

FACES OF GUANTÁNAMO

GUANTÁNAMO'S MANY WRONGLY IMPRISONED



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INTRODUCTION

President Bush's announcement of the transfer of so-called "high-value detainees" from secret CIA ghost detention sites to Guantánamo is a thinly-veiled attempt by the Administration to re-shape the image of Guantánamo – and the men detained there – in the face of widespread condemnation both at home and abroad. The Administration would like to re-claim that Guantánamo is holding "the worst of the worst" despite overwhelming evidence to the contrary. The political debate and the media attention are focused on the way a small minority of suspects will be tried. **Lost in the discussion is the matter of hundreds of men who have never been charged and will never be tried because there is no evidence justifying their continuing indefinite detention.**

It is the Administration's position that these men can be imprisoned indefinitely without charge or trial. The President would never be required to justify the legality of their detention, and these men would never be able to present their case and obtain a hearing before a court. Quite simply, the President's mere assertion that executive detention is justified would be sufficient to lock someone up forever.

For the men at Guantánamo, the theory of their imprisonment - now in its fifth year for most of them - is that they were soldiers, technically, "enemy combatants." The "enemy combatant" definition in use exceeds what is permissible under the Geneva Conventions; and scores, perhaps hundreds of men do not fit even within its broad reach. In brief, they were not soldiers. They engaged in no hostilities. In the chaos of wartime, many in Afghanistan and Pakistan were sold for money or as part of tribal or local grievances; others were picked up far from any battlefield.ⁱ Of the over 700 men held at Guantánamo since January 2002, more than 240 have been transferred or released to freedom.ⁱⁱ Of the men still detained, at least 140 are "cleared for release" by the U.S. Government.ⁱⁱⁱ Many of these men, held on the flimsiest of evidence, were merely guilty of being in the wrong place at the wrong time. Others have been denied access to evidence that potentially would exonerate them. Some have even been declared by the U.S. Government to be non-enemy combatants, yet still languish in Guantánamo.^{iv}

U.S. military personnel,^v and even the findings of the flawed tribunals at Guantánamo,^{vi} have thoroughly discredited the Administration's claims that Guantánamo detainees are the "worst of the worst."^{vii} Detainees have been asking for the habeas hearings they were promised two years ago after the Supreme Court ruling in *Rasul v. Bush*. The refusal of the United States to provide real hearings to the detainees gravely injures our reputation and our ability to coordinate abroad the struggle against terrorism. By contrast, fair determinations by judges that persons still held are indeed combatants in ongoing wars will lend credibility to the nation's foreign policy.

This report highlights just a few examples of detainees whose cases present clear evidence challenging their detention. These men should never even have been brought into U.S. custody, and the lack of any fair process has forced them to languish, with no end date in sight.

- **Haji Bismullah**, an Afghan national, was a provincial government official during the transitional Afghan Government. He fought against the Taliban, and current high-ranking Afghan officials believe his arrest to be the result of ethnic rivalries.
- **Adel Hassan Hamad**, a Sudanese relief worker, was detained based only on vague allegations about the affiliations of the hospital for which he worked. His detention was described as "unconscionable" by a military official on his Combatant Status Review Tribunal.

