

# WHAT KIND OF CUSTODY IS IT WHEN YOU SECRETLY HOLD AN AMERICAN AT A MILITARY BASE?

Here's a fairly minor point about the Gregory Saathoff report on Manssor Arbabsiar, the Scary Iran Plotter.

For the 12 day period when he was being secretly interrogated without a lawyer, he was being held at a military base.

Although at times Mr. Arbabsiar smoked inside the room, he often was escorted outside and on at least one occasion took a walk with agents around the military base.

Let me be clear: Arbabsiar's arrest was approved by a US Magistrate. He was clearly arrested under civilian law.

And I'm not surprised the government held the cousin of a Quds Force member on a military base while they prepared to make an international incident out of his case. I'm sure Arbabsiar was nowhere near the first American citizen interrogated while in civilian custody at a military base.

But it's coupled with the other part of this where it begins to get unsavory: the part where Arbabsiar had no lawyer and his legal team is now contesting whether he legally waived his right to a lawyer and presentment (and as I'll explain if I ever get around to writing that post, I think their claim may have more merit than I originally did). And the part where the government didn't check in with the Magistrate or have Arbabsiar medically examined until a week after he had been arrested.

So if the defense arguments about coerced waivers hold up (remember, we're still seeing just part of what they're complaining about), while a busy Magistrate knew he was in custody, Arbabsiar was otherwise in a black hole on a military base (though likely a quite pleasant one, with his own apartment) for a week to 12 days.

During the debate about the NDAA, people insisted we would never see a hybrid kind of detention where US citizens get indefinitely held, but in civilian custody. That's not what happened to Arbabsiar; again, his detention had been approved by a Magistrate. But we are clearly inching closer to that kind of hybrid.