

# GUANTÁNAMO

At Guantánamo Bay, or “Gitmo,” the U.S. naval base in Cuba, some 660 alleged al-Qaeda and Taliban terrorists have been indefinitely detained without hearings. Now the Supreme Court is joining the debate over their legal status, and some of the military’s own lawyers are opposing the tribunal process scheduled to begin early in 2004. Investigating the cases of three apparently innocent prisoners—and discovering that some of Gitmo’s toughest critics are inside the Pentagon—DAVID ROSE wonders if the camp may be a graver threat to what America stands for than the terror it is meant to contain

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# BAY ON TRIAL



JEAN-LOUIS ATLAN

## SOLITARY CONFINEMENT

Barbed-wire fences surround Camp Delta, the maximum-security detention center at Guantánamo Bay, Cuba.



In the beginning, in January 2002, when the first alleged al-Qaeda and Taliban prisoners were unloaded from an army aircraft to kneel, shackled and blindfolded, in the dirt at Guantánamo Bay, Cuba, the camp hospital was just a row of tents. Its staff treated suppurating wounds sustained on Afghanistan's battlefields.

Almost two years later, much has changed. The hospital I saw on a visit to Guantánamo in October 2003 is made of steel and concrete—an air-conditioned refuge from the relentless tropical heat. There are spotless wards and a dentist. But instead of the trauma wrought by combat, the Guantánamo medics now spend their time treating wounds of the psychological variety, inflicted not by shrapnel but by arduous, indefinite imprisonment. In 2002 there were cases of tuberculosis. Nowadays, the most common illness is depression.

The number of detainees at Guantánamo has grown from 180 in the camp's first month to some 660 today, and the primitive cages of its first facility, Camp X-Ray, stand empty, smothered by tropical vines. They have given way to Camp Delta, a dusty

sprawl of cellblocks and interrogation trailers, pockmarked by guard towers, girded by rings of razor wire. Kellogg, Brown & Root, the construction arm of Vice President Dick Cheney's old company Halliburton, is set to build more cells, guard barracks, and interrogation rooms by mid-2004, bringing detainee capacity to 1,000—and Halliburton's overall income from Guantánamo to \$135 million. Guantánamo—"Gitmo" to the 2,500 Americans who serve there—has become an institution.

Shrugging off the spy scandal that hit the camp last summer, when two translators and a Muslim chaplain were arrested for alleged security breaches, Defense Secretary Donald Rumsfeld says Gitmo plays not one but three vital roles in what the Pentagon calls the GWOT, or global war on terror. First, it keeps terrorists "off the streets," until death if necessary. Second, it turns them into sources of intelligence. Finally, with the first special "military commission" tribunals set to begin at Gitmo early in 2004, it lets America bring the perpetrators of terrible crimes to justice—in accordance, says Rumsfeld, "with the traditions of fairness and justice under law, on which this nation was founded, the very principles that the terrorists seek to attack and destroy."

Others, however, have doubts, and they're not all civil-rights campaigners or Muslim groups abroad. Talking to senior figures inside the U.S. intelligence community, the Pentagon, and its specialist cadre of military lawyers, I encountered unease about nearly every aspect of Gitmo. Sources say the way prisoners have been detained there indefinitely, without any kind of hearing, may well breach international law. The practice also ignores a Central Command regulation issued for American service personnel in 1995.

Meanwhile, military lawyers

personally involved in the pending tribunals say the rules governing them are so skewed as to make fair trials impossible. Sources say that the lawyers believe they are being ordered to illegally violate their own professional and ethical obligations, and are discussing a plan to file a legal petition in a U.S. federal court.

The entire future of Camp Delta was thrown into question in November, when the U.S. Supreme Court agreed to hear two cases filed by 16 detainees—12 Kuwaitis, two Britons, and two Australians—asserting their right to appeal their detentions in American courts.

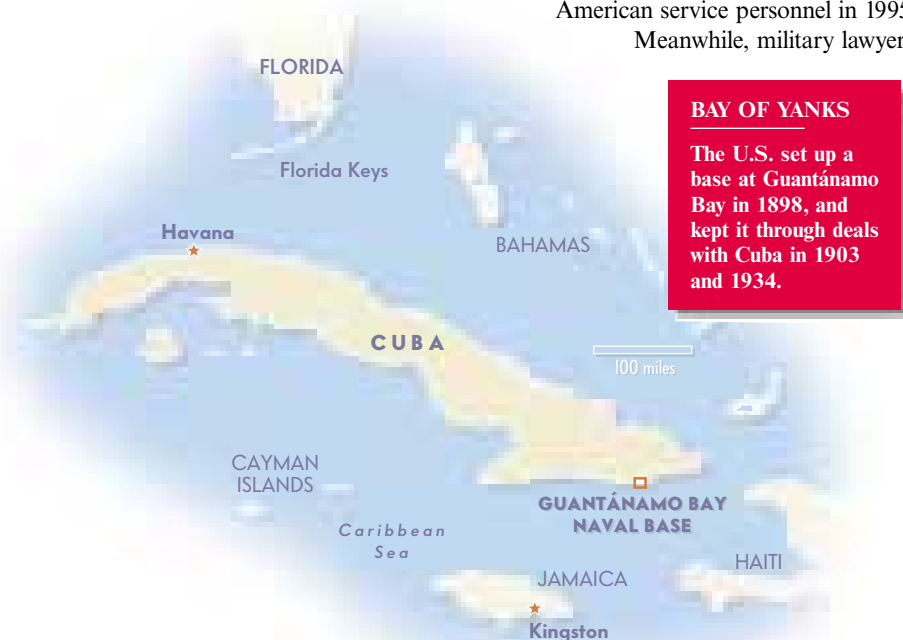
Worst of all from a military standpoint, intelligence officials with extensive experience in counterterrorism claim that Gitmo's intelligence value is relatively low, and much of the information obtained there unreliable. *Vanity Fair* has established that none of the al-Qaeda leaders captured since September 11, 2001, has ever been held at Guantánamo Bay. Sixty-four detainees innocent of any terrorist connection have already been released, and officials admit there may be many more to come. The method of interrogation now in use at Gitmo—a formal system of escalating bribes in return for confessions—is almost certain to produce bogus testimony, experts say, and the camp's interrogators are mostly young and inexperienced.

