

# Defining Success at Guantanamo: By What Measure?

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*Brown eyes stare back at me from beneath black eyebrows above a ruddy face framed by thick black hair which melts into a long, well-groomed beard. An orange jumpsuit contrasts with otherwise colorless surroundings. Staccato-like rattling of an ankle chain interrupts the harmonic humming of an air conditioner. The detainee and I face each other. Our knees almost touch. We can smell each other.*

**C**AMP DELTA is a confinement facility at Guantanamo Bay, Cuba, where, beginning in 2002, America transferred more than 1,000 men who had been captured during Operation Enduring Freedom, an operation launched to topple the Taliban and to pursue terrorists and dismantle their sanctuaries.<sup>1</sup> As a federal investigator with the U.S. Department of Defense Criminal Investigative Task Force (CITF), I interviewed this orange-clad man deemed an “enemy combatant” in the Global War on Terrorism.<sup>2</sup> My job was to determine the truth. Success would determine whether the detainee would be prosecuted or released.<sup>3</sup>

I asked myself: What is America trying to achieve? What does success look like on a strategic level? Defining success must begin with a pragmatic, candid, and thoughtful appraisal of America’s goals. Is there a course of action to achieve them? And most important, is America’s strategy working? These questions frame a necessary dialogue to assess progress against terrorists, who clearly demonstrate their own strategy.<sup>4</sup>

Three distinct missions with different objectives and varied degrees of accomplishment are ongoing at Camp Delta. The first mission is intelligence collection and analysis. The second is detention operations, characterized by humanitarian and welfare issues relating to overall treatment. The third, criminal investigation and prosecution, determines the details of a detainee’s actions.<sup>5</sup>

## Intelligence Measures

According to the mission statement of Joint Task Force Guantanamo, the primary pursuit at Camp Delta is gleaning intelligence from the detainees, who are considered unlawful combatants under Article IV of the Geneva Conventions.<sup>6</sup> Some argue that success cannot be measured if the public does

not know what is being learned or what methods are being used. In fact, skilled questioning and analysis has uncovered lifesaving information. Even 2 years after capture, actionable intelligence about terrorist networks and those who are undermining stability in Afghanistan is still forthcoming at Guantanamo.<sup>7</sup>

The eternal paradox of intelligence, however, is that the exceptional success is also exceptionally secret. Achievements will be obscure if intelligence gathering is the principal metric for measuring success. To measure success, the world must evaluate tangibles and observables. Yet, because of the inexcusable activity at Abu Ghraib prison, the American public demands accountability.<sup>8</sup> So how can the public form an opinion as to whether America is succeeding?

## Humanitarian Measures

Human rights and humane treatment are criteria used to assess how a government behaves and, by extension, the rectitude of that nation’s conduct. History will be critical of what America does at Guantanamo and will ask: How well were the detainees cared for while in America’s custody? Were detainees protected from each other? Was there evidence of torture, and if so, what actions were taken to correct the situation? Did detainees receive proper medical treatment? Were food, exercise, recreation, and promotion of mental well-being adequate? Were religious practices respected?

Like any federal prison, Camp Delta’s concern is with the safety and security of the detainees and guards. The detention mission is the responsibility of the Military Police (MP) Corps. The MP contingent at Guantanamo is a mix of active duty and Reserve Component soldiers designated as the Joint Detainee Operations Group. During the time I was there, detainees were housed in safe, secure, comfortable facilities that were constantly being improved. Respect for religious practice was unmistakable. Every detention cell contained a small black arrow pointing east so detainees knew where to face while praying. Meals, deferential to religious and dietary needs, were well prepared. On occasion, culturally distinctive foods such as dates, baklava, and tea were served. Linens and clothing

were changed often.

