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THE NAVY'S SECRET BRIG

Prison's mission evolves as terror suspects arrive **SPECIAL REPORT**

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It's 4:30 p.m., quitting time at the Naval Weapons Station, and hundreds of cars and trucks roll single-file past the gate onto Remount Road. Across the street, a photographer aims his camera toward a distant building on the base.

The building is mostly blocked by live oaks and pines, but between the trees, you can make out an orange barricade, a fence of coiled razor wire and a sliver of the building itself, beige with an American flag flapping nearby. This is the Naval Consolidated Brig, a prison that in the past year and a half has become one of the more secretive installations in the U.S. military.

Suddenly, two Humvees appear, bouncing briskly over a grassy knoll. They take up position between the photographer and the brig, blocking the photographer's sight line. The afternoon sun brightens a spider-web tattoo on one serviceman's bicep. The men in the Humvees are wearing flak jackets, camouflage and grim faces, and when the photographer moves a few steps right, the Humvees move with him. When he goes left, they go left, blocking a view that reveals little in the first place.

Getting a good look at the brig hasn't been easy since it emerged as an important cog in the government's terror-fighting machine, the prison of choice for some of the nation's most wanted terrorism suspects. The brig's mission began to change in June 2002 when Jose Padilla, the alleged "Dirty Bomber," was spirited there under heavy guard.

Two others arrived this year: Yaser Hamdi and Ali Saleh al-Marri. Among other things, the government alleges that Hamdi fought with the Taliban, and that al-Marri made phone calls to one of Osama bin Laden's top lieutenants. The president has determined that Padilla, Hamdi and al-Marri are "enemy combatants" and thus can be held incommunicado for as long as needed — no communication with family, no access to lawyers, no formal criminal charges filed against them.

The brig also is home to another headline-grabbing inmate, Army Capt. James Yee, a Muslim chaplain accused of "wrongfully transporting classified materials" from the military's other main jail for suspected terrorists, Camp Delta in Guantanamo, Cuba. Unlike the other three, Yee is not an enemy combatant, though his lawyer says he's been treated like one — held in solitary confinement in a maximum security area of the brig and prohibited from reading anything but the Koran.

Other detainees suspected of terrorism could be in the brig now, but the military won't say.

Since Padilla's arrival last year, officials have surrounded the brig with concertina wire and bunker-like checkpoints. These measures ostensibly are being used to keep bad guys from going in or out. At the same time, the military has buttoned up the place from almost any public scrutiny.

The Navy so far has refused to answer even the most basic questions about the brig. How many inmates held under terrorism and non-terrorism allegations are being held there? Are regular inmates separated from the terrorism detainees? Have any detainees attempted suicide, as has happened in Cuba? In what ways are they being interrogated? Would it be possible to talk to the brig commander, or have a limited tour? Requests denied.

"It has to do with appropriate anti-terrorism measures and information security reasons," Ted Brown, a Navy spokesman said, declining to be more specific.

That's not been the case at Guantanamo, where more than 600 men and a handful of teen-agers are being held as enemy combatants. The Pentagon has allowed limited access there to humanitarian groups, reporters and other observers, who have subsequently raised questions about conditions and the military's interrogation practices.

This secrecy at the brig highlights its growing role in a new justice system created specifically to deal with terrorism, one that even the Bush administration says is separate from the nation's existing criminal justice system. In this legal netherworld, detainees are not considered prisoners of war and thus afforded protections under the Geneva Conventions. Because they face no formal criminal charges, they also lack the usual constitutional safeguards.

Some argue that because this new system is cloaked in secrecy, it's ripe for abuse, and that giving the president power to imprison someone without formal criminal charges is fundamentally un-American. Some humanitarian groups say holding people incommunicado for long periods of time is a form of torture.

The Bush administration argues just as vigorously that the nation is at war, and that in times of war, the government must use every legal tool at its disposal. So far, the courts have upheld the administration's stance, though last week in New York, two federal appeals court judges seemed hostile to Padilla's treatment. "As terrible as 9-11 was, it didn't repeal the Constitution," one judge said.

