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## Guantanamo Bay Justice: 3 Hours Behind Closed Doors

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WASHINGTON On hardback chairs, their hands shackled and the chains bolted to the floor, the detainees are given this one chance to prove their innocence. Some have already been at the U.S. prison camp in Cuba for nearly three years, and some are visibly fearful in this small room crowded with military authorities. Others are angry and defiant.

Musab Omar Ali Al Mudwani, an alleged Al Qaeda fighter trained in Afghanistan, was almost begging, records show. Please, he told the military officials, "look at the evidence with fairness."

Saeed Ahmed Al-Sarim, captured in the fighting around Tora Bora, asked repeatedly why the military justice system was "closed and silenced." He asked, "Are there going to be lawyers? Are we going to be able to contact our families?" Then he sighed in resignation. "Nothing is going to change," he said.

And Ali Husayn Abdullah Al Tays, who once stayed at an Afghan safe house frequented by Osama bin Laden, lashed out at his captors. "Why are you Americans asking me about this?" he shouted. "Why is it your business? Tell me what business it is of the Americans."

In the last three months military officials at the U.S. naval base at Guantanamo Bay, home to the prison known as Camp Delta, have been conducting three-hour Combatant Status Review Tribunals. The tribunals began July 30 after the U.S. Supreme Court ruled that detainees could not be held indefinitely and that they had a right to some form of legal process.

Each prisoner now gets a hearing, one chance to convince the American authorities that they should not remain in custody as enemy combatants the classification assigned to them when they were originally scooped off the battlefields of Central Asia.

"We think this is a professional process. It's very rigorous. It's fair," said Navy Capt. Beci Brenton, a Pentagon spokeswoman. "We take extra steps to make sure the detainees understand the process, and they are given a good opportunity to speak for themselves."

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### The Process Debated

Critics are unconvinced. They note that only one of the 104 tribunal verdicts has resulted in a prisoner going home. They also say that the hearings are a mere formality, forced upon the Pentagon, and that they mock the U.S. justice system because detainees are not allowed attorneys and rarely can put on evidence or offer the testimony of witnesses in their defense.

"The process is basically a sham," said Washington lawyer Thomas Wilner, who has been working to free 12 Kuwaiti detainees.

Eugene R. Fidell, president of the Washington-based National Institute of Military Justice, said the tribunals should have been held in Afghanistan and Pakistan when the detainees were first captured, and evidence and witnesses were still fresh.

"These are not a meaningful substitute for the competent tribunals required under the Geneva Conventions," he said.

And Fidell scoffed that all but one verdict has gone against the detainees. "That's a great batting average, isn't it? They're pitching a nearly perfect game."

In recent weeks documents have begun surfacing in U.S. District Court in Washington, and other Pentagon materials have been obtained by The Times, that for the first time show how justice is being meted out in those small hearing rooms in Cuba, where about 550 people are detained.

The Times was able to review the cases of 47 detainees, along with transcripts of the tribunals, written statements from the prisoners and letters of support from family members insisting their loved ones are innocent. Access to the actual hearings was severely limited by the Pentagon; reporters did not have free access to the hearing rooms and could not learn either the name of the detainee or the full charges against him.

As a result, the hearings have received almost no news coverage.

Even critics concede that the tribunals must grapple with a difficult issue: At least some of the Guantanamo detainees are probably innocent, but it also seems likely that some remain potential threats to Americans. Before the tribunals began, some detainees who were released took up arms against U.S. forces again.

What critics charge, however, is that the tribunal system as it is now being implemented does not give detainees adequate resources to defend themselves.

In the hearings, the government almost always presents evidence to suggest the detainees had direct ties to Al Qaeda, that they were trained in terrorist camps in Afghanistan and that many were captured during the war to defeat the Taliban waged after the Sept. 11 terrorist attacks in America.

One man was deemed a close associate of a known suicide bomber. Another was captured with the cellphone number belonging to Abu Zubeida, an Al Qaeda operations chief and top aide to Bin Laden.