The value of Gitmo intelligence has been further reduced by the arrest of the two camp translators on charges of espionage and disseminating secrets. "How can anyone trust anything a detainee said when one of these guys was involved?" one official asks.

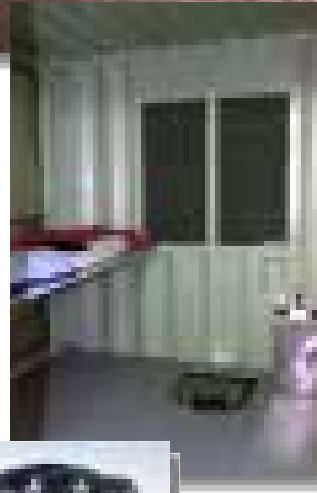
Set aside the question of whether the system at Gitmo is morally or legally wrong, these sources say. The real problem is that it isn't very effective.

**N**ext to the hospital reception area is a well-equipped physiotherapy unit with only one patient: a man who hung himself inside his cell last January. By the time the guards cut him down he was in a coma, with irreversible brain damage. He regained consciousness three and a half months later but will never walk again.

In the camp's acute ward, a young man lies chained to his bed, being fed protein-and-vitamin mush through a stomach tube inserted via a nostril. "He's refused to eat 148 consecutive meals," says Dr. Louis Louk, a naval surgeon from Florida. "In my opinion, he's a spoiled brat, like a small child who stomps his feet when he doesn't get his way." Why is



# The system seems almost calculated to produce misleading intelligence.



## DEVIL'S ISLAND

From above: the Internet hut at Camp America; a cell at Camp Delta; General Geoffrey Miller, commander of the Guantánamo Bay Joint Task Force; a detainee being escorted to Camp Four, where cooperative inmates receive special treatment.



he shackled? “I don’t want any of my guys to be assaulted or hurt,” he says.

By the end of September 2003, the official number of suicide attempts by inmates was 32, but the rate has declined recently—not because the detainees have stopped trying to hang themselves but because their attempts have been reclassified. Gitmo has apparently spawned numerous cases of a rare condition: “manipulative self-injurious behavior,” or S.I.B. That, says chief surgeon Captain Stephen Edmondson, means “the individual’s state of mind is such that they did not sincerely want to end their own life.” Instead, they supposedly thought they could get better treatment, perhaps even obtain release. In the last six months, there have been 40 such incidents.

**D**aryl Matthews, professor of forensic psychiatry at the University of Hawaii, was asked by the Pentagon to spend a week at Guantánamo investigating detainees’ mental health and the treatments available. Unlike reporters—who must agree in writing not to speak to prisoners—Professor Matthews spoke with the inmates for many hours.

Manipulative self-injurious behavior “is not a psychiatric classification,” he says, and the Pentagon should not be using it. “It is dangerous to try to divide ‘serious’ attempts at suicide from mere gestures, and a psychiatrist needs to make a proper diagnosis in each and every case.” At Gitmo, Dr. Matthews says, the “huge cultural gulf” between camp staff and prisoners makes this difficult, if not impossible.

At the same time, attempts at suicide and self-harm fit into a broader pattern. Chief surgeon Edmondson says that the most common ailment among the Gitmo prisoners is depression. More than a fifth of Camp Delta’s inmates are taking Prozac or other antidepressants.

Why are the prisoners so gloomy? According to the International Committee of the Red Cross, which has had access to Camp Delta since its inception, the answer is obvious. “They have no idea about their fate, and they have no means of re-

course at their disposal through any legal mechanism,” says Red Cross spokesman Florian Westphal. “We have observed what we consider to be a worrying deterioration in the psychological health of a large number of the internees.”

Edmondson is not so sure. “Their detention may be a factor,” he says. “But it could be some kind of pre-existing condition. You can’t put your finger on it.”

It certainly seems plausible that Gitmo might induce depression, not only in prisoners but also in guards and other staff members. On my last morning, Sergeant Tom Guminsky, 57, looks south across the empty Caribbean Sea. “Remember that film *Papillon*? You know, the one with Steve McQueen about the great escape [from the notorious French penal colony off the coast of Guyana]? I was thinking about it the other day, and I thought, Yeah, this is Devil’s Island.”

Guminsky, like most Americans at Camp Delta, has been snatched away from a full civilian life: about two-thirds of both officers and enlisted ranks are drawn from the reserves and National Guard. Students, businesspeople, daughters, fathers—with little warning they find themselves assigned to the isolation of Gitmo’s Joint Task Force for 10 months or a year. Guards I met had left comfortable homes in Michigan and Arkansas for the eight-person dormitories in Camp America, newly built by Brown & Root.

There is, at least, air-conditioning. But there is almost nowhere to go. Gitmo’s “downtown,” built to service the American naval base—which has existed there for more than a century—consists of a single general store, a souvenir shop, three fast-

food outlets, a small outdoor movie theater, and one Jamaican restaurant, whose name is a source of mordant humor: the Jerk House. Five miles to the north lies the forbidden Cuban border. Thanks to a monopoly held by the communications firm L.C.N., phone calls to America cost up to 53 cents a minute. Cell phones do not function, and Internet connections are erratic.

A severe clampdown following this summer’s arrests for alleged security violations has made it still harder for Joint Task Force

# LA FEMME LAGERFELD

members to stay in touch. Laptop computers are now subject to inspection. “Some of us may have personal messages or photographs of our spouses that we don’t want the world looking at,” says Captain Gregg Langevin, 33, a family man and sales manager from Worcester, Massachusetts.

