

## WAR ON TERRORISM

# Defense efforts are still stymied

■ **Five of six Guantánamo prisoners who are facing the death penalty are without representation, and the sixth has yet to meet his attorneys.**

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Two weeks after the Pentagon announced plans to stage death-penalty trials for six Guantánamo captives as alleged Sept. 11 co-conspirators, none of the men has seen a military defense lawyer.

Only one of the six has an assigned lawyer, U.S. Army Lt. Col. Bryan Broyles. But Broyles failed to see his client during a Feb. 13-16 visit to the isolated Navy base.

Lawyer visits will be a key precursor in the Pentagon's bid to put Khalid Sheik Mohammed and five other alleged 9/11 co-conspirators on trial. On Feb. 11, the Pentagon announced plans to simultaneously try the men by military commission — and to execute them if they are convicted.

But Army Reserves Col. Steve David said so far he had only assigned Broyles to the complex six-defendant case — to defend Mohammed al Qahtani, a Saudi considered the least valuable captive among the six men.

Broyles blamed the prison camps lawyer, Navy Capt. Patrick McCarthy, for placing obstacles in the path of his bid to meet Qahtani in the company of a civilian lawyer, Wells Dixon, of the Center for Constitutional Rights.

The Army colonel told The Miami Herald he went to the base to meet Qahtani and

another Saudi war-court candidate, Ahmed al Darbi, with Dixon — and was thwarted by the military, not the detainees, on both counts.

### 'MOOT'

In a statement, the prison camps spokesman, Navy Cmdr. Rick Haupt, blamed the conflict on defense lawyers — describing their failure to comply with prison camp bureaucracy and on scheduling conflicts. But, in the end, Haupt said, the bureaucracy issues were "moot" because Darbi and Qahtani refused to meet the military defense lawyer at their assigned time.

A core issue is Broyles' bid to have Dixon join the meetings with the men — who claim brutal treatment in U.S. custody.

Absent an introduction by the civilian lawyer, Broyles said, the detainee might not believe he is there to help in his defense and instead suspect an interrogation trick.

Qahtani was once known as The 20th Hijacker, suspected of failing to join the 19 other terrorists in the 9/11 attacks because he was denied entry into the United States at an Orlando airport.

His case focused attention on the prison in June when Time magazine published excerpts from his interrogation log showing how questioners ratcheted up techniques on their captive during 50 days starting in November 2002 to extract a confession — by using sleep deprivation, leaving him strapped to an intravenous drip without bathroom breaks, and having

him strip naked. Troops also told him to bark and left him to urinate on himself.

Darbi is accused of an unrealized plot to attack a boat in the Middle East. He is also the brother-in-law of a Sept. 11 hijacker who was aboard the 757 that struck the Pentagon, killing 187 people, including the wife of then-U.S. Solicitor General Ted Olson.

Haupt said the prison camps' legal staff "does not try to persuade or dissuade a detainee with respect to meeting a lawyer. ... Counsel is able to send letters to the detainee in an attempt to convince the detainee of the benefits of cooperating and working with counsel."

David — the Pentagon's chief defense counsel and, in civilian life, an Indiana judge — said he was trying to help resolve the stalemate between the prison camp and the defense lawyers.

"Why can't habeas counsel who jumps through the hoops and military counsel who jumps through the hoops — and happen to be there at the same time — meet with their client at the same time?" asked David, who said he was unaware of any restrictions when he dispatched Broyles to meet with two war-court candidates after the big 9/11 case announcement.

### 'HIGH-VALUE'

Meantime, David said he still was seeking suitable, separate defense counsel for Qahtani's five co-defendants, an even more difficult task.

They are among 15 "high-value detainees" held in seg-



regation at a long undisclosed site called Camp 7, away from Qahtani and the other 260 war-on-terrorism detainees.

The CIA held and interrogated the 15 for years in secret custody before they were sent to Guantánamo in September 2006. Since then, FBI investigators have been allowed to see them frequently, but none have seen defense lawyers.

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