Sorting the Wolves From the Sheep

By Lieutenant Colonel Kevin H. Govern

This year marks the 15th anniversary of the combat operations that took place in the Republic of Panama in 1989-1990 during Operation Just Cause and Operation Promote Liberty. After recent investigations into the conduct of detainee operations in Iraq, and in commemoration of successful operations in Panama, this article recounts the operational and legal issues encountered there. Comments on displaced civilian (DC) and civilian internee (CI) issues relate primarily to enemy prisoner of war (EPW) status determination problems, not to the extensive civil affairs and civil military portions of Operation Promote Liberty.

Legal Justification and Constraints

The US government stated four legal bases for Operation Just Cause:

- Article 51 of the United Nations charter recognized the inherent right of self-defense.
- Article 21 of the Charter of the Organization of American States prohibited Panama from using force or military pressure against US citizens.
- Article IV of the 1977 Torrijos-Carter Panama Canal Treaty allowed the United States to "protect and defend the (Panama) Canal."
- The legitimately elected government of Panama welcomed the US intervention.

General Manuel Noriega, in a 15 December 1989 speech, declared to the National Assembly that a "state of war exists between Panama and the United States." Regardless of this declaration, Common Article 2 of the Geneva Conventions of 1949 pertains to "any ... armed conflict [between] two or more High Contracting Parties, even if the state of war is not recognized by one of them." The US government decided that the Geneva Conventions would apply to Panamanians captured during Operation Just Cause. Key to any detainee or EPW operation, the 16th Military Police Brigade (Airborne) (which was assigned to the operation) was staffed with well-trained, deployment-seasoned veterans who had just completed civil disturbance operations in the US Virgin Islands after Hurricane Hugo.

Detainee Inprocessing at Collection Points

The Panamanian Defense Force (PDF), composed of more than 4,000 uniformed troops, was in 13 military zones and had an air force and a navy. General Noriega also armed approximately 8,000 civilians, loosely formed into paramilitary "Dignity Battalions." After initial combat operations, uniformed Panamanian combatants were often the exception rather than the rule. Few detainees carried identification cards and many Panamanians who came into US custody lied about their identities. US units operating throughout Panama occasionally sent commingled DCs and combatants to the Central Detainee Collection Camp (CDCC). During CDCC inprocessing, any DCs who inadvertently arrived with combatants were identified and sent to the US Balboa High School DC Camp. By 25 December 1989, an estimated 30,000 DCs were at the camp.

CDCC Operations and Personnel Processing

Lieutenant General Carl Stiner was dual-hatted as the XVIII Airborne Corps commander and the warfighting commander of Joint Task Force (JTF)-South. He consulted with the JTF-South staff judge advocate (SJA) and the 16th Military Police Brigade commander, then chose the US-controlled Empire Range Training Complex as the site for the CDCC. The complex offered excellent road access from Panama City and Fort Clayton, was easily

US Balboa High School DC Camp, Panama City, Republic of Panama, 1990

defendable, and was outside the combat zone. It also had large open areas for camp setup, helicopter landing zones, some permanent shower and latrine facilities, administrative buildings, and water and electrical hookups.[1]

Basic camp construction materials such as concertina wire, stakes, and several dozen medium and large tents were already at the site. Additional construction items came as the camp expanded to a 2,000-plus capacity. The 65th Military Police Company, in charge of camp operations and augmented by the 519th Military Intelligence Battalion (Airborne) and 92d Personnel Service Company, built up the camp during the initial days of Operation Just Cause. These units were the camp administration from 20 December 1989 to approximately 15 February 1990. The CDCC had on-site or on-call legal support at all times.

The site was marked with large white rocks that spelled out "PW," and the administrative building roof was painted with the same letters. Separate CI facilities were appropriately marked. Since the belligerent force was quickly subdued, only the duly elected Panamanian government, US embassy, and JTF-South forces were initially notified of the camp's location. Under command supervision, the press and international relief societies gained access to the CDCC. The International Committee for the Red Cross made three trips to the camp to evaluate compliance with the Geneva Convention (III) Relative to the Treatment of Prisoners of War and Geneva Convention (IV) Relative to the Protection of Civilian Persons in Time of War. The Panama Human Rights Committee made one trip to the camp to determine that care for EPWs was adequate and humane, and former US Attorney General Ramsey Clark visited the camp to investigate human rights compliance.

