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The Shadows of Gitmo

Editorial
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In the new reality that is the war on terrorism, the question of what to do with captured enemy combatants is, at the very least, debatable.

For more than four years the Bush administration has argued that the "detainees" it has in custody at Guantanamo Bay, Cuba, and perhaps in other undisclosed locations, fall outside of the provisions of the Geneva Convention. The special nature of the war on terrorism requires special tactics, the administration has argued, particularly for these "worst of the worst" who are incarcerated at Guantanamo.

"These are dangerous terrorists that we're talking about," White House spokesman Scott McClellan said as recently as last week.

But are they? Three separate reports released in the last two weeks cast considerable doubt on the administration's claims. The reports suggest that while some detainees, perhaps one in 10, have strong and demonstrable ties to al-Qaida or other terrorist organizations, far more may be people who were in the wrong place at the wrong time when the United States began rounding up suspects.

The National Journal's Corine Hegland examined the court documents of 132 prisoners, about one-fourth of the detainees who have been held at Gitmo. Most of them were picked up in Pakistan, not Afghanistan. Seventy-five of these have not been accused of acts of war against the United States. Only one in five ever were members of al-Qaida; most of them were accused merely of associating with al-Qaida members, some on the testimony of tribal enemies who ratted them out for \$1,000 bounties.

A second study, done at Seton Hall University in New Jersey, is not quite so overwhelming. That study found that 55 percent of the detainees in Guantanamo are not suspected of hostilities against the United States. Sixty percent had some affiliation with al-Qaida, though, again, most of them only by "association." Five out of six were swept up by the bounty program, either in Afghanistan by tribal enemies or political enemies in Pakistan.

The third study, done for the United Nations Commission on Human Rights, accused the United States of violating basic human rights by torturing prisoners, holding them without formal charges and denying them trial.

The administration's response to the U.N. report was to trot out Mr. McClellan to say, "We know that al-Qaida detainees are trained in trying to disseminate false information."

The current issue of The New Yorker magazine contains an account of the efforts of Alberto J. Mora, the former general counsel of the U.S. Navy, to warn the Pentagon that its treatment of prisoners was "unlawful," "dangerous" and based on "erroneous novel legal theories." Mr. Mora, a Republican appointee, was ignored. He retired last year.

Even if you accept that known terrorists should be held indefinitely without trial -- and we don't -- and even if you accept that "enhanced interrogation techniques" -- which Congress has outlawed -- should be used on them, the question remains of why so many people who may well be innocent are subject to the same treatment.

Until Guantanamo is closed, charges are brought, trials are held and a full accounting is made of our actions, we cannot claim to be a beacon of freedom and justice. It is hard to see how the inhumane, unjust treatment of our enemies makes us stronger or safer.