On the seaward side of the prison, camp authorities have just opened an evening bar, Club Survivor. One refrain I heard provided a bare consolation: “This may be tough, but at least it’s not Iraq.”

Life for the detainees is rather less tolerable. Camp Delta’s perimeter fence is covered by tarpaulins, blocking from view the one relief from Gitmo’s pervading heat and dust: the sparkling sea. Even without the tarps, however, most of the detainees—the 550 in maximum-security conditions—would have few opportunities to enjoy the scenery. The best they can hope for, in return for cooperative behavior, is to be led in handcuffs and leg-irons from their cells to a small covered yard for half an hour of exercise, followed by a shower and change of clothes, five days a week. Less amenable detainees enjoy this privilege only twice a week. Visiting an empty cell-block with a sergeant from Arkansas, I ask, “After several days, won’t a prisoner and his clothing be quite sweaty?” The sergeant shrugs.

Brown & Root’s standard-issue Gitmo cell is a faded green metal box a little larger than a king-size mattress: 54 square feet. Next to the narrow wall-mounted bed is an Asian-style toilet, a hole in the floor, facing the open grille of the door. The guards, some of them women, are supposed to pass by the cell every 30 seconds. Next to the toilet is a small sink and a faucet, so low that the only way to use it is to kneel. It produces tepid water from a desalination plant. Like all the water at Gitmo, it’s a pale shade of yellow. (The Pentagon says the low faucets are designed to “accommodate foot-washing for Muslim prayer needs.”)

At the highest security level, prisoners are not allowed to keep a cup. If they wish to drink, they must either bend to the faucet or borrow a cup from a guard. They are also given the following items: a thin mattress and a blanket; a T-shirt, boxer shorts, and trousers; a toothbrush, toothpaste, soap, and shampoo; and a prayer cap and mat and a copy of the Koran. There is no air-conditioning. When the temperature inside reaches 86 degrees, says the sergeant, the guards are permitted to switch on ceiling fans in the hallway. The lights stay on all night.

No one at Gitmo tries to be cruel. The Americans have gone to considerable lengths to provide only food deemed to be *halal* under the strict requirements of Islam, and each cot is etched with an arrow to indicate the direction of Mecca, which Muslims face in prayer. I heard no expressions of hatred or racism. “You always feel some sympathy, because they’re human, too,” says Omar Morales, a guard from Puerto Rico. “You have to act like it was you in there,” adds his colleague Graylon Pearson of Tuckerman, Arkansas. “You say to yourself, ‘What can I do to make this better?’”

But the way Gitmo is organized adds to the psychological pressure. The camp’s superintendent is Sergeant Major Anthony Mendez, a career corrections officer with 26 years’ experience. In any ordinary prison, guards work to build relationships with inmates. At Camp Delta, “we discourage that,” and the guard details assigned to each block are

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arl Lagerfeld’s pant size may have changed, but the essence of his girl has not. Meet Anna Mouglalis, the latest in the line of wonderfully angular, slightly haughty, and wildly chic Chanel women that includes Inès de La Fressange, Carole Bouquet, and Stella Tennant. An 87-year-old institution in France, the Chanel woman is far more discerning than Marianne (the beauty periodically chosen to symbolize the French Republic) and could crush any gamine with attitude alone.

Born in Nantes to a Greek acupuncturist father and a French shiatsuist mother, 25-year-old Mouglalis was discovered by Lagerfeld in the Claude Chabrol film *Merci pour le Chocolat*. After what she calls “a real meeting,” he dressed her for her next three films (“haute couture stuff, shoes done just for me, like in the great Hollywood time”) and then named her the company’s ambassador. “For me,” says Mouglalis, who gives a very French spin to the English language, “it’s like a dream of a child.”

But don’t call her a model. For one thing, the only person she’ll sit for is Lagerfeld. “He was really catching me,” she says of her shoots with him for Chanel’s fashion, jewelry, and fragrances. “It was first time I was doing photos without being dead.” What she really wants is to act—and she may just have the chops. She received critical acclaim for *Merci pour le Chocolat* and has at least four more films on the horizon, including one from Asa Mader, which will bring her to the United States and, she hopes, to many more dreams of a child. “David Lynch, I would love, *really* love, and also Scorsese. It’s a country of movie, *non?* It’s like a big setting.”

—EVGENIA PERETZ

STYLED BY ALEKSANDRA WOKONIECKA; SHIRT AND SWEATER BY CHANEL; MAKEUP PRODUCTS BY CHANEL; HAIR BY JULIEN D’YS; MAKEUP BY EMMANUEL SAMMARTINO; FOR DETAILS, SEE CREDITS PAGE

## The Producers

critics found the movie hilarious, but most objected to what they saw as tasteless. Pauline Kael wrote in *The New Yorker*, "That's not screenwriting; it's gagwriting."

"Renata Adler [of *The New York Times*]-she was the *worst*," Brooks remembers, still wincing. "I never thought black comedy of this dilute order could be made with the word or idea of Hitler in it anywhere. . . . I suppose we will have cancer, Hiroshima, and malformity musicals next," she wrote.

Brooks was very depressed. "I remember telling Annie, my wife, 'They thought it was in bad taste. It's back to television. It's back to *Your Show of Shows*.'" Sellers's rave-though it didn't make *The Producers* a hit-may have influenced the Academy of Motion Picture Arts and Sciences to award Brooks an Oscar for best original screenplay (after all, it was always about the words), but the award didn't bring him many offers, because the film didn't make any money. His second movie, *The Twelve Chairs*, came out two years later and crashed. So he went back to wandering the streets of New York, nearly broke, when one day he ran into David Begelman, then an agent at Creative Management Associates. Begelman "brought him out of the desert. He even had a new father figure to replace Sidney," Hertzberg says. "*Blazing Saddles*

[in 1974] came out of that meeting-another script, another idea that can't miss. Lucky for Mel, it didn't. He made a fortune. The checks are still coming in for that one."