- **Thirteen ethnic Uighurs** were sold with five other Uighurs by Pakistani tribesmen for a bounty. Of this group, all with similar experiences, the latter five were declared by the U.S. Government to be innocent of any association with terrorist activity and thirteen have inexplicably been classified as “enemy combatants” and remain in Guantánamo.
- **Mustafa Ait Idir, Mohammed Nechla, and four others** were initially detained by Bosnia upon U.S. request. After the Bosnian Supreme Court cleared them of wrong-doing following an intensive investigation, the United States transferred them to Guantánamo. CSRTs for the men recognized the lack of evidence showing any was involved in the plot alleged.
- **Ali Shah Mousovi**, an Afghan doctor, was exiled during Taliban rule and returned only after the Taliban’s fall to support efforts to rebuild Afghanistan. The presiding U.S. military officer for Dr. Mousovi’s tribunal indicated that he “[found] it hard to believe that someone could make an allegation against [Dr. Mousovi]” and that Mousovi remains detained.
- **Wali Mohammed Morafa**, an Afghan trader, was turned over to U.S. forces by a Pakistani informant who owed Mr. Morafa a debt he could not pay.
- **Dr. Hafizullah Shabaz Khail**, an Afghan pharmacist, served in the transitional Afghan government after the Taliban’s fall. Dr. Hafizullah was the victim of false arrest while serving on a commission of elders attempting to uncover theft perpetrated by government officials.
- **Jamil El Banna and Bisher al Rawi** were refugees who had been living in Britain and seized in The Gambia where they had gone to establish a peanut processing plant. While two British nationals arrested with Mr. El Banna and Mr. Al Rawi were released through British intervention, Mr. El Banna and Mr. Al Rawi were transferred to Guantánamo.
- **Nazar Gul’s** family fled Afghanistan to Pakistan when he was a child and he only returned after the fall of the Taliban. He was mistaken for an Afghan commander who served during the 1990s while Mr. Gul was working in his family’s bakery in Pakistan.

And in August 2006, at least two men were released in part because their pending habeas petitions demonstrated the paucity of evidence justifying their detentions.

- **Murat Kurnaz**, a German-born Turkish national, has a government file which actually demonstrates that U.S. intelligence sources concluded that Kurnaz had no connection to al Qaeda or Taliban or other terrorist threats. U.S. District Judge Joyce Hens Green concluded in her January 2005 ruling, that his continued detention would violate due process.
- **Haji Nusrat**, an eighty-year-old Afghan, is illiterate, partially paralyzed due to a stroke, and partially blind and deaf. He was transferred to Guantánamo after he protested his son’s arrest. He finally was released from Guantanamo after four and half years of incarceration.

These are the men detained at Guantánamo Bay. While the Administration still classifies them as the “worst of the worst,” military and intelligence officers who have worked at Guantánamo acknowledge this is far from the truth. **According to a 2002 CIA report, “a substantial number of the detainees appear to be either low-level militants . . . or simply innocents in the wrong place at the wrong time.”**^{viii} Jay Hood, Commanding General of the Joint Task Force, acknowledged, “sometimes, we just didn’t get the right folks.”^{ix}

THE MEN WHO WOULD BE DETAINED INDEFINITELY WITHOUT CHARGES OR LEGAL RECOURSE

This report provides details of the stories of some of those men presently detained in Guantánamo – men who the Administration would detain indefinitely without any presentation before any court of law – men who have never taken up arms against the United States or its coalition allies. Like many others in Guantánamo, the men featured in this report are actually innocent of any offenses.

Haji Bismullah,^x a citizen of Afghanistan, fled his home country in 1996 at the age of fifteen. His family had actively opposed the Taliban. His older brother had served as an officer to Hamid Karzai in military campaigns against the Taliban. After the Taliban seized power, Mr. Bismullah's family was forced to escape to Pakistan to avoid Taliban retribution. In 2001, following the commencement of U.S. military operations against the Taliban, Mr. Bismullah and his brothers joined Karzai's opposition forces in southern Afghanistan, and, fighting in coordination with U.S. and coalition military forces, helped to defeat the Taliban. After the fall of the Taliban, Mr. Bismullah was appointed to be a provincial Chief of Transportation in the Afghan Transitional Authority. In early 2003, Mr. Bismullah learned that U.S. troops had detained a provincial government official whose name was similar to that of a senior Taliban member. Mr. Bismullah, on his own initiative, went to the American base to verify the official's identity. Upon his arrival at the base, Mr. Bismullah was detained without explanation. While the other official was released the next day (and has since been killed by the Taliban), Mr. Bismullah was sent to Bagram and, four weeks later, was sent to Guantánamo.