Library and reading education programs were also part of the regimen. Recreation space was plentiful, and the sound of men kicking soccer balls was common. Undeniably, these men ate better than at any other time in their lives. They received world-class medical and dental treatment (unheard of in their home countries), and they had never-envisioned educational opportunities. If, as many suggest, part of the terrorism solution is to demonstrate American benevolence to combatants who allegedly took part in unlawful acts of aggression against the United States, then history will note the exemplary yet demanding detention work by the MPs at Guantanamo.

## **Criminal Investigation and Prosecutorial Measures**

Criminal investigation and prosecutorial measures will continue to grow in strategic significance, but ubiquitous problems still haunt collaborative law-enforcement and intelligence projects. Cultural and legal barriers prohibit information-sharing between criminalists and intelligence practitioners. Classified, need-to-know requirements restrict the dissemination of intelligence. Legal obstacles, such as dealing with grand jury material, is equally restrictive.<sup>9</sup>

Tension stems from contradictory objectives. Testimony and evidence are intended for criminal court presentation and judicial scrutiny, while classified intelligence is purposely limited to protect sources and methods from compromise. Such cultural biases frequently arise in national security cases such as espionage or treason where trials must deal with classified information. The fact is, there are judicial procedures that balance a defendant's right to challenge the prosecution's case against the need to protect sensitive information.<sup>10</sup> Military commissions will be similarly structured to safeguard intelligence yet uphold transparency of the trial process.<sup>11</sup>

More irreconcilable, however, is the method by which each community questions persons for information—not whether the information is sensitive. Criminalists expect to be held accountable for how they obtain information. For example, while on the witness stand, investigators expect the defense counsel to challenge how they obtained a confession. Was the accused threatened, coerced, or mistreated? How much time was there between breaks? Interview methods by law-enforcement officials must never shock the conscience of the court or the American public, which will not accept outrageous conduct to gain confessions, even from alleged terrorists.

Interrogations for intelligence purposes have a completely different set of criteria, none of which is ever seen in a courtroom. What intelligence interrogators learn and how it is used is usually incompatible with criminal jurisprudence.<sup>12</sup> As a consequence, criminal interviewers and intelligence interrogators have different techniques and distinctly different measures of success. Reconciling these inconsistencies is one of the key challenges at Guantanamo.<sup>13</sup> Part of the solution is to maintain a consistent long-term relationship between interviewer and interviewee. Greater success is achieved when interviewers collaborate with behavioral-science professionals to individualize an approach rather than treat all detainees as if they are indistinguishable. Personalized questions about family or village, role-playing, and even empathy are necessary to begin building a relationship. Threats and intimidation are poor substitutes for skilled elicitation techniques.

Voluntary, handwritten confessions, obtained without coercion and that are admissible in court, are forthcoming at Camp Delta. Using time-proven techniques of criminal-interview methodology, the CITF seeks to establish the truth about each detainee's conduct. Candor and determination are the best tools to elicit information, particularly considering the certainty of judicial scrutiny.<sup>14</sup> According to MP Colonel Brittan P. Mallow, CITF Commander, the task force has successfully overcome traditional barriers to information-sharing.

As the criminal and intelligence disciplines find common ground in the Global War on Terrorism, customary impediments such as law, regulations, policy, culture, perspective, and mechanics are redefined to protect the sensitivity of information while allowing for its use in court. Mark Fallon, Naval Criminal Investigative Service, Special Agent in Charge and Deputy CITF Commander, speculates that an enduring legacy of the criminal investigation mission will be the innovative methods by which U.S. Armed Forces, teamed with skilled criminalists and prosecutors, bring the world's most violent men to justice.

Criminal pursuit and prosecution of terrorists on a global scale is a consequence of President George W. Bush's proclamation: "Whether we bring our enemies to justice, or bring justice to our enemies, justice will be done."<sup>15</sup> Success will inevitably equate to a transparent, credible, full-and-fair trial process, with measurable results.

