

DOD: CONSIDER WHETHER WE'VE MADE DETAINEES CRAZY IN PERIODICAL REVIEW

Section 1023 of the Defense Authorization mandated that the Administration tell Congress how it was implementing Obama's Executive Order providing periodic review of Gitmo detainees' continued need to be detained.

SEC. 1023. PROCEDURES FOR PERIODIC DETENTION REVIEW OF INDIVIDUALS DETAINED AT UNITED STATES NAVAL STATION, GUANTANAMO BAY, CUBA.

(a) PROCEDURES REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the appropriate committees of Congress a report setting forth procedures for implementing the periodic review process required by Executive Order No. 13567 for individuals detained at United States Naval Station, Guantanamo Bay, Cuba, pursuant to the Authorization for Use of Military Force (Public Law 107-40; 50 U.S.C. 1541 note).

Here's the directive complying with that requirement.

I'll have plenty to say about it. But for the moment, I got hung up on this:

3. STANDARD. Continued law of war detention is warranted for a detainee subject to periodic review if such detention is necessary to protect against a continuing significant threat to the security of the United States. In making that assessment, the PRB may review all relevant materials including

information from the final Task Force assessments produced pursuant to Reference (k); the work product of a prior PRB; or any relevant intelligence produced subsequent to either. Application of this standard is specifically not intended to require a re-examination of the underlying materials that supported the work products of either Reference (k) or a prior PRB and is not intended to create a requirement that each PRB conduct a zero-based review of all original source materials concerning a detainee. In assessing whether a detainee continues to meet this standard, the PRB may consider:

[snip]

(6) The detainee's physical and psychological condition.

We know, of course, that there are a number of people at Gitmo—starting with Abu Zubaydah and Mohammed al-Qahtani—we've driven completely insane with our torture and abuse, who we can't try but also can't release (not that we'd release either of these two anyway).

But this seems to be a tacit admission that we won't release people we've driven crazy. Because, Freedom!, I guess. So are we now saying that because our treatment has made them insane we will now use that as reason to keep them in custody?

Though maybe once these guys get to be so old they're having health problems, maybe then we'll finally release them.