Afghan government officials and Mr. Bismullah's family believe that he was arrested based on a rival clan's false accusation that Mr. Bismullah was a Taliban spy. In addition to internecine disputes, the rival clan had held Mr. Bismullah's government position under the Taliban and had, unsuccessfully, demanded reappointment. Following Mr. Bismullah's detention, rival clan members looted Mr. Bismullah's office and stole his car.^{xi} In the three years that Mr. Bismullah has been detained, his family and Afghan government officials, including President Karzai, have conveyed information concerning his innocence to U.S. officials. Mr. Bismullah is married with three young children. He has never met his youngest son, who was born shortly after Mr. Bismullah was arrested.

Adel Hassan Hamad,^{xii} a Sudanese man, has worked almost all of his adult life for non-governmental relief organizations in aid of others. He was not arrested on a field of battle, had not undertaken any act of violence and has never supported terrorism of any kind. At the time of his arrest in July 2002, he was working in Peshawar, Pakistan as an administrator overseeing the work of a charitable hospital in Afghanistan maintained by the World Assembly of Muslim Youth. Those who worked with him describe him as peaceful, non-violent, uninterested in politics, and singularly committed to the cause of bringing medical aid to those in need. His only other devotion in life was his family. Shortly after a visit home with his wife and four daughters in Sudan, Mr. Hamad returned to Pakistan. His family has not heard from him since. During Mr. Hamad's detention, his infant daughter has died due to a lack of medical care.



In July 2002, Mr. Hamad was picked up in a neighborhood sweep and eventually transferred to U.S. custody. There has never been any allegation that he has ever harmed anyone or engaged in terrorist activities. His detention has only ever been justified by general allegations regarding the organizations for which he worked. Recently, a member of a Guantánamo Combatant Status Review Tribunal, who reviewed his case for continued custody, called his detention "unconscionable" because, if it were proper for Mr. Hamad to be held in custody, then every doctor, nurse, and relief worker associated with the charities that employed Mr. Hamad would be guilty of terrorist activity.

Thirteen ethnic Uighurs, including Bahityar Mahnut,^{xiii} individually fled religious and ethnic persecution in China.^{xiv} In the case of Mr. Mahnut, he first fled to Pakistan before making his way to an Afghan village where other Uighur refugees lived. He had become aware that Pakistan might repatriate him to China where he would likely face torture or summary execution. When the United States began military operations in October 2001, Mr. Mahnut and seventeen other Uighur refugees fled from this village into the mountains and hid in a cave for forty-five days to avoid coalition bombing. Eventually, they left the cave and wandered towards Pakistan. Despite being initially befriended by local villagers in a Pakistani tribal area, the villagers betrayed Mr. Mahnut and the others: each was handed over to U.S. authorities in exchange for a \$5,000 bounty.^{xv}

After their capture, they were transferred to Guantánamo. Mr. Mahnut was classified as an "enemy combatant" in 2004 before a Combatant Status Review Tribunal. However, there is no evidence supporting that designation. Indeed, the Assistant Legal Advisor who reviewed Mr. Mahnut's CSRT records noted that the Tribunal urged "favorable consideration for release of the Detainee" and "that he not be forcibly returned to the People's Republic of China." Moreover, five of the other Uighurs captured with Mr. Mahnut were declared by the United States to be non-enemy combatants more than a year ago and were released to Albania in May 2006. According to CSRT records, the factual circumstances surrounding Mr. Mahnut's capture and detention – and the circumstances surrounding most of the other Uighurs still detained – are virtually indistinguishable from the circumstances of the Uighurs who were released. In sum, as with many others, there is no basis for Mr. Mahnut's continuing detention. Yet he remains in Guantánamo nearly five years after his capture.^{xvi}

Mustafa Ait Idir,^{xvii} an Algerian, was transferred to Croatia by his employer. While in Croatia, he fell in love with a Bosnian woman who taught in a refugee camp. They returned to Bosnia after the civil war ended, married and had three children. **Mohammed Nechla,** a Bosnian-Algerian, worked as a social worker with orphans for the Red Crescent Society in Bihac, Bosnia. In October 2001, Mr. Idir, Mr. Nechla, and **four others** were listed on a diplomatic note delivered to the Bosnian Government by the U.S. Embassy in Sarajevo. Though the note only contained partial names and nicknames and did not allege any supporting evidence, it asked the Bosnian Government to arrest the men because of fears that they were involved in a plan to attack the Embassy.



