



*Adjunct Professor of International Affairs*

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UNITED STATES MILITARY ACADEMY**

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**Subject: Academic Report- Trip to JTF Guantanamo  
Sunday 18 June – Monday 19 June 2006**

**1. PURPOSE:** This memo provides feedback reference SOUTHCOM visit 18-19 June 2006 to JTF Guantanamo. Look forward to doing Cadet and Faculty seminars under auspices of Department of Social Sciences at your convenience during the Fall Semester.

**2. SOURCES - SOUTHCOM:**

- a. **General Bantz Craddock, Commander US SOUTHERN COMMAND:** Briefings and one-on-one discussions.
- b. **RADM Harry Harris, Commander JTF Guantanamo:** Briefings and one-on-one discussions.
- c. **BG Edward Leacock, Deputy JTF Commander:** Briefings.
- d. **JTF Briefing:** Operational Update from the JTF Staff.
- e. **Briefing:** “Through America to Jihad” by the JTF Staff.
- f. **Briefing:** “Enteral Feeding—Hunger Strikers” by the JTF Staff.
- g. **Briefing:** “The Evidence Locker” by the JTF Staff.
- h. **Briefing:** Intelligence Update by the JTF Staff.
- i. **Observe Detainee Interrogation by Close Circuit Video:** JTF Staff.
- j. **Small Group Discussions:** Naval Security Battalion Guard Force (Junior Enlisted Sailors).
- k. **Small Group Discussions/Lunch:** Air Force, Coast Guard, Army, Navy Junior NCO/Enlisted.
- l. **Briefing and One-on-one discussions:** SOUTHCOM Acting Chief-of-Staff.
- m. **Visit/Briefings - Camp DELTA:** JTF Staff.

- n. **Visit/Briefings - Camp Four:** JTF Staff.
- o. **Visit/Briefings - Camp Five:** JTF Staff.
- p. **Drive By/Briefing - Camp Six:** (Under construction).
- q. **Cell Block Briefing:** “Three Detainee Suicides” by the JTF Staff.
- r. **Visit/Briefing - Detainee Hospital:** Medical Staff.
- s. **Visit/Briefing - Detainee Behavioral Health Unit:** Medical Staff.

### 3. CONTEXT:

During 32 years of military service - and five years of responsibilities as the U.S. National Drug Policy Director - I have visited many, many US prisons and jails at Federal, State, and local jurisdiction - as well as innumerable U.S. and foreign military and civil detention operations overseas.

### 4. THE BOTTOM LINE:

The JTF Guantanamo Detention Center is the most professional, firm, humane and carefully supervised confinement operation that I have ever personally observed. One thousand troops (mostly naval volunteers and Army National Guard) and 800 civilians detain 450+ GWOT enemy personnel at an annual cost (not including military salaries) of \$100 million.

- a. There is now zero physical or mental abuse of prisoners in this facility by either guard personnel or military intelligence interrogators.
- b. Environmental conditions clearly exceed those provided to U.S. Military personnel on garrison active duty.
- c. Medical care, dental care, mental health care, nutrition, and cultural sensitivity exceed the standards of U.S. first-line institutions. (i.e. Universities, military training centers, US/UN refugee operations, Boy Scout Jamborees, Federal prisons, etc.)
- d. Detainees receive 4200 calories a day with 53 individually prepared special diet meals. Four different menus and three meals a day are offered. Halal and cultural dietary requirements are supported. Refreshments are served in the recreation areas. All Detainees gain weight (average 18 ½ lbs) during custody. (Detainees on hunger strikes have gained an average of 20 lbs since going on strike.)
- e. Opportunity to worship is respected. There is uninterrupted prayer time. Korans are provided in nine languages. Prayer rugs, prayer beads, and oil are provided. Call to prayer is sounded five times daily. Each cell or Detainee area is marked with arrows signifying the direction to Mecca.
- f. Military interrogations are clearly in compliance with previously published U.S. military training standards—and the pending requirements articulated in the not yet released US Joint Interrogation Manual FM 34-52.
- g. Procedures to review the status of Detainees exist. More than four hundred and fifty Detainees are now being held. Two hundred and seventy-nine Detainees have been repatriated. More Detainees are now being out processed.
- h. All Detainees have significant opportunities for recreation. (2-12 hours daily). Sports opportunities include soccer, volleyball, basketball, table tennis, and board games. Detainees have access to new aerobic exercise machines. Detainees have access to Arabic language TV shows and broadcast of World Cup Games.

- i. Detainees are provided two full sets of clothing, have privacy in cell toilet facilities, and are permitted regular showers. All detention blocks are dry, clean, and free of unhealthy conditions. Ample running water and Gatorade are provided.
- j. Books and magazines are offered to all compliant Detainees. (All Detainees regardless of status have a Koran in their cell). Over 3500 pieces of literature are available in 13 languages.