The brig is caught in this debate, and the story about the brig's evolving mission and how the four terrorism detainees ended up there touches on a much larger one about the government's challenge to define its role and limits in the shadowy fight against al-Qaida.

REDEMPTION: BRIG'S ORIGINAL MISSION

The brig wasn't always so elusive. Before the Sept. 11 attacks, brig leaders maintained close ties to the community, especially nearby Hanahan. In 1996, the brig's staff volunteered 6,500 hours at Hanahan High School. Inmates rehabbed the school's activity bus. A Hanahan High official said they haven't heard from brig officials lately. In other years, inmates built thousands of wooden toys for the area's Toys for Tots program. Military officials eagerly invited reporters to publicize the brig's good deeds, and they had a good story to pitch.

Throughout the military — indeed, the entire corrections field — the brig was known as a first-rate operation. This success was due in large part to a man named John R. "Barney" Barnes.

Barnes is tall and thin, with silver hair and a strong jaw. He was a helicopter pilot in Vietnam and flew 508 combat missions with the Navy's Seawolves. He has a military man's toughness tempered by an almost missionary belief in the power of redemption. He is Clint Eastwood cast as a preacher. Today, retired from the Navy, Barnes runs Dorchester County's detention center, but in 1984, he was put in charge of the Navy's entire corrections system.

He inherited a mess. At the time, the Navy had 21 detention facilities. Half were more than 40 years old. Many were firetraps. Inmates spent much of their time watching television or playing basketball. Fewer than 15 percent ever returned to duty. Barnes was appalled at the waste of human potential.

Under his command, the Navy launched a \$70 million overhaul of its corrections system, with a heavy emphasis on rehabilitation. "It's more in line with our Judeo-Christian values," he said, cracking his knuckles. If inmates had substance abuse problems, counselors would treat them. Inmates also would learn auto mechanics and carpentry and other job skills. "Our goal was to give inmates a hand up, not a handout," he said.

The overhaul called for two new medium-security brig, one in San Diego and another at the Naval Weapons Station in Hanahan. The brig would be identical, each housing about 400 inmates, and would be based on modern design principles, with an ode to King Solomon. "In Proverbs 6, King Solomon urges us to study ants," Barnes said. "If you look at an anthill, it's very neat and clean, and they seem to work by themselves to keep the anthill working, and that's what you'll see if you go to the brig."

Construction began in 1988. The brig has 10 triangle-shaped cell blocks. In each triangle, inmates' cells line two edges and overlook a lobby-like common area. This design enabled just a few detention officers in the common area to oversee the entire space, saving manpower and making each block more secure.

"We laid it out so it's like you have a bunch of big valves," Barnes said. "You can open this valve and fill up one space, and close this one down if you need to, which gives you a lot of flexibility."

This flexibility should be especially helpful in separating terrorism detainees from the rest of the inmates, he said. Indeed, when Padilla was moved there last year, Newsweek reported that an entire block was cleared out for him.

Mike Maloney was a control center supervisor at the brig in the early 1990s. When he was there, many inmates were in for drug use and sexual abuse. He recalled that the brig was "one of the cleanest and well kept buildings on the Weapons Station. It's very well lit, and doesn't give off any of the feelings of a jail. While it's not a luxury hotel, it's not an old style jail you see at Alcatraz. There are no bars; the cells all have doors with windows."

Maloney's most vivid memory was when he went to work June 7, 1993, and saw the "sheriff, police and state police all in the parking lot and being told that someone had escaped." That prisoner was J.J. Willis, charged with the murder of his wife. Officials later learned that he had slipped through an unlocked door, after a detention officer went off for a break. Authorities caught Willis in Texas three weeks later, and a brig sailor eventually pleaded guilty to dereliction of duty and neglect.

"The issues that allowed that to happen were fixed immediately," Maloney recalled. "It's a very secure facility."

In 1992, the brig sought accreditation from the American Correctional Association. Accreditation amounts to a stamp of approval from an independent, non-governmental agency, and for more than three days, evaluators from the group had free run of the complex. "To give you an idea of how picky they are, if your inventory says you have 50 gallons of bleach, and you actually have 40, you not only fail that standard, you fail the entire accreditation," said Robert Verdeyen, a director of the association. Evaluators tested the brig on more than 450 standards. The brig scored a perfect 100.