When Bosnian police expressed reservations about proceeding without evidence, the U.S. Charge d'Affaires quickly met with the Bosnian Prime Minister Alija Behmen and threatened to transfer all



Embassy staff out of Bosnia if the Government did not arrest Mr. Idir, Mr. Nechla and the others listed on the note. Soon after, the six were arrested on terrorism charges. In the subsequent three months, Bosnian investigators conducted a full investigation which included extensive searches of documents, residences and computers. They found literally no evidence to justify the arrests, and none was supplied by the U.S. Embassy. The investigative judge of the Supreme Court of Bosnia ordered the men released for lack of evidence.

Complying with the order of the court, the six were given their papers and "released." Yet, Bosnian politicians had, by then, yielded to intense U.S. pressure to turn the men over. In the middle of the night, their release transformed into a transfer of custody, and the men were flown to Guantánamo. Mr. Idir, Mr. Nechla and the others arrested alongside them have been detained at Guantánamo since January 2002. No one except their lawyers has ever asked any of them even one question about the discredited Embassy plot theory.

Ali Shah Mousovi,^{xviii} an Afghan doctor, has a wife and three children. A Shia Muslim, Dr. Mousovi lived as a refugee in Iran during the years of Taliban rule and found work as a taxi driver. After the overthrow of the Taliban, Dr. Mousovi returned to Afghanistan and served as a provincial representative to the June 2002 Loya Jirga that placed President Karzai at the head of the Transitional Islamic State of Afghanistan. After the Loya Jirga, Dr. Mousovi returned to his family in Iran for one year. In August 2003, he returned to his Afghan province to open a medical clinic and was greeted with a large feast. Yet, on his second night in Afghanistan, Dr. Mousovi was arrested and transferred to Guantánamo.

The U.S. military improbably accuses Dr. Mousovi of providing money and shelter to a Taliban commander, Saif ur-Rahman Mansour. The claim largely lies on Dr. Mousovi's efforts in the 1980s against the Russians under Mansour's father. This military effort was financially and ideologically supported by the United States at the time. At a military hearing in Guantánamo in December 2005, the presiding U.S. military officer told Dr. Mousovi, "I do find it hard to believe that someone could make an allegation against you no matter how strong and the United States Government would imprison you and fly you all the way to Cuba. I find that difficult to believe." The presiding officer went on to say that "I really do believe that you could do some good in your country..." Yet, Dr. Mousovi remains detained nearly three years after his capture.

Wali Mohammed Morafa,^{xix} an Afghani citizen, lived in Pakistan with his family since 1978. Mr. Morafa was a gold and currency trader. Mr. Morafa was owed a large sum of money by an informant to Pakistan's Interservices Intelligence Agency (ISI). The night before the final *jirga*^{xx} on the debt, ISI agents arrested Mr. Morafa, accused him of selling drugs, and threatened to sell him to U.S. forces if he did not sell his house and give them the proceeds. When Mr. Morafa refused, Pakistani authorities turned him over to the U.S. military.

The U.S. military accused Mr. Morafa of providing assistance to the Taliban government by participating in a failed currency trading deal with the president of the Bank of Afghanistan, a man Mr. Morafa knew prior to the Taliban's rise to power. Mr. Morafa is a businessman who has conducted his business under successive governments independent of ideology.

Dr. Hafizullah Shabaz Khail,^{xxi} an Afghan pharmacist, was appointed to an interim local government position after President Karzai came to power. He stepped down after his six-month term ended. However, after his province began to experience unrest, the provincial governor looked to Dr. Hafizullah to help restore the peace because of the respect Dr. Hafizullah enjoyed. Dr. Hafizullah accepted the responsibility and became the leader of a fifteen-member commission that assisted with provincial safety and security.