## **5. THE DETAINEES:**

- a. The actual identities of all detainees are now known. One third of Detainees are privately cooperative. Six to eight percent have mental health problems. (15% of US prison population.) Ten percent are routinely, overtly hostile. Approximately one third of current detainees are extremely dangerous, trained, and clever --and might be classified as capable of leadership of terrorist operations.
- b. Many Detainees are capable of physical violence with intent to kill against US JTF personnel --to include military women providing care in the medical and mental health units. (US Naval Security Battalion guards --both men and women-- are physically attacked with prison fashioned weapons and “cocktails” of urine and human feces). Eight-five percent of Detainees tell US interrogators that when released they will try to kill Americans. (At least two dozen of those previously released are known to have again taken up arms to attack Americans. Several have been killed -- or again captured).
- c. Detainees have organized themselves extremely well within the Camps. (The “May 2000 Manchester Document” a captured Terrorist Training Manual provides guidance to resist during detention.) It calls for claiming torture before a Judge, talks of claiming mistreatment during trial, calls for hunger strikes during defense lawyer visits, calls for the use of hidden messages during Habeus Corpus legal visits, and calls for the collection of intelligence during detention. The Detainees have now accepted suicide within the detention camps as a weapon --when the intent is to “get the release of your brothers and make your enemies miserable, then if you die, you die a martyr.” (Three Detainees succeeded in simultaneous suicide while under very close supervision on June 10, 2006. This was an extremely professional, widely coordinated, and carefully planned and detailed act of political /information warfare. Very courageous, very effective.)
- d. Detainees are effective at information warfare. They maintain free communication to the outside world through unsupervised, direct, unmonitored access to Defense lawyers. The ICRC has routine, unrestricted access throughout the camps to include private access to Detainees. Detainees send and receive thousands of Regular Post letters as well as ICRC mail. (18,580 letters in 2005). They may have private written communications with their defense lawyers. National and international delegations visit the JTF Detention Center. The international media have controlled access to the Detention Center.
- e. The Detainees include active members of al-Qaeda and related terrorist organizations. There are recruiters and facilitators, trainers, explosives experts, forgers, financiers, and combatants. They include Taliban leadership and combatants. Many have direct personal contact and knowledge of 9-11 attackers. Many have participated in al-Qaeda operations around the world. Many continue to provide very useful intelligence insights.
- f. Some of these Detainees (175+) are very, very dangerous people.

## **6. THE U.S. SECURITY FORCE:**

- a. Morale and professionalism of the security, support, and intelligence personnel are extremely impressive. It was a stroke of genius to ask the US Navy to run the facility. Many of the young sailors are volunteers who told me it was their best chance to be on the front lines defending America. They take great pride in their self-discipline. They are physically tough and unafraid to control their environment (to include the young women). The Coast Guard Port Security Unit is very proud of their mission as a forward deployed maritime combat element.

**b.** One problem cries out for correction - security personnel are not eligible for most of the pay and benefits provided for military units deployed throughout the world on GWOT operations since Guantanamo is deemed a U.S. facility. In addition, there are wide financial discrepancies within and among Services depending on individual status. This is a shameful administrative problem which DOD is aware of and has not corrected. In my judgment, DOD is trying to save a minor amount of money and ignoring the sacrifice of these forward deployed, isolated uniformed personnel who are serving in positions of danger and physical hardship.

**c.** The external security force is robust and well-equipped. There are more than 7000 total U.S. military and contractor personnel at Guantanamo. U.S. warships and combat aircraft are routinely present for training. A U.S. Army National Guard infantry battalion, a USMC infantry company, a Naval Security Battalion, and an armed Coast Guard maritime patrol capability are ready to confront external attack. This is a real possibility.

## **7. THE PROBLEM:**

**a.** Much of the international community views the Guantanamo Detention Center as a place of shame and routine violation of human rights. This view is not correct. However, there will be no possibility of correcting that view. Almost without exception the international community has called for its closure. President Bush has acknowledged their concerns and publicly stated that he also wants Guantanamo closed. There is now no possible political support for Guantanamo going forward.

**b.** During the first 18 months of the war on terror there were widespread, systematic abuses of detainees under US control in Iraq, Afghanistan, and Guantanamo. Some were murdered and hundreds tortured or abused. This caused enormous damage to U.S. military operations and created significant and enduring damage to US international standing. We have been routinely condemned by the international community.

**c.** Most of these abuses were the product of Pentagon policy directives that were a clear departure from our former commitment to the rule of law - and the strong U.S. Military belief that the treatment of those under our control should mirror the expectations we would have for our US personnel under similar conditions of vulnerability. Finally, we actually wanted to be better than those who we opposed.

**d.** Some of the US military abuses of detainees were a result of grossly inadequate DOD deployed combat and support forces to control the combat situation. In other cases, reserve military forces were called up by DOD too late to receive the training and equipment required for the missions they were assigned. Finally, there was widespread US political and military horror at the unexpected (by DOD) level of casualties from a rapidly growing and violent insurrection in Iraq - that has now consumed 20,000 soldiers and marines killed and wounded. Under these conditions, policy directives tried to push the legal and moral envelope to get the intelligence required to stop the US losses. Although some low level officers, NCOs', and soldiers have been administratively punished or prosecuted—the public denial of wrong-doing by DOD has created a widespread belief in the world community that the U.S. has unilaterally walked away from Federal and international treaty restrictions on torture.

