

Gumshoeing in Kabul **Jonathan Horowitz¹**

In early September 2008, a few days after I arrived in Kabul, I sat down in an air conditioned room at a guesthouse with Abdul Wahab and a high school teacher named Ghulam Sadeeq. Five years earlier, American forces had arrested Wahab's Brother, Mohammad Zahir, in a night-raid at his home. The United States then shipped him off to Guantánamo Bay, accusing him of being a member of the Taliban and of having control of Taliban weaponry.

I was focusing on Zahir's case because his lawyers, Dan Malone and Peter Ryan from the law firm of Dechert, hired my small Brooklyn-based investigation firm, One World Research, to do what the U.S. government should have done far earlier and with greater accuracy: determine which, if any, of the U.S. allegations against Mohammad Zahir and Dechert's other clients, were true.

After landing in Kabul I called the people who I needed to speak to, such as relatives, friends, and former colleagues of the Guantánamo Bay detainees who Dan and Peter represented. To my amazement and pleasure, they were easy to reach and agreed at the drop of a hat to travel long distances to see me. I barely had the time to rest my knapsack and computer bag on my bed before I began preparing for my first interviews.

It was my fifth or sixth interview when I spoke to Abdul Wahab and teacher Ghulam Sadeeq. With the video rolling, Abdul Wahab openly told me that his brother was, formally, a member of the Taliban. But he also explained that membership *per se* reflected little about a man's ideology, hatred of the United States, or links to al Qaeda. He described how the Taliban had forcibly conscripted Mohammad Zahir to be a cook; he said that his brother wasn't a hardened fighter or ideologue.

When I interviewed Ghulam Sadeeq, a man who taught with Mohammad Zahir at the Mirza Khel High School, he explained that the school was non-religious, with a curriculum that included math, physics, chemistry, biology, geology, art, and languages. Sadeeq recalled how UNICEF and international military forces supported the school. In short, Mirza Khel High School was just the type of school that the Taliban were, and are, notorious for attacking. The more Sadeeq spoke, the more I saw that his interview cast additional doubt on the U.S. allegations against Zahir. Why would a man, who devotes himself to teaching, join a group such as the Taliban that destroys schools?

More damning than the accusation that Mohammad Zahir was a Taliban cook, was the accusation that he was arrested with Taliban military documents in his house. Records from Guantánamo Bay show that Zahir explained to U.S. officials that the Taliban had passed through his village one rainy night when he was not at home and forcibly gave the documents to his wife for temporary safe keeping. Zahir said that when he returned home and discovered what happened, he notified the

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governor, but the governor ignored him. So Zahir hid the package in his yard where American's later found them.

To confirm this story, I asked Abdul Wahab if I could interview Zahir's wife. He refused. Asking to speak to a man's wife is a sensitive issue, especially since Zahir is from a very conservative part of Afghanistan. But Abdul Wahab agreed to ask Zahir's wife about the package of documents and then travel back to Kabul to tell me what she told him. A few days later, sitting again in front of the camera, Abdul Wahab told me, in his sister-in-law's words, a similar chain of events that supported her husband's claim, thus calling into question perhaps the strongest evidence the United States has against Mohammad Zahir.

Another of Dechert's clients, Mohammad Rahim, is accused of, amongst other things, being a Taliban leader who attended a meeting in a mountainous area in February 2003. Rahim's cousin and neighbor, Haji Zakaria, told me that the accusations were ludicrous, stating that the mountainous area was impossible to reach during the snowy winters from their home in Ghazni Province. Besides, Zakaria said, he was with Rahim during daily prayers and meals during that winter.

When I asked why he thought Rahim was arrested, Zakaria launched into one of the most commonly cited reasons for wrongful detentions in the U.S. war on terror. Zakaria described a land dispute between Rahim's family and another family who had people working with the international military forces. It was no coincidence, he said, that Rahim was captured after he undertook legal proceedings to settle the dispute and was about to win the claim.

The evidence files that the U.S. hands over to Afghan officials when each Afghan detainee is transferred back home added to my doubts that Guantánamo Bay detainees were, as Rumsfeld put it, the "worst of the worst." Sabar Lal, another one of Dan and Peter's clients, had the word "None" marked next to the word "OFFENSE(S)" in his file. His file named two witnesses, but the U.S. had no "potential witnesses," "physical evidence," or "photographs." Fortunately, Sabar Lal is a free man today. But this can't dilute the fact that he lived behind bars for several months in Afghanistan after having been detained for years at Guantánamo Bay on sparse, if not false, information.

It's a reality of war that innocent men and boys find themselves behind bars. Afghans I spoke to understood this and didn't initially blame the United States for mistakenly detaining their relatives or for not knowing the intricacies of Afghanistan's people and culture. They did, however, blame the United States for not fact-checking their information and correcting their mistakes year after year. Afghans didn't take lightly to the fact that poor intelligence led to prolonged detention and, by consequence, the collapse of a family business, physical and mental anguish for the detainee, or food not being put on the family's table.

The reasons the United States detained, and continues to detain, the wrong people in its global war on terror range from the understandable to the ridiculous. Here's a short list I came up with during three different trips made to Afghanistan in 2008: the government's reliance on untrained translators who misinterpret what people say to them; the government's use of untrustworthy informants who manipulate the United States into detaining, or killing, rivals; profiteers and bounty hunters who provide the United States with false information and detainees in return for

cash rewards; the use of coercive and violent detention conditions that push detainees into providing misinformation just so the abuses can cease; detaining people because they are, or were, low-level members of the Taliban, even the Taliban forcibly conscripted people to fight; and arresting innocent people who have the same, or similar, name as a person who is a legitimate threat.

Upon reflection, the work other investigators and I conducted in Afghanistan and other countries around the world persuaded me to believe that the majority of people who have passed through Guantánamo Bay were held on spurious information. But admittedly, it's tough to know how many exactly. The United States didn't take seriously its responsibility to gather strong evidence against each person it detained. And while many innocent men were held for years on end, the dirty little secret about Guantánamo Bay is that there's a high probability that the government's haphazard information gathering practices resulted in at least a few people being set free who truly were serious threats to American security.

With this disturbing reality in mind, and as an investigator, my main concern is that the government's numerous agencies, such as the military, CIA, and FBI, need to improve the way that they collect and corroborate battlefield intelligence and evidence. That my small investigation firm, in a few weeks, was able to punch gaping holes in the accusations against several detainees with relative ease speaks volumes to the government's lazy and callous attitude towards ensuring it was detaining the right people...and not setting the wrong ones free.