During his work with the Commission, the Commission determined that a government security commander was involved with a robbery. The Commission's pursuit of the security commander provoked retaliation: the Chief of Security falsely accused Dr. Hafizullah and handed him over to U.S. forces as a security threat. The U.S. military alleges that Dr. Hafizullah was a member of the Taliban and conducted military operations against the United States, yet he was arrested at the governor's office while serving on a commission of elders who were helping support the new government in Afghanistan. Dr. Hafizullah is eager to continue working for the government in whatever capacity he is needed, or to resume his work as a pharmacist if there is no role for him in the Afghani government.

Jamil El Banna, a Jordanian, and **Bisher Al Rawi**, an Iraqi, were legally recognized refugees who had been living in Britain with their families.^{xxii} Mr. El Banna, Mr. Al Rawi, and two British citizens were engaged in a business venture that brought them to The Gambia, in West Africa. With the full knowledge and authorization of the British government, the men traveled to The Gambia to help establish a peanut processing plant to be run by Mr. Al Rawi's brother, Wahab. Instead, they were seized on arrival by Gambian authorities who turned them over to U.S. custody. After 27 days of interrogations in The Gambia, the British government intervened to secure the release of their citizens – Mr. Al Rawi's brother, and their business partner, Abdullah El-Janoudi; yet, they did not intervene in the cases of the lawful British residents, Mr. El Banna and Mr. Al Rawi.

U.S. officials transferred Mr. El Banna and Mr. Al Rawi to Afghanistan and then to Guantánamo. Their interrogations and CSRT records never suggested that they were ever involved in any action hostile to the United States or the UK. Instead, their CSRT hearings highlighted an electronic device that British police concluded to be merely a battery charger available for sale at local stores and a relationship between the men and a conservative Muslim cleric that was known and blessed by British intelligence, for whom Mr. Al Rawi was working. The British government never arrested or charged the other two men who were arrested with Mr. El Banna and Mr. Al Rawi—an acknowledgement that their business venture was never a mask for illegal activity. While the British government has successfully advocated for the return of all British citizens living in Guantánamo, and all have since been released to freedom, the government has declined to intervene on behalf of Mr. El Banna and Mr. Al Rawi because they are not British nationals. They languish in Guantánamo, in large part because they lack the protection that British citizenship provided to their colleagues.

Nazar Gul^{xxiii} fled Afghanistan at the age of three during the Soviet invasion. He fled to Pakistan after members of his family were killed and he lost the use of one eye during the bombing of his village and home. He did not return to Afghanistan until *after* the fall of the Taliban regime and the installation of the interim government headed by Hamid Karzai.

During the 25 years he lived in Pakistan, Nazar Gul worked in his family's bakery. When he finally returned to Afghanistan in 2003, Mr. Gul obtained a job working for the Karzai government outside the city of Gardez. Within days, he began suffering from an infected and swollen molar. A friend accompanied him into Gardez to see a doctor, where he was prescribed medication and told to return for a check-up. Mr. Gul spent the night in a home in Gardez. He was awakened that night by the sound of gunfire and military personnel entering the home. Although he was unarmed and cooperated fully, the military mistakenly confused him for another man - Chaman Gul, an Afghan military commander during the 1990s.

Murat Kurnaz,^{xxiv} a German resident of Turkish descent, was traveling through Pakistan with Islamic missionaries in November 2001 when he was pulled off a bus at a routine stop by local police and turned over to U.S. officials. The U.S. Government justified Mr. Kurnaz's continued detention based on the claim that his friend engaged in a suicide bombing in Istanbul in 2003. Leaving aside the remarkable legal proposition that one could be imprisoned for acts committed by an acquaintance, without one's knowledge or collaboration (Mr. Kurnaz was already in Guantánamo at the time of the alleged suicide), the assertion is factually preposterous: the alleged suicide bomber, Selcuk Bilgin, is alive and living in Germany and under no suspicion of any suicide bombing by German officials who expressed shock at the suggestion.^{xxv}



Moreover, the investigative arm of the U.S. Southern Command, concluded that it “is not aware of evidence that Kurnaz was or is a member of Al Qaeda.”^{xxvi} It further concluded that it “has no definite link/evidence of detainee having an association with Al Qaeda or making any specific threat against the U.S.” His file also demonstrated that German intelligence itself concluded unequivocally: “this detainee has no connection to an Al Qaeda cell in Germany.”^{xxvii} In a 2005 court opinion, Judge Joyce Hens Green concluded that Mr. Kurnaz's detention, on the evidence presented by the government's factual return, violates due process.^{xxviii} However, a stay of proceedings was imposed for eighteen months depriving Mr. Kurnaz of legal recourse. After five years of detention, Mr. Kurnaz was released in August 2006 without ever having been charged.

