supreme Court ruling that detainees must get a case-by-case review.

Judge Green's decision asks questions about the reliability of information that may have been obtained by torture and then used to justify detainees' indefinite detention. It finds that certain Geneva conventions protections could apply to Taliban captives.

The judge questioned a number of legal processes and arguments presented by the administration to detain terror suspects, and in so doing is checking the limits of the president's power.

Without such review, little would protect uninvolved persons who may have been swept up with legitimately accused terrorists. There's no telling how many such people may exist among the more than 550 captives imprisoned at Guantánamo Bay, many for three years. As Judge Green pointed out:

"The government cannot even articulate at this moment how it will determine when the war on terrorism has ended. At a minimum the government has conceded that the war could last several generations, making it possible, if not likely, that `enemy combatants' will be subjected to terms of life imprisonment at Guantánamo Bay."

Judge Green's ruling directly counters a ruling by another federal judge, so the issues are headed for appellate court and likely the U.S. Supreme Court, too.

This process reassures that independent federal courts protect us against the excesses of an overreaching government.