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In legal limbo

Editorial
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Since the establishment of the detention camp at Guantanamo Bay, Cuba, in January 2002, the Bush administration has been assuring the public that those held there are "the worst of the worst." Now it appears that many of those confined there don't come close to fitting that description.

An analysis by Guantanamo defense lawyers of the government's data on the more than 500 detainees currently held finds 55 percent have no history of engaging in hostile acts against the United States or its allies. Yet these individuals have been incarcerated for years with no hope of release any time soon.

How did most of the Guantanamo prisoners come to find themselves in American custody? Eighty-six percent were turned over by Afghan warlords or the Pakistanis after the United States agreed to pay substantial bounties for every "enemy" captured. Only 5 percent were picked up by American forces.

There is reason to suspect that the prisoners who were turned in include many noncombatant humanitarian workers and teachers who had no animus toward the United States. Rich rewards gave the Afghans and Pakistanis incentives to offer up any Arabs they could find. The federal government took the prisoners on faith and has not made much of an effort to investigate the veracity of their claims of innocence.

There are prisoners at Guantanamo who have demonstrated that they seek to do harm to this country. But the Department of Defense has not separated the real threats from the potentially hundreds of others who are being held on flimsy, unreliable hearsay evidence.

The "Combatant Status Review Tribunals" were ostensibly established to give the prisoners a chance to demonstrate they were wrongly designated enemy combatants. But detainees don't get a lawyer and often aren't given specific information about the evidence against them. There is no way to rebut what you don't know.

A report in the National Journal documents the travails of Farouq Ali Ahmed, a boy from Yemen who moved to Afghanistan when he was 17 to teach the Koran, lived in the home of a member of the Taliban, and fled to Pakistan when the war heated up. He was turned over to U.S. forces by the Pakistani government and landed in Guantanamo.

Some of the "evidence" against Ahmed was gleaned from a prisoner who was subjected to 18 to 20 hours a day of interrogation for 48 of 54 days.

The despair of the Guantanamo prisoners has been demonstrated by numerous suicide attempts and a hunger strike by at least 130 prisoners in an attempt to draw attention to their legal limbo. The military's response has been a program of force-feeding.

It is hard to know when our international reputation will start to heal but it certainly won't be while a prison camp like Guantanamo is operational.

The U.S. Supreme Court declared in 2004 that Guantanamo prisoners had the right to file habeas corpus complaints in federal court. Many took that route, and their cases have been wending their

way through the courts. But a measure recently enacted by Congress and signed by the president limits the federal courts to hearing only a narrow range of Guantanamo claims.

With the federal courts effectively foreclosed, Congress should hold hearings and ask some serious questions.