

THE “PURPORTED” DETAINEE ASSESSMENTS

When I posted on the new guidelines the government has given Gitmo lawyers on how they can use the Gitmo Detainee Assessment Briefs released by WikiLeaks, I had not yet seen the guidelines. Here they are.

What’s most interesting to me about the guidelines is the way the government appears to be trying to undercut how questionable these assessments are. As a threshold matter, the guidelines repeat a rule from the Gitmo Protection Order itself, prohibiting lawyers from telling the public that information in these files contradicts the evidence turned over in discovery.

Counsel may not make any public or private statements revealing personal knowledge from non-public sources regarding the classified or protected status of the information or disclosing that counsel had personal access to classified or protected information confirming, contradicting, or otherwise relating to the information already in the public domain.

Hypothetically, in other words, in the case of Saifullah Paracha, where Khalid Sheikh Mohammed claimed during the month he was waterboarded 183 times that Paracha had been plotting to ship explosives in a shipping container full of children’s clothing, if KSM had subsequently retracted that claim, his lawyer would be unable to tell us that.

More interesting to me, though, is the groundwork the government establishes to pretend the WikiLeaks DABs might not be real. Part of this is presumably just a way to suggest that everything in the DABs may be classified.

Although the U.S. Government has confirmed that purported detainee assessments were leaked to WikiLeaks, it has neither confirmed nor denied that individual reports are official government documents. All purported detainee assessments posted on the WikiLeaks website, or on other sites, therefore should be treated as potentially classified information.

But the government uses the word “purported” seven times total in a document just barely longer than two pages.

Perhaps they’re hoping that as it becomes clear the documents are contradicted by public domain works (as Paracha’s is regarding its claims about when the US first took custody of Aafia Siddiqui, for example), they can just claim these are real documents, so never mind.

What’s clear, though, is the government has been lying internally. It’s not classified or unclassified information at risk here—it’s out and out lies in official documents.