**e.** In my view, U.S. Military detention facilities in Iraq, Afghanistan, and at Guantanamo are now operating professionally and in accordance with our historical U.S. Military standards and values. However, the international community no longer believes us. The publicly expressed beliefs of even our closest allies now border on hysteria. We are in most parts of the world believed to be a greater threat than North Korea and Iran. This is the context in which Guantanamo is being judged.

## **8. THE LEGAL CONUNDRUM:**

**a.** We are in a situation of legal schizophrenia in Guantanamo. Are the Detainees criminals to be charged and accorded the rights of a US defendant? Are they enemy combatants to be held until end of conflict under conditions which parallel the rights of a uniformed enemy soldier? Are they a new form of international criminal threat which merits a unique judicial approach calling for indefinite civil detention and punishment where warranted by special tribunal?

**b.** There could not be more than a dozen DOD, DOJ, and White House legal officials who could possibly coherently explain the overlapping and incompatible legal frameworks which now seem to vie for primacy at Guantanamo. Military Commissions, Annual Review Boards, Combatant Status Review Tribunals, Habeus Corpus Appeal Process, and the Uniform Code of Military Justice seemingly all have relevance. The Supreme Court will soon hopefully reduce the confusion caused by DOD legal paralysis. We must act politically to break out of the self-imposed legal strait-jacket that has strangled our freedom to decide.

**c.** The great value of the platform of Guantanamo was that it was a military space in which no Federal District Court had primary jurisdiction. For that reason alone, Gitmo has over the past 45 years been the location of choice for US migrant refugee operations (no appeal to the INS process) as well as other secret operations. No applicable foreign law, no foreign diplomatic intervention, no Federal Court civil orders, no nosy intervention by a US Ambassador---only the exercise of unilateral US military power and the tool of the Uniform Code of Military Justice. It was the perfect deal. No more.

**d.** The status of Guantanamo may not be totally clean for a decade. However, what is abundantly clear is that Federal Courts now exercise and will be obeyed on the exercise of civil orders. Federal Courts now routinely grant injunctions dealing with the detailed exercise of detention authority. The next step may be that Federal Courts will assert a right to criminal jurisdiction also. Will we soon be required to read “Miranda Rights” to al-Qaeda terrorists? If GWOT terrorists have a right to appeal to the Federal Courts at Guantanamo—then will future Cuban or Haitian refugees demand and gain the same Federal Court access?

## **9. THE WAY AHEAD:**

**a.** We need a political-military decisive move to break the deadlock. The only good solution would be to convince an international body to accept legal jurisdiction of the whole Guantanamo operation. We would provide and pay for the detention vehicle—the international legal system would accept jurisdiction. Not likely.

**b.** We need to rapidly weed out as many detainees as possible and return them to their host nation with an evidence package as complete as we can produce. We can probably dump 2/3 of the detainees in the next 24 months. Many we will encounter again armed with an AK47 on the battlefields of Iraq and Afghanistan. They will join the 120,000 + fighters we now contend with in those places of combat. It may be cheaper and cleaner to kill them in combat then sit on them for the next 15 years.

**c.** We need to pick out the most dangerous of the international terrorists (possibly the top 25) and have them tried in US Federal Court with a possible use of international law as the basis of criminal conviction. Tough. It worked with Noriega—why not al-Qaeda?

**d.** As a general rule, we probably need a new Federal Law that allows for civil indefinite detention of foreign terrorists when convicted by a U.S. Military Court-Martial. The civil detainees could have the right of appeal to the Federal Court system. This requires the active involvement of the Congress to pass any required new legislation.

**e.** Finally, we need to work creatively to support foreign legal jurisdiction over their nationals who violate international law and conduct terrorist actions. Better these foreign governments try these dangerous terrorists by their own legal system where possible.

**f.** We need to be completely transparent with the international legal and media communities about the operations of our detention procedures wherever they are located. Arrogance, secrecy, and bad judgment have mired us in a mess in Guantanamo from which we are having great difficulty in extricating ourselves. The current JTF detention operations commanded by General John Craddock and Rear Admiral Harry Harris should be a source of great pride to the U.S. military. Unfortunately, we are dragging some unwholesome historical baggage which has contaminated our current extremely professional handling of these dangerous and blood-thirsty terrorists.

## **10. SUMMARY:**

This is a very tough situation for the superb, professional SOUTHCOM team at JTF Guantanamo. They are performing their duties with compassion, great discipline, and with considerable courage and personal sacrifice. We owe them a new, sensible legal and security framework provided by the three co-equal branches of the US Government.

These are very dangerous terrorists we have detained at Guantanamo. It will place the American people in great jeopardy if we do not logically create a sustainable environment for the continued detention of a small number of serious terrorists at Guantanamo in the coming decade.

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