Although *The Producers* was not commercially successful, over the years it began to acquire cult status. Lines of dialogue and phrases from the movie started cropping up in the language, such as "creative accounting" and "When you've got it, flaunt it" (which appeared in a Braniff Airways advertisement as the caption to a photograph of Andy Warhol seated next to boxer Sonny Liston).

With the musical Brooks has come full circle, back to Broadway. "Thirty-five years later, it's a hit on Broadway-it has a new life now," Brooks says in his office in Beverly Hills, where the desk, the pens, the canisters of film, and the ashtrays are most definitely all his. "*The Producers* is like Halley's comet," he says. "It'll have a metamorphosis, like Ovid. I'm proud of it. After all, it started out as a title."

Hertzberg says, "Brooks owns 25,000 percent of the musical. Well, not really, but he's pretty heavily invested in it; he owns a very large piece. After all, he did write the book, the songs, and he'd play all the parts if he could."

This may be just the beginning of Brooks's third act in show business; plans are under way to bring *Young Frankenstein*

to Broadway. As Hertzberg says, "Brooks is hoping to live forever."

Before his death, in December of 2002, Sidney Glazier watched as Brooks, on television, accepted a record-breaking number of Tony Awards-12-for the Broadway incarnation of *The Producers*. Like Kenneth Mars, Glazier stayed away from the Broadway musical of *The Producers*, and the movie's set designer, Charles Rosen, has yet to see it. But Gene Wilder did go and, according to a friend, "is all right with it."

"I called my father," Karen says, "after Mel swept the Tony Awards and thanked him in his acceptance speech. He told me over the telephone, 'He's not a very nice person. He doesn't deserve any of this.' If my father had been 20 years younger, and the musical of *The Producers* had happened, he might have fought for a piece of it. He might have made a stink. In fact, I'm sure of it. But he was already old and living apart from all that. He just didn't see the point anymore."

A half-hour after talking to his daughter, Glazier got a call from Mitch congratulating him on being mentioned at the Tony Awards. "All of a sudden," Mitch recalls, "the big voice was back. He'd had time to think things over."

"The son of a bitch owes me money," Glazier yelled into the phone, a producer to the end. □

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CONTINUED FROM PAGE 92 changed every day. In American prisons, he says, "our philosophy is some kind of rehabilitation. That's not our purpose here. We only have to keep them safe, secure, and healthy."

Physically healthy they may be. But according to Professor Matthews, the forensic psychiatrist who examined the detainees, "it would be hard to imagine a more highly stressed group of people." Matthews calls Gitmo "prison plus. The stressors are incredible: never knowing if you'll get out, or when you'll get out; being sealed off from the community; not having access to legal counsel. In prison, relationships between inmates and guards are pretty affirming. Here, they come from two universes."

Religion may provide solace for some detainees, but not all. My visit took place shortly before the Muslim holy month of Ramadan, when even the least observant Muslim will fast from dawn to dusk. The kitchens have made arrangements to accommodate this, the chefs there tell me: meals can be taken during the hours of darkness. But 20 percent of the detainees have asked to be giv-

en their breakfast and lunch at normal times. If, as their captors claim, they entered Camp Delta as Islamic fundamentalists, then it seems they may have lost their faith.

In any event, a Muslim prisoner will not find much spiritual help from the camp authorities. When Captain Yousef Yee, the Muslim chaplain, was arrested in September, charged with mishandling classified documents, he was not replaced.

His responsibilities-ministering to Muslims both within the Joint Task Force and among the detainees-were assumed by the task force's head chaplain, Colonel Steve Feehan. Feehan describes himself as "from the conservative strand of the Southern Baptist Church." Is he a fundamentalist? "I believe the Bible is literally true, yes. The world was created in seven days." What about those who don't share his faith? "Without believing in and accepting Christ, without faith, you cannot be redeemed," he says. "It's impossible."

Images of 9/11 abound at Gitmo. In the room guards use to send e-mails home, a poster showing the World Trade Center cautions, "Are you in a New York state of mind? Don't leak information-our enemy can use it to kill U.S. troops or more innocent people."

"Everyone was shocked," Captain Gregg Langevin says of the day last August when his unit learned that Chaplain Yee was under arrest. "Forty-eight hours earlier, he'd been standing up in front of us, briefing us on Islamic culture. But there are people with mixed allegiances in all wars." Langevin admits that he'd rather be at home, but he says he applies himself each morning to the task of being cheerful and reminds himself of Gitmo's value in the war on terror. "I know that good intelligence is being gathered."

Reporters are not allowed to speak with interrogators or anyone else who deals with intelligence at Gitmo. The only testimony I hear is from General Geoffrey Miller, the task-force commander. "We are developing information of enormous value to the nation," says Miller, a slight, pugnacious man said to be a strict disciplinarian. "We have an enormously thorough process that has very high resolution and clarity. We think we're fighting not only to save and protect our families, but your families also. I think of Gitmo as the counterterrorism-interrogation battle lab."

But Miller's background is in artillery, not intelligence, and senior intelligence officials with long experience in counterterrorism, who spoke to *Vanity Fair* on condi-



tion of anonymity, question his assessment.

Opposite Camp Delta's main gate, there's a little wooden pergola where journalists are allowed to watch who comes and goes. Spotting the interrogators isn't difficult. Instead of battle dress and sweaty black boots, they wear polo shirts, lightweight shoes, and khakis, and most of them look surprisingly young—well under 30. Interrogations take place day and night in a row of what intelligence officers call "booths," located inside converted trailers behind the cellblocks. Most of the interrogators entering Camp Delta are accompanied by interpreters—or "terps," in intelligence slang.

Unlike Chaplain Yee, whose alleged crimes were small and technical, the two men facing serious charges of taking classified information from Gitmo both worked as terps, and neither appears to have been qualified for the front lines in the war on terror. The first man arrested, Ahmad al-Halabi, 24, moved from Syria to the Arabic enclave of Dearborn, Michigan, when he was in high school. He was sent to Gitmo from a job as a supply clerk at Travis Air Force Base, in California, and had no training as a translator.