Haji Nusrat,^{xxix} an eighty-year-old Afghan, was one of Guantánamo Bay's oldest detainees.^{xxx} He is married with ten children. He comes from a small mountain village and cannot read or write. Approximately fifteen years ago, Mr. Nusrat suffered a stroke that left him partially paralyzed. He is now partially blind and deaf, and has been bedridden from the time of his stroke, unable to stand or walk unassisted. Despite his age and frailty, Mr. Nusrat was arrested after protesting the arrest of his son, Izaatullah Nusrat, who is also being detained at Guantánamo. The elderly Mr. Nusrat believed he would die in Guantánamo, and he did not know whether or not his wife remained alive during the long years of his detention. He finally was released from custody in August 2006.

Recognized Non-Enemy Combatants: Detained Even After Being Cleared

In addition to the numerous Guantánamo detainees who are alleged to be enemy combatants based on virtually no evidence, or evidence that has been strongly refuted, there are at least three detainees currently held at Guantánamo *despite having been officially cleared by the U.S. Government of any involvement in terrorist activity*. Each was found to be a non-enemy combatant in a Combatant Status Review

Tribunal more than a year ago. Yet their detentions continue and they have been given no departure date. These men include:

- **Zakirjan Hassam**, a refugee living in Afghanistan, was sold to U.S. forces for a bounty.
- **Ala Abdel Maqsud Muhammad Salim**, an Egyptian, fled government oppression.

Zakirjan Hassam^{xxxii} is a refugee who had been living and working in Kazakhstan when, in early 2001, local officials told him that foreigners were not welcome and arranged for him to be transported to Tajikistan. He was later taken from Tajikistan to Afghanistan because he lacked legal papers permitting him to live there. While living in Afghanistan, Mr. Hassam worked odd jobs, including gathering crops. Without explanation, in or about April 2002, Afghan military forces abducted Mr. Hassam, threw him into the back of a truck and sold him to United States forces for a bounty of \$5,000. United States forces transported Mr. Hassam from Bagram to Kandahar, Afghanistan, and then in June 2002, to Guantánamo. More than one year ago, the Combatant Status Review Tribunal (CSRT) recognized Mr. Hassam's innocence, concluding that he was not an enemy combatant and that he should be released. Yet Mr. Hassam still remains imprisoned in Guantánamo, more than four years after he was sold to U.S. forces.

Ala Abdel Maqsud Muhammad Salim,^{xxxiii} an Egyptian, fled to Saudi Arabia in 1989 after being subjected to arbitrary arrest, detention and torture by the Egyptian government. Informed by Saudi officials that they would return him to Egypt, Mr. Salim fled to Pakistan where he lived until his arrest. In March 2002, Mr. Salim was arrested by Pakistani authorities who brought him to U.S. military forces two months later. The U.S. military imprisoned Mr. Salim in Bagram until August 2002, before transferring him to Guantánamo where he remains today. The U.S. government declared that Mr. Salim was not an enemy combatant in January 2005, but made no effort to transfer him until after his lawyers intervened. He remains imprisoned in Guantánamo to this day.

ⁱ Eighty-six percent of the detainees were arrested by either Pakistan or the Northern Alliance and turned over to U.S. forces. Mark Denbeaux, Report on Guantánamo Detainees: A Profile of 517 Detainees through Analysis of Department of Defense Data, Seton Hall University School of Law (February 2006).