## **In the "Quiet" Room**

Camp Delta houses persons from 41 countries who speak 10 languages and multiple dialects. Therefore, skilled translators are critical for effective commu-

nication. Linguists are most often native speakers who have lived in the United States for many years. Besides language expertise, the native linguists have knowledge of a country's culture and nuances, which is necessary for meaningful dialogue.

At Camp Delta, each day is the same, interrupted only by the occasional "reservation" that brings detainees into the quiet rooms where they are interviewed. On this day, I am meeting with US9AF-4282DP, believed to be Afghani. His number tells me he was detained by U.S. forces operating in the region of Southwest Asia. The number is important because common Arab names are often spelled in various ways; family, tribal, and honorary titles often are used as names; and identification can be quite confusing. In camp, the detainee is known as 4282, but I use his preferred name, Kakai. Kakai's file suggests he built a bomb and blew up a small Afghan video store because it violated strict Taliban edicts against music. He is also accused of launching rockets to attack a U.S. base near Kandahar. Unfortunately, there is no forensic evidence, such as fingerprints or explosive residue from his clothing, to connect him with the crimes. My challenge is to determine whether Kakai is responsible for the acts, not, as many presuppose, to prove him guilty.

Criminal investigators deal with hundreds of cases like Kakai's that are in various stages of prosecutorial preparation. Kakai looks well. His hair is wet from a shower. He tells me his breakfast of eggs and rice is his favorite meal. Because he is wearing standard rubber flipflops, I can see his big toe is still swollen from being stepped on during a detainee volleyball game. He says he has seen a doctor. Since his arrival at Camp Delta in early 2002, Kakai has earned increasingly greater privileges. He has been honest and cooperative with interviewers, and group recreation is one reward for his honesty. Another reward is enrollment in the camp's voluntary Pashtu reading program. Having arrived at Camp Delta illiterate, Kakai is well on his way to mastering his native Afghan language.

Several weeks have passed since Kakai and I last spoke. At that time, he had complained of pain in his jaw. Leaning over, Kakai hooked his index finger in his mouth to show me a new dental filling. The Pashtu linguist explained that Kakai had lived with dental pain for many years before coming to Camp Delta. He is now pain-free.

To a casual observer, the conversation might have seemed haphazard and capricious: it was anything but. Criminal investigators have a strategy for each interview and a practiced methodology to elicit information. The strategy is not based on trickery and does not depend on deceit. Rather, to improve trust on both sides, a good interviewer displays

integrity over a period of many meetings. Kakai knows I have the means to corroborate an honest story or to unravel a fictitious tale. He realizes that cooperation with me is his quickest way home.

For many detainees, anger and frustration at losing their freedom gives way to an unspoken, yet tangible, appreciation for their overall situation. For most, imprisonment at home would equate to unspeakable living conditions, physical torture, and false confessions extorted by threats. A large number of detainees have asked to remain in Cuba rather than face their own country's justice system. History will note that America treated these men humanely and worked tirelessly to negotiate civilized handling for those detainees who did return home.<sup>16</sup> But what about the law?

### **The Court of World Opinion**

In November 2001, shortly after Operation Enduring Freedom began, Bush issued a military order titled "Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism."<sup>17</sup> That order codified a policy to treat as criminals certain captured persons defined as unlawful combatants instead of prisoners of war (POWs). The concept originated from a World War II case in which Nazi saboteurs, wearing civilian clothes and carrying plans to create chaos, were captured in New York 6 months after the Pearl Harbor attack. The court held they were not entitled to POW protections under the Rules of Land Warfare of 1940.<sup>18</sup> Particularly striking, however, is that the military order specifically set forth a strategy leading to trials and judicial process.

