

Legal Aid Offer for Detainees Is Retracted

Reserving lawyers' efforts for larger Guantánamo issues.

By WILLIAM GLABERSON

The American Bar Association said this week that it was backing out of an agreement to find lawyers for Guantánamo detainees because it did not want to "lend support and credibility" to what it called inadequate legal protections for the 340 men held there.

The bar association, the largest lawyers' group in the United States, said it had agreed to help find volunteer lawyers before Congress stripped the courts of the power to hear habeas corpus cases, which are challenges by prisoners on the government's authority to hold them.

The move was the latest chapter in a broad legal debate over what rights Guantánamo detainees may have in contesting findings that they are enemy combatants who can be held indefinitely.

"It would be inconsistent with the A.B.A.'s strong position" against limits on detainees' filing habeas cases, the bar association president, William H. Neukom, said in a letter to the Justice Department on Thursday. He added that participating in finding lawyers for less expansive cases would "lend support and credibility to such an inadequate review scheme."

A 2005 law said detainees could only contest their status in far more restrictive cases, which limit detainees to arguing that military officials violated their own procedures.

The association's concern, reported yesterday in The Washington Post, is one of a series of challenges to the government's insistence that the narrower cases are the only legal vehicle available to detainees at Guantánamo Bay, Cuba.

Some Democrats in Congress and other critics of the administration have focused on trying to

revive habeas cases, saying they would be the only effective check on the administration's detention policies.

A Justice Department spokesman, Erik Ablin, said yesterday that officials were disappointed that the bar association was no longer searching for lawyers "simply because it disagrees with the system established by Congress for detainees to challenge their detentions."

Mr. Neukom noted in his letter that the bar group, which has more than 400,000 members, recently filed a brief supporting detainees in a Supreme Court case. The case is expected to test the Bush administration's argument that foreigners who are held as enemy combatants outside the United States do not have the right to file habeas suits.

The current dispute centers on notices military officials gave in recent weeks to 14 "high value" detainees at Guantánamo who were previously held in secret Central Intelligence Agency prisons. Those detainees include Khalid Shaikh Mohammed, who has said he was the mastermind of the Sept. 11 attacks.

The notices were given to detainees after military panels — combatant status review tribunals — found that all 14 were properly held. Critics have attacked the fairness of the military-panel system because detainees are not permitted lawyers for the hearings and cannot see much of the evidence against them.

The forms included a request a detainee could sign seeking representation for an appeals court challenge of a tribunal finding. "I request the American Bar Association find a lawyer who will represent my best interests,

without charge," it said.

Mr. Neukom, the bar association president, declined a request for an interview.

But Neal R. Sonnett, a Miami lawyer who is chairman of a bar association task force on detainees, said the group had been surprised this month to get notices from the Pentagon that four detainees had requested bar association help in getting lawyers.

He said the association had agreed in 2005 only to find lawyers for habeas corpus suits.

Shayana Kadidal, a lawyer at the Center for Constitutional Rights in New York, said lawyers there were especially surprised that a form sent to them this week showed that Majid Khan, a 27-year-old detainee who was partly reared in Baltimore, had filled out one of the forms.

Military officials accuse Mr. Khan of working on a plan to blow up gas stations in the United States and researching how to poison reservoirs.

Mr. Kadidal said it was startling that Mr. Khan had been given a form to request a lawyer because lawyers at the Center for Constitutional Rights have been working on his behalf for many months. Government officials have barred them from visiting him, saying they had security concerns. The lawyers were not sure he had received letters telling him that his family had asked them to represent him.

Mr. Kadidal said the lawyers believed it was no accident that a detainee who had a lawyer had been offered a new one. "It is all part of their systematic attempt to undermine existing attorney-client relationships," he said.

Mr. Ablin called Mr. Kadidal's assertion irresponsible and said officials have worked to establish



a system of “adequate representation and attorney access to clients while safeguarding national security concerns.”

On his form, Mr. Khan wrote that he thought he already had a lawyer, but did not know anything about the Center for Constitutional Rights. “So please,” he wrote in English, “send me a lawyer or representative who can brief me with my options.”

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