Three years later, evaluators were back again, and the brig earned another perfect score. At the time, no facility in the 128-year history of the American Correctional Association had achieved two 100s in a row. The brig also earned perfect scores in 1998 and 2001. "It's a world record," Barnes said. "No one has come close."

The military's public affairs machine is vast and experienced and usually quick to tout such shining stars. But for the past year and a half, that machine has stopped spinning the brig's story. "I could lose my job if I say any more," a spokeswoman at the Naval Weapons Station half-joked, after saying nothing more than "all the roads are barricaded around there."

The secretive atmosphere extends outside the brig's walls. When a leader of a bible study group from St. Andrew's Episcopal Church was asked about his work with brig inmates, he said, "I was told not to say anything."

When Minnie Blackwell, the mayor of Hanahan, asked a brig captain about how the military would coordinate with local law enforcement in an escape or any other trouble, "he didn't agree with me that there was a need for open communication."

BRIG'S ENEMY COMBATANTS

From above, the brig is a curious site. The triangle-shaped cell blocks flow around courtyards and other buildings like teeth on a gear. Nearby is the new SPAWAR complex, where engineers for the Navy work on top secret electronics projects. The brig is about 190,000 square feet, twice the size of a Wal-Mart. Less than a half a mile away is Hanahan's Gold Cup Springs neighborhood.

Somewhere in the brig complex is Yaser Hamdi, who may have no idea that he is at the center of a major constitutional debate.

Hamdi, 23, was born in Louisiana. His father, a Saudi Arabian, was in the United States at the time, working as a chemical engineer. Hamdi was 3 when he and his family moved back to Saudi Arabia. In the fall of 2001, he was taken into custody in Afghanistan after a Taliban unit surrendered to the Northern Alliance. He was held in Cuba as an enemy combatant until officials discovered he was an American citizen. He then was flown to a small brig in Norfolk, Va., where Frank Dunham, a federal public defender in Virginia, took his case.

"I've never seen, nor heard from him," Dunham said recently. "They fought tooth and nail to keep me from having access to my guy."

The government's treatment of Hamdi was curious, Dunham said, especially in light of its handling of another American picked up in Afghanistan, John Walker Lindh. Lindh's case went through traditional criminal justice channels. His family hired a prominent lawyer from California who mounted a spirited defense. Lindh eventually pleaded guilty and is now serving 20 years in federal prison. "That's the way the American system is supposed to work," Dunham said.

Last year, Dunham asked U.S. Circuit Judge Robert G. Doumar for access to his client. "Your honor," he said during one hearing, "he could have been selling lemonade and hot dogs on the side of the road in Afghanistan for all we know." Doumar asked the government to privately show him the evidence they had against Hamdi. The government refused.

Doumar fired off an order demanding that the government allow Hamdi to see his lawyer. "This case appears to be the first in American jurisprudence where an American citizen has been held incommunicado and subjected to indefinite detention in the continental United States, without charges, without any findings by a military tribunal, and without access to a lawyer."

Instead of allowing Dunham to see his client, the government appealed to the 4th U.S. Circuit Court of Appeals. In its argument to the court, the government submitted a statement from Army Col. Donald Woolfolk, then acting commander of the task force running the detention and interrogation operation in Guantanamo.

Woolfolk said that allowing Hamdi to meet with a lawyer would create "substantial harm" to U.S. interests and disrupt the interrogation process. Hamdi had been held in detention centers in Afghanistan, Guantanamo and Norfolk, Woolfolk said, adding that Hamdi could use a lawyer to pass information to enemies about those facilities. Woolfolk then added that the military had suspended "active interrogation" because of the legal challenges.

More than 100 legal scholars wrote to the 4th Circuit arguing that the government's treatment of Hamdi was unconstitutional. But the panel, the last stop before the Supreme Court, eventually upheld Bush's decision to classify Hamdi as an enemy combatant and hold him incommunicado "for at least the duration of hostilities." The federal courts, the judges ruled, "have many strengths, but the conduct of combat operations has been left to others."