Guantanamo Bay was chosen as a detention facility and site for trials because of its unique legal standing. The 45-square-mile U.S. naval base was liberated by U.S. Marines during the Spanish-American War in 1898. The indefinite 1903 lease for Guantanamo Bay grants the U.S. power to exercise complete jurisdiction and control over the base while leaving ultimate sovereignty with Cuba. These distinct parameters were the basis for the U.S. Government's early assertion that detainees had no access to U.S. courts and, therefore, could not challenge their detention using habeas corpus.<sup>19</sup> In June 2004, the U.S. Supreme Court decided that federal courts do have jurisdiction to consider the legality of detaining foreign nationals at Guantanamo.<sup>20</sup> A question remains, however: what criminal offenses would detainees be charged with?

Some of the crimes are familiar, such as murder, destruction of property, hostage-taking, and conspiracy. Other crimes, however, focus on the status of the victim or the offender, as defined by the Law of Armed Conflict. Some unique crimes include attacking civilians or protected property, using

protected persons as shields, aiding the enemy, or improperly using protected emblems.

The first military commission trials began on 24 August 2004 with four defendants being charged with conspiracy to commit war crimes, attempted murder by an unprivileged belligerent, and aiding the enemy.<sup>21</sup> On 8 November 2004, Judge James Robertson of the U.S. District Court in Washington, D.C., effectively halted the military commission's pretrial proceedings until a competent tribunal could determine whether detainees were entitled to protections afforded POWs under Article 4 of the Geneva Conventions.<sup>22</sup> In January 2005, while deciding separate cases, two U.S. District judges offered opposite conclusions regarding the rights of Guantanamo detainees to pursue legal challenges. Joyce Hens Green and Richard Leon wrote lengthy and decidedly different opinions, that observers say are certain to force the issue to the U.S. Supreme Court.<sup>23</sup>

The U.S. Congress and White House recently outlined long-range plans for dealing with detainees who, for lack of evidence, will not face trials, yet are clearly determined to restart armed hostilities if released. According to news reports, a proposed \$25 million will fund a 200-bed prison for detainees unlikely to face military tribunals, but who retain the leadership capability and motivation to kill Americans if set free.<sup>24</sup> The dilemma can be summarized simply: either release militant detainees who pledge to kill Americans and whom we cannot convict, or confine them for life without trial. America's ability to find alternatives will shape the future.

## The Nature of the War

What will a future combatant look like? Under what circumstances will warfare lawfully be conducted in a world where armed hostilities might not be between sovereign powers but, rather, involve nonstate actors? As perceptions of war change, how will the law deal with combat 2 decades from now? Devising new criminal-investigative approaches whereby nations can defeat terrorism in the courtroom while protecting human dignity and respect for the law will be an enduring measure of success in the Guantanamo experience.

Legal commentary challenges the notion that organized armed persons engaged in deadly conflict, such as bands of local fighters, must be considered unlawful combatants. Critics argue that the supremacy of modern U.S. diplomatic, economic, and military power forces adversaries to adopt unconventional, asymmetric, and unlawful approaches to warfare—as defined by those who met in Geneva more than 50 years ago. If acquittals at Guantanamo become common, what sort of

changes to our legal approach will be necessary?

In a riveting essay, U.S. Air Force Colonel Charles Dunlap suggests that the law, and by extension, the judicial system, is becoming weapon-like in its effect on the nature of war. He offers that “lawfare” will reform notions of modern warfare. Dunlap says: “Lawfare describes a method of warfare where law is used as a means of realizing a military objective. There are many dimensions to lawfare, but the one ever more frequently embraced by U.S. opponents is a cynical manipulation of the rule of law and the humanitarian values it represents. Rather than seeking battlefield victories, per se, challengers try to destroy the will to fight by undermining the public support that is indispensable when democracies like the U.S. conduct military interventions.”<sup>25</sup>

Changes in defining who is a lawful combatant are needed. If America hopes to demonstrate the efficacy of military commissions, then that process must have integrity so that global recognition follows. If we are to win in the court of world opinion, we must be persuasive in our definitions of war, which some say do not fit the reality of 21st-century conflict.<sup>26</sup>