Some are listed as Bin Laden bodyguards. One reportedly was with the Al Qaeda leader shortly before he disappeared into the caves of Tora Bora.

Another, Mamdouh Ibrahim Ahmed Habib, allegedly told U.S. interrogators that he helped train "several of the 11 September 2001 hijackers in martial arts and had planned to hijack a plane" himself.

Despite the gravity of such charges, there is a sense in the documents that the prisoners have few resources for attempting to disprove them.

For one thing, detainees are permitted to request testimony from witnesses that might help them, but the documents show such requests often are turned down as "irrelevant." Also, evidence that might exonerate detainees, such as hospital records and visa and passport materials, often cannot be found by U.S. authorities or are ruled inadmissible.

Redouane Khalid, for example, is a French citizen captured after he allegedly spent summer 2001 in a safe house in a neighborhood of Kabul, Afghanistan, known as "Taliban- and Al Qaeda-occupied territory."

Of five witnesses that Khalid wanted to call, only one was deemed "available." The remaining four were fellow prisoners who earlier had been returned to France.

Khalid next asked that his passport, visa and a return airline ticket from Afghanistan to London he carried at the time of his capture be presented in his defense presumably to bolster a contention that he had not planned to stay in Afghanistan and fight. Tribunal authorities, however, simply noted that "a search was conducted for these items on Guantanamo Bay but they could not be located."

The files also contain letters from family members attesting that their loved ones are not terrorists and pleading for their release. But there is no indication the messages were taken seriously by the tribunals, each composed of three military officers.

The family of Adnan Farhan Abdul Latif, a Yemeni picked up in Pakistan, said he was injured in a 1994 accident that left him with a fractured skull, the loss of one eye and no hearing in one ear. They said they had received maybe a dozen short letters from him since his capture, and that in one he described Guantanamo as "my island of hell."

The brother of Al-Sarim, who now is resigned to the prospect that "nothing is going to change" for him in prison, wrote that the detainee's 4-year-old daughter "waits everyday by the door" for him to come home.

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#### Claims of Abuse

The panels also seem to give little or no credence to complaints from detainees that they have been tortured by U.S. intelligence forces and prison guards.

Yasin Qasem Muhammad Ismail, a Yemeni who reportedly was by Bin Laden's side when the terrorism chief eluded capture, said that "whenever we spoke to the interrogators we were punished."

He added, "We were hit and tortured. Not only did I get hit and punched, they broke my nose. The Americans did this to me. When I arrived in Cuba I got hit in the place where we eat. I got hit on the shoulder and it was very painful. It was dislocated or something. They threatened to break it monthly even when I got to Cuba. They told me I would be here for a long time."

But Ismail knew the panel did not believe him. "This tribunal is not a legal proceeding," he said to them. "It is a military proceeding. It doesn't matter what I say. It's military, and there are no judges."

Al-Sarim was frightened that he might be placed in a special cellblock where he'd be hurt.

"My emotional state right now I'm nervous," he told the panel. "Being in prison, you can't say everything you want to say. And I'm telling you, I'm talking to you right now and I'm scared that you might take me to Romeo Block or any of the other blocks you take people to."

A tribunal member interjected, "That is not our purpose here. Our purpose here is to get to the truth."

Al-Sarim told him, "That is the truth."

But the military did give great weight to worries that many prisoners are still threats to the United States and its allies.

Salman Yahya Hassan Mohammed Rabeil was captured with other squad members from the Al Farouq terrorist training camp in Afghanistan. Documents show that in interrogations by U.S. intelligence officers, he "advised" them he still meant to hurt America.

Yet in his statement to the tribunal, Rabeil denied it. "This is absolutely false. It is outrageous. I never said such a thing as I would harm or threaten the United States," he said.

Like most of the rest, he was labeled an enemy combatant and returned to his cell.

The sole detainee who was released won his freedom in September, documents show. He had participated in a jihad in Afghanistan and had undergone paramilitary training there. While returning to Pakistan he was captured by Northern Alliance forces "after fleeing from helicopter gunfire."

But what was his name, and why was he alone judged not to be an enemy combatant after all? The Pentagon would not say.