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U.S.: Bush Should Close Guantanamo Now

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One detainee, Mohammed al-Qahtani, was reportedly subjected to weeks of sleep deprivation, isolation and sexual humiliation in late 2002 and early 2003. Human Rights Watch has obtained an unredacted copy of al-Qahtani's interrogation log, and believes that the techniques used during al-Qahtani's interrogation were so abusive that they amounted to torture. Another detainee, Mohamedou Slahi, has made similar allegations about interrogation abuse.

The coercive interrogation techniques practiced at Guantanamo severely complicate the possibility of future trials. When a confession is coerced from a criminal suspect, it can be difficult to prove, as due process requires, that his later prosecution is not based on the fruits of that coercion.

"The coercive methods used at Guantanamo have not only been abusive but also counterproductive in terms of putting the detainees on trial," Mariner said.

Although Bush's remarks suggest that the Guantanamo detainees should end up in court, the administration has indicated to date that only a fraction of the detainees will be prosecuted. Only 10 of the 480 detainees now held at Guantanamo have been charged before military commissions. The chief prosecutor, Air Force Col. Morris Davis, said two weeks ago that charges were expected soon against about two dozen others. Administration officials have said in the past that they expect up to 70 to 80 detainees to be charged.

Hundreds more detainees are apparently not slated for prosecution. Instead, they are being held because they allegedly engaged in hostilities or were allegedly connected to groups like the Taliban or al-Qaeda.

Human Rights Watch is also concerned that some detainees face return to countries where they may face torture or other abuse. At present, there is no meaningful mechanism to allow detainees to challenge their possible return to a country where they would be subject to mistreatment.

Guantanamo currently holds almost 500 detainees, including large numbers from Saudi Arabia, Yemen and Afghanistan. The United States is also believed to be holding three dozen or more detainees in long-term incommunicado detention at undisclosed detention facilities outside the United States, in violation of international legal prohibitions against enforced disappearances.