It was a huge victory for the Bush administration.

"We have a ruthless enemy that wants to kill us," said Mark Corallo, Attorney General John Ashcroft's chief spokesman. "When you're a nation at war, you have to conduct business on a war footing." Defense lawyers, he said, "can rant and rave that these people should have access to lawyers, but when have we ever done that? In World War II, if we captured Japanese and German prisoners and had them all lawyered up, there would be chaos. It would be silly, absurd."

On July 30th, the military quietly moved Hamdi from Norfolk to the brig in Hanahan. Four weeks later, The Post and Courier learned about the transfer and was the first to disclose it. "There was no announcement because it was considered a simple move," a military spokesman said at the time. "There was no intent to be surreptitious."

Dunham still has Hamdi's case, though, and recently asked the U.S. Supreme Court to settle the matter. His argument leaned heavily on history, and how opposition to the King of England's unbridled detention of citizens led to the concept of habeas corpus, the right to publicly challenge one's confinement. England's refusal to honor such writs was one of the grievances that led to the American Revolution.

"The government is saying 'Trust us,' but our Anglo-American tradition is that we don't trust the government," said Michael Ratner, president of the Center for Constitutional Rights. "America is based on a system of checks and balances, and the entire American judicial system is based on accountability and having your day in court."

But Corallo said the government isn't targeting innocent people. "And people don't just disappear in America. If all this was done in secret, how come you are calling? How come we announce these things? This is not the Soviet Union or some tin-pot dictatorship. We do things in the open. If we didn't there would be hell to pay. It would lead to conspiracy theories. This country is too open, and there are too many good people who work in the government and media to allow that to happen."

FRIENDLY FORUM?

Why is the military housing its terrorism suspects in Hanahan instead of the military's long-term prison in Fort Leavenworth or its other brig? The Pentagon won't say, but some lawyers for the detainees suspect it was done in part to ensure that legal challenges are heard by the more conservative 4th Circuit. "The speculation is that the government is shopping for a friendly forum," said Larry Lustberg, an attorney for al-Marri.

Al-Marri's case has a slightly different flavor than Hamdi's and has raised questions about whether federal prosecutors are using the threat of enemy combat designation as a hammer to force terrorism suspects to plead guilty.

Unlike Hamdi, al-Marri was born in Qatar and is not a U.S. citizen. As such, he shares the same status as the enemy combatants in Guantanamo who hail from more than 30 countries. Unlike those held in Cuba, al-Marri's case started in the U.S. criminal justice system.

The FBI had al-Marri on its radar screen soon after the 9-11 attacks and searched his apartment in December 2001. FBI agents found a laptop that contained lectures by Osama bin Laden, bookmarked Web sites about industrial chemicals and hundreds of credit card numbers, many of which had been subjected to fraud.

According to a 13-page indictment, calls also were made from al-Marri's cell phone number to an al-Qaida lieutenant who sent money to the Sept. 11 hijackers. The indictment painted al-Marri as a "sleeper cell" operative.

At first, al-Marri was allowed to see his attorney and prepare a defense. Lustberg said his client was "gentle, extremely friendly, and he was most upset about being denied things, like access to sunlight, which he had not seen for more than a year. He had been denied all contact with his family and wasn't getting religious materials like the Koran and a prayer rug. Those were the things he was most focused on, even more than the case."

Al-Marri was scheduled to go on trial in July, but on June 23, prosecutors told the court they were dropping the charges. The Bush administration had designated al-Marri an enemy combatant. Al-Marri then was moved to the brig in Hanahan.

"They snatched him," Lustberg said. "Right before trial, he was going to be afforded all the protections of the Constitution, and now he has been deprived of all of them."

Corallo, the Justice Department spokesman, denied any inconsistency in the government's treatment of terrorism suspects, or that it uses the threat of enemy combatant designation to force guilty pleas. "Every case is decided on a case-by-case basis." Before removing someone from the criminal justice system, the president and his advisers study whether sensitive information could be revealed in a courtroom setting, he said. "The good thing about our country is that unlike our foes, we have an executive branch that is overseen by the legislative branch. The courts also have oversight. Granted, this oversight is limited, but they do have some oversight."

