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Pentagon Tells Detainees About Their Right to Go to Court

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Six months after a landmark Supreme Court ruling, the military has begun to formally notify some detainees held at the U.S. prison at Guantanamo Bay, Cuba, that they have the right to challenge their imprisonment in an American court.

The three-paragraph letter explains to each detainee that a military tribunal has determined that he is a member or supporter of al Qaeda or the Taliban and can be jailed at the U.S. Navy base at Guantanamo Bay. It then informs the detainees, some of whom have been held for nearly three years without charges or access to lawyers, that they have the right to contest the lawfulness of the military's decision to hold them.

Maj. Michael Shavers, a Pentagon spokesman, said that the military informally told detainees of their rights this summer, and that the new notice is meant to provide clear, practical information. It ends with an address to which they can mail legal challenges: Washington's federal courthouse on Constitution Avenue.

"It's simply a further clarification to the information that was given to detainees in July when we notified them of the outcome of the Supreme Court ruling," Shavers said.

Attorneys for some detainees called the military's notice extremely late in coming, unclear and practically useless to detainees who do not have lawyers. Some lawyers predicted that no detainee would be able to properly challenge his imprisonment using the military's guidance.

"I don't see any real petitions coming out of this notice," said Gitanjali Gutierrez, an attorney for a group of African detainees. "If they follow the instructions in that notice, they're almost assured of being denied their rights."

About 60 of the 550 detainees held at the military prison at Guantanamo Bay now have American lawyers who have filed legal challenges called habeas corpus petitions on their behalf. Most were filed immediately after the Supreme Court issued its landmark ruling June 28. In the decision, the high court concluded that the Defense Department could not indefinitely jail foreigners as suspected Taliban and al Qaeda fighters without telling them the charges and giving them access to U.S. courts to contest their detentions.

Detainees' attorneys have been urging the military since July to advise the rest of the detainees that they can file legal challenges, and to explain how to do so. The lawyers also have urged the Pentagon to tell the captives that a cadre of civil liberties and pro bono lawyers stand ready to help them.

The military's notice instead instructs detainees to contact relatives or friends to file such a petition and, if they are unable, to file one themselves.

Attorneys for other detainees complain that it will take at least six months for a detainee's letter to reach his family or the court because of security screening at Guantanamo Bay, whereas he could get a lawyer overnight.