## Options for Success

Success in the struggle against terrorism will be measured in generations. When future strategists look back on the early years of this decade, they will not judge Camp Delta on the relative value of intelligence reports but on humanitarian issues, how detainees were treated, the legitimacy of the trial process, whether laws reflected evolving definitions of “combatants,” and how detainees were ultimately dealt with when America dismantled terrorist groups. As we discover what the law will not allow, serious action to define what is permissible will follow. Justice—evidenced by whether criminal defendants were successfully defended or prosecuted, acquitted or convicted, fairly sentenced and safely incarcerated or repatriated—will be the enduring legacy of America's actions at Guantanamo.

It has been less than 3 years since the first detainee walked off the back of a military aircraft onto a runway baking under the hot Cuban sun. Is America achieving its strategic goals by its choice of means? Only by considering how the future measures success can America properly define its strategy at Guantanamo today. Will operations at Camp Delta help achieve strategic objectives against terrorism? If so, will this trajectory take us where we want to be? How will we know when we have arrived?

*Kakai's expression changed to one of despair as I told him my assignment to Guantanamo was*

ending. I reminded him that all of our conversations are fully documented and other investigators would continue to work his case. I pointed out to him that when he first arrived in Cuba, he was 20 pounds lighter and had many medical and dental problems. His health is now greatly improved, and he is learning to read and write. As my words were being translated, I leaned back and closed my eyes. I knew Kakai would never see the inside of a courtroom. Guilt “beyond a reasonable doubt” is still a daunting challenge, whether in a federal courthouse stateside or before a military commission at Guantanamo. Kakai’s case could never meet that threshold.

Kakai will ultimately return home a healthier, more educated Afghan citizen. He will be prepared to participate in political change, engage in rebuilding his country, or return to herding livestock. The choice will be his, but it will be a choice based on options he would not have had if not for his time at Guantanamo. One of the legacies of America’s Guantanamo experience is justice for terrorist killers, humane treatment for those awaiting determination, and the creation of new options for those returning home who will, after all, raise the next generation. How this materializes is the next measure of success against terrorism. **MR**