ⁱⁱ Department of Defense, Fact Sheet: Guantánamo Detainees by the Numbers, Aug. 31, 2005, available at <http://www.defenselink.mil/news/Aug2005/d20050831sheet.pdf>.

ⁱⁱⁱ “The Pentagon plans to release nearly a third of those held at [Guantánamo] because they pose no threat to U.S. security...” Carol J. Williams, *Pentagon Plans Release of Prisoners at Guantánamo Bay*, L.A. Times, Apr. 25, 2006.

^{iv} At least two men, Zakirjan Hassam and Ala Abdel Maqsd Muhammad Salim, remain imprisoned more than four years after their capture despite the fact that even the U.S. government has declared that they are not enemy combatants. Mr. Hassam, a refugee in Afghanistan, was sold to the United States for a \$5,000 bounty. He was cleared of all charges more than a year ago. Mr. Salim, an Egyptian refugee, was cleared of any involvement in terrorist activities more than a year and a half ago, but remains detained. See “Recognized Non-Enemy Combatants,” below.

^v “Of the 550 [detainees] that we have, I would say most of them, the majority of them, will either be released or transferred to their own countries.” Brigadier General Martin Lucenti, in Mark Huband, *US Officer Predicts Guantánamo Releases*, Financial Times (London), Oct. 4, 2004. “There is a continuing intelligence value . . . for [s]omewhere a[round] a few dozen, a few score at the most” of the Guantánamo detainees. Lieutenant Colonel Anthony Christino, in Peter Jennings Reporting: Guantánamo, ABC News, June, 26, 2004.

^{vi} A study relying exclusively on the records from the Combatant Status Review Tribunals found that – *even if all of the Tribunal records were accepted as true* – a majority of the detainees have been determined to have not committed hostile acts against the United States or its coalition allies; s; and only eight percent of the detainees have been characterized as Al Qaeda fighters. Mark Denbeaux, Report on Guantánamo Detainees: A Profile of 517 Detainees through Analysis of Department of Defense Data, Seton Hall University School of Law (February 2006).

^{vii} *Donald Rumsfeld Holds Defense Department Briefing*, FDCH Political Transcripts, Mar. 28, 2002.

^{viii} Tim Golden and Don Van Natta, Jr., *U.S. Said to Overstate Value of Guantánamo Detainees*, N.Y. Times, Jun. 21, 2004. The CIA report also reported that “[o]fficials of the Department of Defense acknowledge that the military’s initial screening of the prisoners for possible shipment to Guantánamo was flawed.”

^{ix} Jay Hood, Commanding General, Joint Task Force, in Christopher Cooper, *Detention Plan: In Guantánamo, Prisoners Languish in Sea of Red Tape*, Wall Street Journal, Jan. 26, 2005.

^x Haji Bismullah is represented by John Missing, Jeffrey Lang and Jennifer Cowan of Debevoise & Plimpton LLP.

^{xi} The abuses of these men are a matter of public record. They were local guards for the American base at Greshk but were subsequently dismissed after local officials complained of the guards’ misconduct. See Carlotta Gall, *Afghan Man’s Death at U.S. Outpost is Investigated*, N.Y. Times, July 5, 2004, at A9.

^{xii} Adel Hassan Hamad is represented by Oregon Federal Public Defenders Steve Wax and Pat Ehlers.

^{xiii} Bahtiyar Mahnut is represented by Elizabeth Gilson, private practitioner. Other Uighurs captured in this group are represented by Sabin Willet, Bingham McCutchen LLP, and Michael Sternhell, Kramer Levin Naftalis & Frankel LLP.

^{xiv} See U.S. Dep’t of State, Country Reports on Human Rights Practices - 2004 (Feb. 28, 2005), at <http://www.state.gov/g/drl/rls/hrrpt/%2004/41640.htm>.

^{xv} Fearful of being returned to China, Mr. Mahnut and the other Uighurs initially told the Americans that they were Uzbeks from Afghanistan.

^{xvi} *China’s Gitmo Refugees*, Wall Street Journal, Apr. 24, 2006.