BRIG AS WAREHOUSE

Padilla has been in the brig the longest, nearly a year and a half, and is the facility's most famous inmate. After his arrest, Ashcroft announced, "We have disrupted an unfolding terrorist plot to attack the United States by exploding a radioactive dirty bomb." Padilla first was arrested as a "material witness" and given access to an attorney, who met with him for about 20 hours. On June 9, 2002, he was transferred to military custody on the basis of a one-page order from the president and moved to the brig.

Padilla isn't a particularly sympathetic character. Born in Brooklyn, he joined a Latino gang in Chicago. While in Florida, he was sent to prison after a road-rage shooting. Federal authorities said he converted to Islam in prison and eventually traveled to Pakistan and Afghanistan, where he learned to wire explosives.

In Padilla's case, the government isn't interested in his rehabilitation - the brig's forte. In court papers, the government says holding him "prevents him from continuing to aid the enemy in executing attacks against the United States." His detention is "in no sense 'criminal' and has no penal consequences whatsoever."

According to media reports, which the military will neither confirm nor deny, when Padilla arrived at the brig, he was placed in an isolation cell with a lamp burning 24 hours a day and round-the-clock security.

Despite his unsavory past, Padilla has picked up support from human rights groups and constitutional scholars. In a report this summer, Amnesty International said holding someone incommunicado for years can be akin to torture, and that access to a lawyer helps the innocent from being jailed and suspects from being held in inhumane conditions.

Eugene Fidell, a military law expert and president of the National Institute for Military Justice, doesn't know anything about how Padilla and the other designated enemy combatants are being treated, but when he met his client, Capt. James Yee, in a conference room in the brig last month, he was appalled to see Yee in leg irons, "the kind that go clank when you walk."

Fidell learned that Yee was in solitary confinement, which typically means 23 hours of confinement and one hour of exercise. He was allowed to read only a Koran. "This was entirely unwarranted," he said.

Yee, a West Point graduate and Muslim chaplain, had been assigned to minister to the detainees in Guantanamo. In September, federal agents arrested him in Jacksonville and reportedly found sketches of the camp and documents related to the captors and their interrogators. News reports painted Yee's case in terms of espionage.

But on Oct. 10, Yee was charged with a more innocuous offense: disobeying orders by taking classified material to his home and not putting it in proper security containers. "In a normal environment, he wouldn't be behind bars. He's a member of the clergy charged only with orders violations," Fidell said.

Fidell said that he believes Yee has since been placed in a lower security status, and that brig officials are now giving him a censored version of USA Today. The fact that it's being censored, Fidell said, "is ridiculous." Yee also was allowed to meet with his family. "What sets his case apart from the other detainees in the brig and those in Guantanamo," Fidell said, "is that Capt. Yee has lawyers, that he can meet with his lawyers, and that he has a lot of his rights."

Whether the brig will warehouse more enemy combatants and others nabbed in the nation's terrorism dragnet is hard to predict, especially in light of the military's policy of saying virtually nothing about the brig or its plans for it. This climate of secrecy only hurts the government's efforts, said Alistair Hodges, a spokesman for Amnesty International. "People smell a rat, even if there isn't one."

Ultimately, what happens at the brig and the people inside might have a great deal to do with how the nation frames the terrorism struggle.

The Bush administration defines the conflict as a war. "Al-Qaida made the battlefield the United States," a government prosecutor said last week in Padilla's hearing before the 2nd U.S. Circuit Court of Appeals in New York.

During that hearing, Judge Rosemary Pooler didn't seem convinced. "If, in fact, the battlefield is the United States, I think Congress has to say that, and I don't think they have yet."

Amnesty International and others argue that the conflict should more properly be defined as an international police action, and that by militarizing the fight against terrorism, the Bush administration has put itself - and detainees like Hamdi, al-Marri and Padilla - in a difficult spot.

"The prospect is chilling," said Dunham, Hamdi's lawyer. "If the chief executive calls you an enemy combatant, you can be held indefinitely, because that's how long the war on terror probably is going to go."

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