**NOTES**

1. For current information on Camp Delta and Joint Task Force (JTF) Guantanamo, see on-line at <www.nsgtmo.navy.mil/jtftgmo/>, accessed 10 July 2004. For photos of Camp Delta, see on-line at <www.globalsecurity.org/military/facility/guantanamo-bay\_delta-pics.htm>, accessed 25 December 2004. FindLaw Legal News and Commentary maintains a superb webpage concerning civil and criminal terror cases, on-line at <http://news.findlaw.com/legalnews/us/terrorism/index.html>, accessed 15 October 2004. GlobalSecurity.org offers a comprehensive webpage of references on Guantanamo on-line at <www.globalsecurity.org/military/facility/guantanamo-bay\_camp\_refs.htm>, accessed 29 December 2004.
2. An enemy combatant is defined as an individual who is part of or who supports Taliban or al-Qaeda or associated forces engaged in hostilities against the U.S. or its coalition partners and includes any person who has committed a belligerent act or has directly supported hostilities in aid of enemy armed forces. Department of Defense (DOD) factsheet, “Guantanamo Detainee Processes,” on-line at <www.defenselink.mil/news/Jan2005/d20050131process.pdf>, accessed 20 January 2005. See also DOD factsheet, “Guantanamo Detainees,” at <www.defenselink.mil/news/Apr2004/d20040406gua.pdf>, accessed 24 December 2004. See note 5 for a discussion of who is an unlawful versus a lawful combatant.
3. A January 2002 memorandum from Secretary of Defense Donald H. Rumsfeld assigned overall responsibility for investigating suspected war crimes and acts of terrorism during Operation Enduring Freedom to the Army, which quickly partnered the Naval Criminal Investigative Service and Air Force Office of Special Investigations with its own Criminal Investigation Division, to form a joint investigative unit called the Criminal Investigative Task Force (CITF).
4. See Osama bin-Muhammad bin-Ladin, “Fatwah Urging Jihad Against Americans,” on-line at <www.ict.org.il/articles/fatwah.htm>, 1998, accessed 20 November 2004. Bin-Laden states: “The ruling to kill the Americans and their allies—civilian and military—is an individual duty for every Muslim who can do it in any country in which it is possible to do it, in order to liberate the al-Aqsa Mosque and the holy mosque from their grip, and in order for their armies to move out of all the lands of Islam, defeated and unable to threaten any Muslim.”
5. Yale Law School has one of the finest on-line collections dealing with the Laws of War. See on-line at <www.yale.edu/lawweb/avalon/lawofwar/lawwar.htm>, accessed 10 November 2004. The criteria for being considered a lawful combatant are—
  - Being commanded by a person responsible for his subordinates.
  - Having a fixed, distinctive sign recognizable at a distance.
  - Carrying arms openly.
  - Conducting operations in accordance with the laws and customs of war.
 Failing to meet all four criteria, defines one as an unlawful combatant and negates prisoner of war status as defined by Article 4 of Geneva Convention (III).
6. JTF Guantanamo “conducts detention and interrogation operations to collect and exploit intelligence in support of the Global War on Terrorism (GWOT), coordinates and implements [detainee screening operations, and supports law enforcement and war crimes investigations,” on-line at <www.jtftgmo.southcom.mil/>, accessed 2 March 2005.
7. According to news reports, information obtained through the interrogation of a Guantanamo Bay detainee led to a spectacular series of counterterrorism raids in Germany on 21 January 2005 in which more than 700 police officers swept through mosques, homes, and businesses in 6 cities and arrested 22 people suspected of being militants. See on-line at <www.iht.com/articles/2005/01/24/news/cuba.html>. See also <www.boston.com/news/world/europe/articles/2005/01/24/guantanamo\_tip\_tied\_to\_arrests\_of\_22\_in\_germany/>, accessed 31 January 2005.
8. Details of the Abu Ghraib investigation are in the “Final Report of the Independent Panel to Review DOD Detention Operations,” August 2004. On-line at <www.globalsecurity.org/military/library/report/2004/d20040824finalreport.pdf>. For DOD updates, see on-line at <www.defenselink.mil/news/detainee\_investigations.html>, accessed 26 August 2004.
9. The Federal Rules of Criminal Procedure greatly restrict dissemination of information stemming from grand jury hearings. However, there are exceptions for intelligence purposes. See on-line at <www.usdoj.gov/olc/gjctfnop1.htm>, accessed 20 December 2004.
10. For information about the Foreign Intelligence Surveillance Act (FISA) and the FISA court, see on-line at <www.eff.org/Censorship/Terrorism\_millitias/fisa\_faqs.html>, accessed 20 October 2004, and <www.law.cornell.edu/uscode/50/ch36/sch1.html> accessed 20 October 2004.
11. For information about military commission procedures and related materials,

