

BUSH DOESN'T WANT TO BE FORBIDDEN TO TORTURE, EVEN IF YOU DON'T TELL THE TERRORISTS

In yesterday's chat about detainee treatment, I asked Carl Levin if he had suggestions for ways to improve intelligence oversight.

Which raises another good point.

Senator Levin, what can we do to improve intelligence oversight? Just before this chat started, Trent Franks proposed calling Speaker Pelosi and Jane Harman before HJC to testify about how they reacted in briefings on interrogation methods. There's also the example of FISA.

What can we do to enable Administrations to present information to Congress in classified fashion—but make it possible for those Members of Congress on oversight positions to do something if they find the Administration policies are illegal?

Senator Levin responded:

Congress has three powers that can be used: **they can pass a law, even in classified form as a classified annex to an unclassified bill (such as the intelligence authorization bill)**, second, the power of the purse which can be carried out **in a classified or unclassified manner**, and third there is of course our oversight power and responsibility. [my emphasis]

To which Jim White astutely asked this question:

What did you think of his mentioning of the ability of Congress to pass classified annex to the public versions of bills. Should we be hoping that there has been a little more oversight through this route? I haven't heard much discussion on this front. He seems to be pointing us to the Intelligence Authorization Bill in this regard.

As it happens, Bush issued a veto threat of the House Intelligence Authorization Bill today. And look at one of Bush's objections to the bill (h/t Steven Aftergood):

Secret Law. Section 317 would incorporate by reference all reporting requirements in the classified annex into the act, thereby making them a requirement in law. The Administration strongly opposes the imposition of reporting requirements in this opaque manner. Further, such a provision would remove the flexibility that Congress and the Executive branch would otherwise have to modify and adapt provisions in the classified annex to meet changing conditions and requirements without seeking a statutory change.

Now, I have no clue what it is in the annex that Bush is objecting to. In Laura Rozen's discussion of Tim Starks' coverage of the veto threat, she included this observation from him:

Since interrogation stuff is still in the Senate bill, and that'll make it hard for that bill even to get to the floor, it may not ever get to a veto, because the bill may never get to the president at all,

As Starks points out, the anti-torture provision is still in the Senate bill—the one Levin has worked on in SSCI and SASC. As I said, I have no idea what might be in the Senate bill—and

neither do the terrorists. But there sure seem
to be some interesting goodies in that
classified annex.