The second alleged spy, the Egyptian-American Ahmed Fathy Mehalba, had already tried a military career and failed. He had entered the army interrogators' school at Fort Huachuca, Arizona, but was discharged for medical reasons. He found himself at Gitmo as an employee of the San Diego-based Titan Corporation, which describes itself as "a leading provider of comprehensive information and communications products, solutions, and services for national security."

The use of employees such as al-Halabi and Mehalba threatens to undermine any intelligence role Gitmo might have, says one official who speaks Arabic fluently. At the same time, their recruitment reflects "the tremendous shortage of qualified Arabists. Many of the terps used at Gitmo were hired expediently, without proper screening."

The experience of dealing with Islamist terrorism since the early 1980s has taught veterans in the C.I.A. and the military many lessons. Among them, one official says, is that "it's far more effective to interview a suspect in his own language." When America seized Abu Zubaydah, reputed to be one of Osama bin Laden's closest associates, a Kuwait-based C.I.A. agent who spoke Arabic and was schooled in Zubaydah's local dialect was flown thousands of miles to lead the interrogation. "Yet they're still using interpreters at Gitmo," the official continues. "What does that tell you? That they don't

think the people there are very important. The big guys—Abu Zubaydah, Khalid Shaikh Mohammed [said to be 9/11's operational mastermind]—do you think they're at Gitmo? Of course not."

Guantánamo may even be "a bit of a front," designed to distract al-Qaeda, he says. "It takes everybody's attention away from locations where big fish are being held. The secrecy surrounding it makes everybody think that very serious stuff is going on there."

The detainees' names and the reasons for their arrest are classified, so the little that is known must be pieced together from information gathered from their families and associates. A report by the International Justice Project identifies 38 of the 42 nationalities the U.S. says can be found at Camp Delta. There are prisoners from Afghanistan and the Islamic states of Asia and the Middle East, but also Australia, Belgium, Canada, Chile, Denmark, Sweden, and the United Kingdom. Almost 85 percent are between 20 and 40;



#### VICTIMS OF CIRCUMSTANCE?

These two U.K.-based Gitmo detainees—Bisher al-Rawi, *left*, and Moazzam Begg—have no ties to terrorism, their families insist.

there are three juveniles, the youngest 13. Most detainees were arrested in Afghanistan, but others were picked up in places as far away as Bosnia, Zambia, and Gambia.

Multiple sources have confirmed that, while some real terrorists may be at Gitmo, none of al-Qaeda's known leadership has ever been held there. Abu Zubaydah and Khalid Shaikh Mohammed were initially interrogated at a secret location under American control in Thailand. The "really experienced guys," the counterterrorism-interrogation specialists, have been deployed there, as well as in Pakistan, in Jordan, and on what one source calls "floating interrogation cells" in the Indian Ocean. "Some good stuff has come out of Gitmo," says another official, "but it doesn't seem much in relation to the various costs of keeping 600-plus detainees."

One of these interrogation specialists tells

me how he would prepare for a suspect interview. "I would normally spend a minimum of 90 days doing a 'P.I.'—a preliminary inquiry—on a subject, learning everything about him. If warranted, I would dig deeper with subpoenas, wiretaps, etc. Sometimes this could take a year or two before you get to the interview stage. Bottom line: to be really successful at the interview you have to have a 'hammer,' something to hold over the subject's head to induce him or her to cooperate."

General Miller makes it clear that he does not have access to staff of this caliber. Seven out of 10 of the interrogators working in his "joint interrogation group" are reservists, and they come to Camp Delta straight from a 25-day course at Fort Huachuca. "They're all young people, but they're really committed to winning the mission," Miller says. "Intelligence is a young person's game—you've got to be flexible."

Some seasoned intelligence officials disagree. "Generally, the new hires apprentice in the booths with more experienced guys," says one. "I certainly know of no one at Gitmo having the opportunity or the luxury to be able to prepare an interview for three months." Another had met some of Miller's interrogators. "They were rookies, and none were too keen on the process down there," he says. They knew that any seemingly insignificant tidbit might later turn out to be important, but in general "they just didn't feel that the process was going anywhere fast."

According to General Miller, Gitmo's importance is growing with amazing rapidity: "Last month we gained six times as much intelligence as we did in January 2003. I'm talking about high-value intelligence here, distributed round the world." He makes no secret of how this increase has been achieved: the introduction of a "rewards and penalties" system, through which detainees can get a more comfortable life in return for their testimony.

Colonel Jerry Cannon, the officer in charge of detentions at Camp Delta, explains how it works. "The deal is: be a good detainee, obey the rules, cooperate with your interrogators. . . . Just having a bottle of water, so you don't have to ask for a cup to fill with warm tap water, that's a big deal, that's a comfort item." In all, there are 29 such items, including books, board games, and an occasional hamburger from the base McDonald's. The most cooperative prisoners are transferred to Camp Four, where, instead of spending 23 hours a day in a metal box, detainees can sleep in dormitories, play soccer and volleyball, dine together, wear

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white clothing instead of orange jumpsuits, and wash whenever they feel dirty.

But while Camp Four may be more humane, the system behind it, say experts in interrogation, seems almost calculated to produce misleading intelligence.

Keith Caruso, an assistant clinical professor at Vanderbilt University, is a former navy forensic psychiatrist and an expert on false confessions. "What you're talking about here is inducements to confess. I would be very concerned about the details, whether they're corroborated, and how much each guy knew. Just because the conditions are right doesn't make all confessions false. You may get true information. The difficulty is in telling them apart. I'm not saying these guys from Fort Huachuca can't do this. But it has some problems."