- see on-line at <www.defenselink.mil/news/commissions.html>, and also at <www.defenselink.mil/news/detainees.html>, accessed 10 December 2004.
12. For an illuminating study into interrogation methodology, see Mark Bowden, “The Dark Art of Interrogation,” *Atlantic Monthly* (October 2003): 51-76.
13. For an academic study concerning military and police options in the GWOT, see Jeffrey H. Norwitz, “Combating Terrorism: With a Helmet or a Badge?” in *Terrorism and Counterterrorism: Understanding the New Security Environment*, ed. Russell Howard (Connecticut: McGraw-Hill, 2004), 470-81. See also on-line at <www.homelandsecurity.org/journal/Articles/displayarticle.asp?article=72>, accessed 15 December 2004.
14. The interview techniques pioneered by the DOD CITF demonstrate the success of a relationship/rapport-based approach with Middle Eastern Arab subjects that has resulted in more truthful and reliable information than a more aggressive approach.
15. President George W. Bush, speech to a joint session of Congress, 20 September 2001, Washington, D.C., on-line at <www.whitehouse.gov/news/releases/2001/09/20010920-8.html>, accessed 15 December 2004.
16. As of late January 2005, 208 detainees had departed Guantanamo: 146 were released, and 62 were transferred to the control of other governments (29 to Pakistan, 5 to Morocco, 4 to France, 7 to Russia, 4 to Saudi Arabia, 1 to Spain, 1 to Sweden, 9 to the United Kingdom, 1 to Kuwait, and 1 to Australia). See on-line at <www.defenselink.mil/news/detainees.html>, accessed 10 February 2005.
17. The White House, Military Order, “Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism,” *Federal Register* 66, no. 222 (16 November 2001): 57833. On-line at <www.dtic.mil/whs/directives/corres/mco/prezorder.pdf>, accessed 30 November 2004. The United States has always acknowledged the applicability of the United Nations, “Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.” On-line at <www.unhchr.ch/html/menu3/b/h\_comp36.htm>, accessed 25 November 2004.
18. Supreme Court Justice Robert H. Jackson wrote for the majority in the case of *Johnson v. Eisentrager*, 339 U.S. 763, 5 June 1950. For more information, see on-line at <caselaw.lp.findlaw.com/cgi-bin/getcase.pl?navby=case&court=US&vol=339&invol=763>, accessed 15 October 2004.
19. The term habeas corpus—Latin for “you have the body”—is often used in discussing detainee status. A writ of habeas corpus is a judicial mandate ordering an inmate to be brought to the court so the court can determine whether the person is imprisoned lawfully or to be released from custody. See on-line at <www.lectlaw.com/def/h001.htm>, accessed 15 December 2004.
20. Supreme Court Justice John Paul Stevens wrote for the majority in the case of *Rasul et al. v. Bush*, no. 03-334, 28 June 2004, on-line at <caselaw.lp.findlaw.com/scripts/getcase.pl?court=us&vol=000&invol=03-334>, 15 December 2004.
21. The first four defendants of the military commission trials in Guantanamo, Cuba, were Salim Ahmed Hamdan, Yemen; David Hicks, Australia; Ali Hamza Ahmed Sulayman al-Bahlul, Yemen; and Ibrahim Ahmed Mahmoud al-Qosi, Sudan. For more information, see on-line at <www.cbsnews.com/elements/2004/08/24/in\_depth\_us/whoswho638066.shtml>, accessed 28 December 2004, and <www.defenselink.mil/news/Combatant\_Tribunals.html>, accessed 28 December 2004.
22. For more information about the federal judges appeal ruling, see on-line at <www.defenselink.mil/news/Nov2004/n11092004\_2004110903.html>, accessed 11 December 2004.
23. For more information about the Guantanamo detainee opinions of Federal Judges Joyce Hens Green and Richard Leon, see on-line at <news.findlaw.com/ap\_stories/a/w/1151/2-9-2005/20050209153010\_17.html>, 10 February 2005.
24. Certain militant Islamist detainees told me candidly and without hesitation that, if released, they would rearm themselves and begin killing U.S. and coalition forces in Afghanistan.
25. Charles J. Dunlap, Jr., “Law and Military Interventions: Preserving Humanitarian Values in 21st Century Conflicts.” (Presented at the Humanitarian Challenges in Military Intervention Conference, Kennedy School of Government, Harvard University, Washington, D.C., 29 November 2001), on-line at <www.duke.edu/~pfeaver/dunlap.pdf>, accessed 2 August 2004.
26. The information in this paragraph came from thoughts developed during my interview with David Alan Rosenberg, Ph.D., Director, Task Force History, and Special Assistant to the Vice Chief of Naval Operations and noted historian Deborah L. Haines, on 15 February 2004, Washington, D.C.

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