^{xvii} Mohammed Nechla, Mustafa Ait Idir, and the four others transferred from Bosnia are represented by Stephen Oleskey, Melissa Hoffer & Robert Kirsch at WilmerHale.

^{xviii} Dr. Ali Shah Mousovi is represented by Peter Ryan, Dechert LLP. The Department of Defense records list Dr. Mousovi’s name as Said Mohammed Ali Shah.

^{xix} Wali Mohammed Morafa is represented by Peter Ryan, Dechert LLP.

^{xx} Common in Afghanistan and Pakistan, a *jirga* is a decision-making assembly of male elders which resolves many criminal cases.

^{xxi} Dr. Hafizullah Shabaz Khail is represented by Rebecca Dick, Dechert LLP.

^{xxii} Jamil El Banna and Bisher Al Rawi are represented by Clive Stafford Smith and Zachary Katznelson of Reprieve, G. Brent Mickum, and Gareth Peirce.

^{xxiii} Nazar Gul is represented by Oregon Federal Public Defenders Steve Wax and Pat Ehlers.

^{xxiv} Murat Kurnaz is represented by Baher Azmy, Associate Professor of Law at Seton Hall University.

^{xxv} See Carol D. Leonnig, *Panel Ignored Evidence on Detainee*, Wash. Post, Mar. 27, 2005 at A1; Richard Bernstein, *One Muslim's Odyssey to Guantánamo*, N.Y. Times, June 5, 2005.

^{xxvi} Leonnig, *supra*.

^{xxvii} *Id.*

^{xxviii} See *In re Guantánamo Bay Detainee Cases*, 355 F.Supp.2d 443, 470-72 (D.D.C. 2005), on appeal *Al Odah v. United States*, No. 05-5064 (D.C. Cir. argued Mar. 17, 2006).

^{xxix} Haji Nusrat is represented by Peter Ryan, Dechert LLP. The Department of Defense records list Mr. Nusrat's name as Haji Nasrat Khan.

^{xxx} Throughout the last five years, Guantánamo has detained individuals as old as 105 and as young as 9 as alleged "enemy combatants. In October 2002, the Defense Department released Faiz Muhammad from Afghanistan, who said that he was 105 years old and was called "Al Qaeda Claus" by his interrogators, and another who claimed to be ninety years old and walked with a cane. Joseph Margulies, *Guantánamo and the Abuse of Presidential Power 68* (Simon & Schuster: 2006).

^{xxxi} Zakirjan Hassam is represented by Christopher Moore and Lia Monahan, Cleary Gottlieb Steen & Hamilton LLP.

^{xxxii} Ala Abdel Maqsd Muhammad Salim is represented by Carol Elder Bruce, Venable LLP.

CENTER FOR CONSTITUTIONAL RIGHTS

The Center for Constitutional Rights (CCR) is a non-profit legal and educational organization dedicated to protecting and advancing the rights guaranteed by the U.S. Constitution and international law.

Since the indefinite detentions at Guantánamo began, CCR has been at the forefront of the fight for justice on behalf of the prisoners. In the dark days after September 11, CCR was one of the first to call for humane treatment and due process for those the government had branded “the worst of the worst.” In addition, CCR has consistently challenged the U.S. government’s disregard for the rule of law and its attempts to evade judicial or public review of its detention and interrogation practices used to wage the “war on terror,” both at Guantánamo and abroad.

In February 2002, CCR filed a historic case against the U.S. government on behalf of the prisoners held at Guantánamo, *Rasul v. Bush*. In June 2004, the U.S. Supreme Court issued its landmark decision in *Rasul* upholding the principle that the prisoners held in Guantánamo have the right to challenge the legal and factual basis for their detention in U.S. courts.

In the two years since the Court’s decision, the U.S. government has employed every possible tactic to evade judicial review of its detention and interrogation practices in the “war on terror,” including allegations that U.S. personnel subject prisoners to torture and cruel, inhuman, and degrading treatment. During this time, CCR has responded by creating a network of hundreds of attorneys who work collaboratively to represent individual prisoners imprisoned at Guantánamo. This report is a product of our united efforts.