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HEADLINE: Inside a Gitmo review;

A Saudi detainee faces military panel, without seeing a lawyer or evidence, that decides his fate

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BODY:

GUANTANAMO BAY, Cuba - Handcuffed, with his bare feet shackled to the floor, the young, bearded Saudi glared at a group of military officials as one of them listed reasons he should still be considered an enemy combatant, too dangerous to release from the maximum-security detention camp here.

"Why can't I hear the classified [evidence] against me?" the prisoner repeatedly demanded in Arabic, said an interpreter who translated his words into sometimes flawed English. "I don't have no knowledge of the terrorists or their organizations. I wasn't never an enemy for the Americans."

When a Marine colonel leading the proceedings said security concerns prevented him from sharing the classified information, the detainee began rattling his chains. "This is a play!" he shouted. "You are a dog ... a criminal!"

The exchange Tuesday in a windowless room was part of what the Pentagon calls an administrative review, a procedure similar to a parole hearing in which it decides two things: Do the detainees continue to pose a threat to the United States and its allies, or are they of sufficient intelligence value to keep at this controversial outpost in the war on terror - or both? Those deemed to be neither are eligible for release.

Like almost everything these days at Guantanamo, whose continued existence was the topic of a stormy debate Wednesday in the U.S. Congress, the reviews are stirring up a political storm.

Pentagon officials say the reviews, which began in earnest in February and are to be held annually for each detainee, are the best way to weed innocents from the pool of foreign prisoners rounded up after the terror attacks of Sept. 11, 2001.

The hearings "balance the fairness to the detainee with the fairness to U.S. citizens, to make sure individuals who are a huge threat aren't still on the streets," said Navy Capt. Eric Kaniut, who oversees the process.

Critics counter that they deny detainees the minimal legal rights that international conventions guarantee war prisoners. "The administrative review boards are a farce - nonsense built on stilts," said Eric Freedman, a Hofstra Law School professor who advises attorneys representing Guantanamo detainees.

Among detractors' concerns:

Lawyers are barred from representing prisoners at the reviews. Instead, prisoners are assigned a military officer with no legal training.

Neither detainees nor defense lawyers - if they have any - can see classified evidence the military is using to consider their cases.

The detainees can't call witnesses.

The name tags of all military officials involved in the reviews, including the three board members who examine the evidence, are taped over for security.

The Pentagon has decided some cases but won't say how many or how it ruled. So far, no detainees who have undergone reviews have been released.

The procedures used last year to define Guantanamo prisoners as enemy combatants in the first place were conducted in a similar fashion and their constitutionality is under appeal in federal court.

Military officials argue that, as foreign-born prisoners, the detainees aren't entitled to forms of due process that are required in U.S. courts. They say lawyers can't attend because the procedures are administrative rather than legal, and the classified information could divulge investigative secrets that would weaken the war on terror.

Many lawyers believe the reviews are designed intentionally to hide flimsy evidence against many of Guantanamo's 520-odd prisoners, only four of whom have been charged.

Kristine Huskey, a Washington, D.C., lawyer, obtained the documents read aloud at reviews summarizing the primary unclassified factors for and against freeing two Kuwaiti detainees. In one case, she said, the arguments against release included assertions that "the detainee often complains about President [George W.] Bush and the U.S. Government" and "has been a regular leader of prayer and continually physically trains in his cell."

"For that they should lock me and a lot of my friends up," said Huskey, though she acknowledged the detainee also has more serious allegations against him that she disputes, including being a spiritual adviser to Osama Bin Laden.

In the case of the other Kuwaiti, a professional volleyball player, the factors supporting release didn't mention numerous affidavits submitted from relatives and teammates insisting the prisoner had never shown any zealous or anti-American behavior, Huskey said.

Kaniut insisted the presiding military panel conducts "exhaustive" reviews of all material, much of which doesn't make it into the statements read aloud at the hearings, before sending its recommendations to Navy Secretary Gordon England.

Brig. Gen. Jay Hood, the commanding officer at Guantanamo, said the military has to be extra cautious because some detainees released early on have "returned to the fight."

"We would not wish to see [others] return to the battlefield and subsequently do harm to Americans," Hood said.

About half the detainees who have had reviews have refused to attend, many because they consider them unjust, according to defense lawyers. Kaniut said some didn't show because they were "hard-core" militants who proudly admitted they wanted to kill Americans, or because of peer pressure.

Based on the unclassified proceedings, it was impossible for a Newsday reporter to draw conclusions about the threat potential from the Saudi, 29, a self-described drug dealer with cropped black hair and a luxuriant beard. Military officials let Newsday attend the review on the condition it not release the names of the detainee or participating officers.

The Saudi was dressed in an orange jumpsuit, a color designating him as among the inmates hardest to handle. He alternated contempt and curses with expressions of despair and ultimately apologized for his conduct, telling the presiding officer, "the situation I am in here, it's very hard ... and it makes me like this." The Army lieutenant colonel assisting him told the military panel the detainee had been courteous to him in preparatory meetings.

An Air Force major read the summary of factors against the man's release: He had traveled voluntarily in July 2001 to Pakistan, where his name was later found on a list in an al-Qaida safe house; he was arrested with several Libyans trying to leave Pakistan, and he believes "all Americans are enemies of God ... and fighting against them is justified."

But the Air Force major also read aloud that the Saudi government described the detainee as having a low IQ and of being of little intelligence value, and vouched that it would detain him if he were returned home.

Asked to respond, the Saudi said he was in Pakistan to buy drugs and met the Libyans only accidentally after a chain of drug-related mishaps. He insisted he had nothing against Americans, though he believes "all those who fight the religion of Islam and its believers are infidels." His version of how his name came to be found in the alleged safehouse was dubious - that someone who had stolen his passport must have given his name to al-Qaida. But with no

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information available on his accusers or the alleged safehouse, his story also carried pathos. "I want to go help my brothers on the farm and start a family and live ... in peace and safety," the Saudi said.

A lot of detainees "seem kind of nice," Kaniut said later. But when he reads the classified material about them, "there's a lot more that makes you think, 'Oh, my gosh.'"

With so much information classified, the public will have to trust his judgment on that.

GRAPHIC: 1) AP file Photo - Critics claim the inmates are denied minimal legal rights. 2) WWW.PHOTOS.COM PHOTO - Wired Gate at Guantanamo Bay, Cuba

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