Gisli Gudjonsson, a professor at London's Institute of Psychiatry, is arguably the world's leading authority in this field. "The longer people are detained, the harsher the conditions, and the worse the lack of a support system, the greater the risk that what they say will be unreliable," he explains. Sometimes one suspect will supply the names of others, who will then in turn confess. Each will appear to corroborate the others' statements, when in fact all are false. This is what happened in the case of the Guildford Four, the subject of Jim Sheridan's movie *In the Name of the Father*. They were wrongly jailed in 1974 for blowing up two pubs in England and spent 15 years in prison before the British authorities admitted their mistake. "The first thing an interrogator should acknowledge is that you may get false information from someone who is vulnerable."

General Miller, however, sees no cause for concern. "I believe we understand what the truth is. We are very, very good at interrogation. . . . As many of our detainees have realized that what they did was wrong, they have begun to give us information that helps us win the global war on terror."

Spies and psychiatrists may have their doubts, but Donald Rumsfeld is convinced that even the mere foot soldiers imprisoned at Gitmo are "among the most dangerous, best-trained, vicious killers on the face of the earth." All, he has said, "were involved in an effort to kill thousands of Americans."

Yet since 2002, when these claims were made, 64 of these "vicious killers" have been released, all after many months' detention. John Sifton, a researcher for Human Rights Watch, has traced and interviewed some of them in Afghanistan. They are all, he says, "the most extreme cases of

mistaken identity, simply the wrong guys: a farmer, a taxi driver and all his passengers—people with absolutely no connection with the Taliban or terrorism." Several were victims of bounty hunters, who were paid in dollars after abducting "terrorists" and denouncing them to the U.S. military. "There's another group who were arrested after getting into land disputes," he says.

In the global war on terror, doubtful arrests are not confined to Afghanistan. Wahab and Bisher al-Rawi are brothers in their late 30s. Their family left Iraq for Britain after their father was tortured by Saddam Hussein's security forces. Wahab became a British citizen, as did the rest of the family—except for Bisher, who kept his Iraqi citizenship. The family had left land in Iraq and thought that if one of them remained Iraqi it would be easier to reclaim it when Saddam's regime came to an end.

In November 2002, the brothers and two other men—Jamil al-Banna, a Palestinian who had lived in Britain for several years, and Abdullah al-Janoudi, a British citizen—traveled to Gambia, a tiny state on the western coast of Africa. Wahab had remortgaged his home, he says, and together they raised \$425,000. They had come up with a novel business idea: a mobile plant to process Gambia's main crop, peanuts.

Wahab went first and, working through a local agent, spent most of the money on equipment. When the other three arrived in Gambia's capital, Banjul, Wahab was at the airport to meet them. There, however, all four men, plus the agent, were arrested by the local intelligence service.

"At the very first interrogation, it was just Gambians, and I showed them all the papers relating to the business," Wahab al-Rawi says. "We were in this room at the National Intelligence Agency headquarters, and this big American comes in. He said his name was Lee, and that he wanted to ask us some questions. He said it would take no more than four days."

Instead, for the next 27 days the four were moved among a series of safe houses in Banjul and interrogated regularly—sometimes alone and sometimes together—by Lee, who was apparently a C.I.A. agent, by other Americans, and by the Gambians. Wahab al-Rawi says the interrogators accused them of planning to set up a terrorist training camp in the Gambian countryside. It was an improbable allegation. Its small size aside, Gambia's biggest industry is tourism by Western sun worshippers. It would not be an easy place to hide a training camp. "I cooperated: I gave them all the answers," he says. "Yet they really didn't seem to know what they wanted. At one session, they even asked if I was working for the British Secret [Intelligence] Service." None of the four, he says,

had had any involvement with politics of any kind.

The men's families appealed to the British government, which apparently made some kind of representation on behalf of Wahab and al-Janoudi, the two British citizens. But British officials told the family that Bisher was not their responsibility, and advised them to approach the government of Iraq—despite the fact that the al-Rawis were refugees from Saddam's regime, against which Britain and America were about to launch a war.

Wahab and al-Janoudi were finally released and returned to Britain. The other two men were shipped by the Americans to Bagram Air Base in Afghanistan. A month later, they were taken to Gitmo, where they remain. "They'll have to release them one day," Wahab insists. "They've done nothing." Meanwhile, he and his partners have lost everything.

Bisher al-Rawi and Jamil al-Banna were charged with no crime in Gambia and appeared before no court. Instead, they were spirited thousands of miles away by the U.S. on the basis of secret evidence. They were, in a word, abducted.

The same could be said for Moazzam Begg, a father of four (the youngest of whom he has never seen) from the British city of Birmingham. In 2001, he took his family to Afghanistan in order to open an elementary school. As war with the Taliban loomed after 9/11, the family sought refuge in Pakistan. In January 2002, Begg was seized from a house in Islamabad in the middle of the night. Before reaching his destination, he was able to call his father in England on his cell phone and tell him he had been taken by Americans and placed in the trunk of a car.

Begg, whose family denies he had any link with terrorism, was taken to Bagram, where he spent a year, and finally to Gitmo.

His lawyer is the veteran civil-rights attorney Gareth Peirce, who is best known for helping to expose miscarriages of justice in another war on terror—Britain's struggle against the Irish Republican Army. Peirce, who was the basis for Emma Thompson's character in *In the Name of the Father*, says, "Begg was unlawfully seized. There seems to be a new world order, an acceptance of utter illegality. You have all these wonderful treaties after World War II—the Geneva Conventions, bans on torture—and all of them have been torn up."

(In November, during Bush's visit to Britain, Colin Powell told the BBC that the U.S. might turn over British detainees.)

Speaking to reporters within days of Camp X-Ray's opening, Donald Rumsfeld sounded a little hazy about its legal justification. "There are a bunch of lawyers



who are looking at all these treaties and conventions and everything, trying to figure out what's appropriate," he said. Meanwhile, the camp was up and running.

The Gitmo process is possible only because America has determined that its detainees are not enemy prisoners of war (E.P.W.'s) as defined by the Geneva Conventions, the international treaties signed by the U.S. and almost every other nation after the Second World War. Much of what happens at Gitmo—close confinement in tiny cells for 23 hours a day, the denial of basic comforts for refusing to talk to interrogators—would be illegal if the detainees were classified as E.P.W.'s. Indefinite detention would also be impossible. But the Geneva Conventions don't apply to the detainees, because they are "unlawful combatants," Rumsfeld said for the first of many times in January 2002.