Inprocessing Procedures

US troops transported detainees from five EPW-detainee collection sites across Panama to the CDCC. Once there, Spanish-speaking US troops or interpreters spoke to detainees, whose identities were determined through questioning or from information entered on a capture card by the soldier taking the detainee's surrender. Next, the detainee would go through 92d Personnel Service Company

US officer speaking to the senior ranking officer and other detainees at the CDCC

Partial view of the inprocessing area at the CDCC

inprocessing and then to an intelligence debriefing. While not compelled to give more than required by Convention III, some detainees went for further questioning by the intelligence staff before administrative inprocessing.

Each incoming detainee was listed on a Department of the Army (DA) Form 2674-R, *Enemy Prisoner of War/Civilian Internee Strength Report*, which was forwarded through JTF-South for reporting to the Prisoner of War Information System. Detainees were screened for medical needs, and medical supplies came from US channels and the Fort Amador PDF Infirmary. Retained personnel also served their fellow detainees' medical needs. Detainees with communicable diseases received immediate medical care and isolation, as appropriate.

Real-World Considerations

For the first four days of CDCC operations, each detainee received an ad hoc status determination. Nearly 2,400 detainees were processed. Only 800 were either on the PDF alpha roster of troops, revealed themselves as PDF members, or met the "probable cause" standard that they had been combatants. Detainees categorized as DCs were released to the US Balboa High School DC Camp for any further processing. Thirty convicted or criminally accused civilians were identified and kept separate from EPWs pending Panamanian government acceptance. Later, CI numbers declined as the repatriation process started and prisons again accepted criminals from among the CI population.

By 28 December 1989, the US Army South (USARSO) Military Police Investigations Office helped screen detainees. Judge advocates at the CDCC also closely compared the camp database to the screening sheets of the unit intelligence staff (S2), the "black-gray-white" (hostile, questionable, friendly) lists from the US Southern Command Intelligence Directorate of a Joint Staff (J2), and the PDF alpha roster. Out of 3,500 persons processed by 28 December 1989, only three were found to be incorrectly categorized, and they were released that day.

Care and Feeding of EPWs

Each detainee received proper shelter, food, and clothing. Military tents and cots were adequate for weather conditions and camp population. Officers were kept separate from enlisted EPWs, and men were kept separate from women. Unruly prisoners and the mentally ill were segregated for safety reasons. Potable water was available at every stage of detention. Portable latrines were inside the individual compounds and fixed-facility latrines were outside them, and detainees had shower tents. The CDCC also had laundry operations, and detainees had adequate soap, towels, shaving gear, toothbrushes, and other sanitary items. Clothing items, shoes, and uniforms first came from the PDF Gamboa Warehouse. Later, the USARSO Defense Reutilization and Marketing Office provided surplus US combat boots and uniforms.

Camp rules and warning signs in Spanish were posted according to Army Regulation (AR) 190-8, *Enemy Prisoners of War, Retained Personnel, Civilian Internees and Other Detainees.* Each EPW senior ranking officer was briefed on camp rules, warning signs, disposition of personal effects, the status of prisoners, and the personal needs of the prisoners. The officers were also encouraged to bring problems with the prisoners to the camp

Distributing meals, ready-to-eat (MREs) to DCs at US Balboa High School DC Camp, Panama City, 1990

authorities' attention. By 24 December 1989, each senior ranking officer also had a copy of Convention III in Spanish.[2] Detainee mail was collected and screened. DA Forms 2666-R, *Prisoner of War Notification of Address,* were sent out through command channels. Some families first found out about their loved one's status through these forms and promptly visited the CDCC.

Some EPWs worked within the camp; others volunteered for cleanup work in Panama City, with close command oversight to ensure that the work details did not violate and would not be dangerous or humiliating under Convention III or Army regulations. EPWs who worked were entitled to wages for their efforts. The 18th Finance Group commander modified the wage scale in Convention III and came up with the following: $5 per month for enlisted soldiers, $8 per month for noncommissioned officers, and $30 per month for officers. Those wages were paid to all EPWs. Those who agreed to work as manual laborers were paid $6 per day.

Streamlining Inprocessing

By 26 December 1989, a processing logjam occurred, with 300 detainees awaiting inprocessing and 400 still in the initial holding area. The CDCC commander, along with the on-site judge advocate, the 16th Military Police Brigade (Airborne) Judge Advocate, and the 92d Personnel Services Company officer in charge, collaborated to streamline the inprocessing system. Tasks that could be deferred under AR 190-8 were deferred, and status determinations were conducted up to that point.

