

BUSH'S CHENEY'S SIGNING STATEMENT ON THE GENEVA CONVENTION

It's really tough sorting out the new Executive Order on torture. But after a whole day of pondering the details, I think I'm finally getting it. It's yet another Bush signing statement, this time to record his own personal interpretation of the Geneva Convention. After all—that's where this new EO came from: after SCOTUS, in *Hamdan*, told Bush that all detainees were covered by the Geneva Convention, after Congress, with the Military Commissions Act, told Bush he could shred concepts like habeas corpus but only if he had documentation for doing so, he was forced to write this new EO.

Charlie Savage provides a good overview:

Bush's executive order laid out broad guidelines for how the CIA must treat detainees in its secret overseas prisons, where the administration has held some suspects without giving them access to the Red Cross. The document prohibits a range of abuses, including "intentionally causing serious bodily injury" and "forcing the individual to perform sexual acts," as well as mistreating the Koran.

The order also said the CIA director must personally approve the use of extraordinary interrogation practices against any specific detainee. Detainees must also receive "adequate food and water, shelter from the elements, necessary clothing, protection from extremes of heat and cold, and essential medical care," it said.

But most of the president's executive order is written in generalities,

leaving unanswered whether the CIA will be free to subject prisoners to a range of specific techniques it has reportedly used in the past, including long-term sleep disruption, prolonged shackling in painful stress positions, or "waterboarding," a technique that produces the sensation of drowning.

That is, some of the most obvious abuses—using sex and religion—are now forbidden. But the key information, what remains permitted, is in a separate, classified list that we don't get to see. And three other key details: the Executive Order explicitly denies any legal responsibilities associated with the EO, so even if some overzealous torturer ignores it, he's not going to jail. The Red Cross remains unable to monitor prisoners in this newfangled "enhanced interrogation" program. And Congress still doesn't have a copy of the DOJ opinion on the program. For that matter, Karen DeYoung reports that the Administration hasn't responded to Congress' other questions, either.

They said the administration has not responded to the questions they asked during a recent briefing on the new order and the detainee program.

Mind you, this is the DOJ review that Congress mandated as part of the Military Commissions Act. But I guess that's classified too.