In fact, the conventions do allow prisoners to be classed as unlawful combatants, rather than as regular E.P.W.'s—if they aren't wearing a uniform or insignia, for example, or don't follow a recognized system of command. But they add that whenever there is doubt whether a prisoner deserves "unlawful" status, he has a right to a judicial hearing. None of the 660 Gitmo detainees has ever had such a hearing. I ask Lieutenant Colonel William Lietzau, one of Rumsfeld's main legal advisers on Guantánamo, how America justifies this position. Lietzau replies that President Bush has determined that any member of al-Qaeda or the Taliban would be an unlawful combatant, and there simply is "no doubt" that the Gitmo detainees were members of one or the other organization.

**H**ow can he be so sure? After all, numerous detainees, their families, and attorneys are contesting that exact point, to say nothing of the 64 so far released. "There are extensive classified procedures," Lietzau says. But he admits, "This is unilateral, as you would put it—a U.S. call."

It also represents the quiet, and until now little-noticed, burial of a U.S. Central Command regulation issued on February 7, 1995. Entitled "Captured Persons: Determination of Eligibility for Enemy Prisoner of War Status," the regulation, if followed, would completely reverse what happens to prisoners at Guantánamo Bay. Instead of allowing America merely to declare a captive "unlawful" and deny him a hearing, the regulation states, "A person who has committed a belligerent act . . . shall be treated as an EPW until such time as his status has been determined by a Tribunal." The prisoner must have an interpreter "who shall be competent in English and Arabic (or other language understood by the Detainee)." The tribunal should be chaired by a military lawyer—known as a

"judge advocate"—trained to act in courts-martial, and witnesses must testify under oath. The detainee has the right to be present, to cross-examine witnesses, and to look at documents. Unless the evidence shows he does not deserve it, the prisoner must be given full E.P.W. status.

Lietzau says he is "not surprised" by the Centcom regulation, although he has not seen it. Why does he think it was buried? Lietzau pauses. "As with many things in this war, the order became somewhat moot." The law of war has always developed in response to changes in the way wars are waged, he argues, and the nature of the war on terror requires the law "to adapt and advance." Nevertheless, there should be "some kind of due process" to determine captives' status, he says.

I put to him another nagging issue about prisoner detention. In Afghanistan, to say nothing of places such as Gambia, anyone not considered a regular soldier was assigned to Gitmo. But in Iraq the many Baathist irregulars and non-Iraqi fighters, the men responsible for the continuing mayhem of suicide bombings and attacks on coalition troops, are being treated as E.P.W.'s and given their full Geneva rights.

"It's disturbing. I don't know the answer," Lietzau says. "One of the things that upsets me is the lack of consistency."

**I**n November 2001, Lieutenant Colonel Lietzau spoke at a law conference at Harvard. He was asked a question: did he think, in the wake of 9/11, there was any chance that military tribunals could be used to try alleged terrorists? No, he replied: "Military commissions are a thing of the past." A few days later, Bush and Rumsfeld ordered Lietzau, with a large group of advisers, to write the rules for just such commissions. It appears that the first trials will take place in 2004, with Moazzam Begg among the first defendants. Pentagon officials say they are confident that all of the early cases will end with guilty pleas. Confessions—obtained through General Miller's system of rewards—are likely to figure prominently among the prosecution's evidence.

The results of Lietzau's work bear little relation to the rules of an ordinary civil or military court, and they have been widely criticized—not only by civil-rights campaigners but also by the Military Law Committee of the National Association of Criminal Defense Lawyers.

Gitmo defendants will be represented by a military judge advocate, although they may also use a civilian attorney if they can find one who has been vetted for security. In spring 2003, as preparations for the trials began, a small group of judge advocates were ordered to report to Washington to begin duty as lawyers for the defense. On

their first day, they met with a group of senior officials to discuss their new assignment. The attorneys, say colleagues, expressed deep reservations, saying that to act for the defense in a military commission would raise serious ethical problems: they did not think the trials could be fair. That same day, their colleagues say, they were reassigned. (A Pentagon spokesman denies this happened, saying, "Can you tell me where you heard such a rumor?")

Their objections were the same as those raised by other critics. Under the rules, any conversation between a defendant and a lawyer can be monitored, and the ordinary laws of evidence have been jettisoned. With no legal or constitutional protection against hearsay, for example, or against the use of confessions exacted under duress, the Gitmo prosecutors can prove a case using anything which a "reasonable person" might find persuasive. They can also use secret evidence which the defendant may not even be able to hear, let alone challenge.

**L**ast June, the "reassigned" attorneys were replaced by a new, five-person team. Now they, too, are encountering ethical problems. All judge advocates are also members of state bars, bound by strict professional codes. Sources say the attorneys assigned to Gitmo defendants intend to refer the commissions' rules to the ethics committees of their individual bar associations. If, as the lawyers think likely, the committees determine that the rules do not provide due process, they plan to file a lawsuit in the appropriate federal court, which could derail the military commissions. The suit will argue that the conflict between the commissions' rules and the lawyers' ethical codes makes their orders unlawful.

In the case being heard by the Supreme Court, meanwhile, lawyers for 16 detainees argue that their clients are entitled to the full protection of the U.S. Constitution and must therefore be given the same rights as any criminal suspect. The government bases its defense against this claim on a questionable proposition: that Guantánamo, although under American control, falls outside the jurisdiction of the federal courts, because it is leased from Cuba—despite the fact that the 1903 lease gives the U.S. "complete jurisdiction and control." Lieutenant Colonel Pamela Hart, the Joint Task Force's public-affairs officer, confirms that even a non-American arrested for a criminal offense there would be tried in a U.S. court, as would any civilian contractor at Gitmo—McDonald's, for example. A baby born to an American there would automatically be a U.S. citizen, even if the mother were not in the military. According to Donald Rehkopf, a former air-force lawyer

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who is working on the pending case, the government's claim that America lacks jurisdiction is "an idiotic position."