An early hope was that the new Panamanian government would expedite repatriation, and it started on 23 December 1989. An interesting twist to the repatriation program was the psychological operations "Chu Hoi" (surrender) program. PDF members who wanted to serve the new government could turn themselves in, swear their allegiance, and avoid lengthy detention.

To that end, two US Southern Command officers, Panamanian Vice Presidents Guillermo Ford and Ricardo Calderon, and two former PDF majors from the *Fuerza Publica de Panama* (FPP), or "Panama Public Force," came to the CDCC to nominate about 500 people for release and repatriation between 23 and 26 December 1989.

The repatriation process changed on 26 December 1989. The USARSO provost marshal said that no detainees would be repatriated until the list was cleared by the JTF-South commander and the US Southern Command's commander and J2. The FPP officers who sought to start repatriation of detainees on 23 December 1989 returned twice that month to see the release of detainees. None were released because the repatriation hierarchy had not yet approved the more than 500 names previously nominated.

Final Repatriation Scheme Inbrief

On 15 January 1990, the last 20 PDF officers were taken into custody. Two Criminal Investigation Division agents apprehended them as they returned from United Nations duty in Namibia. The agents spotted the unsuspecting lieutenant colonel, three majors, and sixteen captains in civilian attire waiting for their luggage at the Torrijos-Tocumen Airport baggage carousel.

By 15 January 1990, the CDCC's consolidated list noted EPWs and CIs held and the reasons for their detention. The list went forward to the JTF-South SJA, the US Southern Command J2, and a judicial liaison group of US and Panamanian legal representatives. The J2 checked the list for derogatory information, and the judicial liaison group recommended release or further detention. Ultimately, the Panamanian government received the list and coded detainees as eligible or ineligible for release. If coded for release, either the commander of US Southern Command, the commander of JTF-South, or their designee (J2) sent a release order to the CDCC. Released detainees received their personal effects and were paid any owed amounts. Finally, they were transported either to Ancon or to the location where they were captured. By the end of January 1990, JTF-South was nearly out of the CDCC business, with repatriation under way and hostilities over.

Conclusion

The short-lived conflict in Panama led to unique EPW operations. Troops adhered to the law of armed conflict and conducted operations consistent with established principles of military police operations, treating detained civilians and combatants fairly and professionally. DA Form 2666-R information and the improvement of initial personnel processing enhanced Article 5 determinations, which established the status of detained personnel. Repatriation of EPWs was a political-military issue, and the process evolved as operations progressed. As advisors, interpreters, facilitators, and liaison officers, judge advocates were a vital link in upholding the law of armed conflict and serving as force multipliers to military police operations.

Endnotes

[1] Author's observations. Plans executed for the Central Detainee Collection Camp relied on various ARs, some of which are now obsolete or superseded. Those which have a current edition, publication date, or superseding reference include AR 190-8, *Enemy Prisoners of War—Administration, Employment, and Compensation* (1 October 1997) (vice obsolete AR 190-57); Technical Manual (TM) 5-301-1, *Army Facilities Components System—Planning (Temperate) (vice obsolete TM 5-301)*; TM 5-302-2, *Army Facilities Components System: Design (vice obsolete TM 5-302)*; and TM 5-303, *Army Facilities Components System—Logistic Data and Bills of Materiel.*

[2] Memorandum, Senior Defense Counsel, US Army Trial Defense Service Fort Clayton, SOJA-TDS, Empire Range Prisoner of War Compound (24 December 1990); Article 129-33, Convention III at 2. While original source references are preferable, other compilation references frequently consulted included (but were not limited to) Department of the Army (DA) Field Manual (FM) 27-10, *The Law of Land Warfare* (18 July 1956); DA Pamphlet 27-1, *Treaties Governing Land Warfare* (7 December 1956); obsolete DA Pamphlet 27-1-1, *Protocols to the Geneva Conventions of 12 August 1949* (1 September 1979); International Committee of the Red Cross, *Commentary to the Geneva Convention Relating to the Treatment of Prisoners of War* (Pictet ed., 1960); and Howard S. Levie, US Naval War College International Studies, *Prisoners of War in International Armed Conflict,* Volume 59 (1979), and *Documents on Prisoners of War*, Volume 60 (1979).