In interviews at the Pentagon, Lietzau and three of his colleagues discuss the commissions with commendable candor. Yes, says Colonel Fred Borch, the lead prosecutor, it is true that the absence of standard rules of evidence will place a huge burden on the commissions' officers to ensure that the trials are fair. "Is there a possibility that conversations' being monitored may inhibit communications between attorney and client?" asks Colonel Will Gunn, the officer in charge of the anxious defense attorneys. "Yes. The answer is yes." But he goes on: "I want the attorneys to come out of this not only having done their duties well by providing zealous representation for their clients but also having their bar licenses intact."

"Why don't you wait until we have our first case?" asks Borch. "I think in the end you are going to be convinced that it is a fair proceeding and we have done the right thing." Major John Smith, the commissions' spokesman, argues that justice will be served in these trials because good people will be conducting them. America's judge advocates, he says, are "people of integrity."

It would be a mistake to underestimate the American military's commitment to doing the right thing. Yet the essence of the rule of law, summarized by the motto at the entrance of the Harvard Law School library, is "not under man but God and Law." Laws are needed because history suggests that it is dangerous to rely on the goodness of individuals alone to deliver justice.

The Uniform Code of Military Justice, the lawbook for American courts-martial, gives military convicts the right to appeal their cases to civilian judges. As of now, Guantánamo prisoners tried by military commissions will have no such recourse. Their highest appeal is to President Bush, the commander in chief, whose opinion of them is a matter of public record. When asked about the British government's doubts that British detainees would be given a fair hearing, Bush replied, "The only thing I know for certain is that these are bad people."

As America has faced various threats to its security down the ages, the U.S. Supreme Court has repeatedly acted as a corrective against the government's ambitions. "Implicit in the term 'national defense' is the notion of defending those values and ideals which set this Nation apart," Chief Justice Earl Warren wrote in 1967. In another case 15 years earlier, Justice Robert Jackson spoke of the need to restrain a president's attempt to accrue power in wartime: "Emergency powers are consistent with free government only when their control is lodged elsewhere than in the Executive who exercises them."

Justice Jackson had been America's chief prosecutor in the war-crimes trials at Nuremberg, where he cross-examined Hitler's crony Hermann Göring about the first concentration camps, which the Nazis opened in 1933. "People were arrested and taken into protective custody who had not yet committed any crime, but who could be expected to do so if they remained free," Göring testified. "The original reason for creating the concentration camps was to keep there such people whom we rightfully considered enemies of the state."

Donald Rumsfeld is not Göring. But when he justifies detentions without recourse to legal process, there are uncomfortable echoes. "They have been brought here because they are considered individuals that ought not to be out on the street with the possibility that they could kill somebody," he said at Guantánamo in January 2002. "Our interest is in not trying and letting them out," he said later. "Our interest is in—during this global war on terror—keeping them off the streets." How long might this global war go on? It might, the Pentagon has admitted, be decades.

There are some in America's intelligence community who see, in the most pragmatic sense, Guantánamo Bay's downside. They have noticed that even moderate Muslim voices view Gitmo as an outrage. "The lawlessness of the U.S. is a projection of the unsavoury ferocity of the global hyperpower and a legacy of the neo-conservatives that run the White House," says a recent editorial in Britain's *Muslim News*. "Out of the window has gone any regard for the norms of international law and order . . . with Muslims liable to be kidnapped in any part of the world to be transported to Guantánamo Bay and face summary justice."

If this is what moderates are saying, one can only imagine what militants think. One senior defense intelligence source gives a grim assessment of the camp's backlash potential: "It's an international public-relations disaster. Maybe the guy who goes into Gitmo does so as a farmer who got swept along and did very little. He's going to come out a full-fledged jihadist. And for every detainee, I'd guess you create another 10 terrorists or supporters of terrorism." □

## Joseph Wilson

CONTINUED FROM PAGE 79 H. W. Bush, thanking him for his service in Iraq, is encased in glass on Wilson's desk in his office. "He certainly was brave," says Nancy E. Johnson, the embassy's political officer in Baghdad. "One afternoon we sat in his office joking about all the different conventions they'd be violating if they harmed us. It was tense. You never knew where you were with the Iraqis."

Wilson's most famous moment—the one that got him in the headlines around the world—came in late September 1990, after he had received a diplomatic note that threatened execution to anyone harboring foreigners. Since Wilson himself had put up about 60 Americans at the ambassador's

residence and other places, he gave a press briefing during which he wore a noose he'd asked one of the embassy Marines to prepare that morning. "If the choice is to allow American citizens to be taken hostage or to be executed, I will bring my own fucking rope," he said.

Wilson grins as he recalls it.

Such chutzpah inevitably didn't win over everyone. "Grandstanding" is what someone who was with him in Baghdad calls it. "He always liked to grandstand. . . . They [State Department higher-ups] thought he was arrogant and demanding."

Wilson probably did not care.

When he returned to America his face was in the news, but he was rarely quoted, and he did not give interviews. "Those who now suggest that I am somehow a publicity hound would do well to remember that when I came out from Iraq I re-

fused all interviews," he says, "because I had done everything I had to do."

About 30 hours before the bombs started to fall on Baghdad, Wilson and the first President Bush took a stroll through the Rose Garden, during which Wilson was impressed by the kinds of questions Bush asked. "He's asking about how the other side feels, what was it like in Iraq, what are the people like, how are they taking this, are they scared, what is Saddam like—the human questions that you want your leaders to think before they commit to the violence that is war."

In 1992, Wilson was rewarded with the ambassadorship to Gabon, where, he says, he helped persuade President Omar Bongo—"the most clever politician in African politics," according to Wilson—to have free and open elections. From there he went to Stuttgart and thence to the N.S.C., for which