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THIS SEARCH	THIS DOCUMENT	GO TO
Next Hit	Forward	New Bills Search
Prev Hit	Back	HomePage
Hit List	Best Sections	Help
	Contents Display	

GPO's PDF Display	Congressional Record References	Bill Summary & Status	Printer Friendly Display - 6,395 bytes. [Help]	XML Display [Help]
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Lawful Interrogation and Detention Act (Introduced in Senate)

S 147 IS

111th CONGRESS

1st Session

S. 147

To require the closure of the detention facility at Guantanamo Bay, Cuba, to limit the use of certain interrogation techniques, to prohibit interrogation by contractors, to require notification of the International Committee of the Red Cross of detainees, and for other purposes.

IN THE SENATE OF THE UNITED STATES

January 6, 2009

Mrs. FEINSTEIN (for herself, Mr. ROCKEFELLER, Mr. WYDEN, and Mr. WHITEHOUSE) introduced the following bill; which was read twice and referred to the Select Committee on Intelligence

A BILL

To require the closure of the detention facility at Guantanamo Bay, Cuba, to limit the use of certain interrogation techniques, to prohibit interrogation by contractors, to require notification of the International Committee of the Red Cross of detainees, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the 'Lawful Interrogation and Detention Act'.

SEC. 2. INTELLIGENCE COMMUNITY DEFINED.

In this Act, the term 'intelligence community' has the meaning given that term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

SEC. 3. CLOSURE OF DETENTION FACILITY AT GUANTANAMO BAY.

(a) Requirement To Close- Not later than 1 year after the date of the enactment of this Act, the President shall close the detention facility at Guantanamo Bay, Cuba operated by the Secretary of Defense and remove all detainees from such facility.

(b) Detainees- Prior to the date that the President closes the detention facility at Guantanamo Bay, Cuba, as required by subsection (a), each individual detained at such facility shall be treated exclusively through one of the following:

(1) The individual shall be charged with a violation of United States or international law and transferred to a military or Federal civilian detention facility in the United States for further legal proceedings, provided that such a Federal civilian facility or military facility has received the highest security rating available for such a facility.

(2) The individual shall be transferred to an international tribunal operating under the authority of the United Nations that has jurisdiction to hold a trial of such individual.

(3) The individual shall be transferred to the custody of the government of the individual's country of citizenship or a different country, provided that such transfer is consistent with--

(A) the Convention Against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment done at New York, December 10, 1984;

(B) all relevant United States law; and

(C) any other international obligation of the United States.

(4) If the Secretary of Defense and Director of National Intelligence determine, jointly, that the individual poses no security threat to the United States and actions cannot be taken under paragraph (1) or (3), the individual shall be released from further detention.

(5) The individual shall be held in accordance with the law of armed conflict.

(c) Reporting Requirements-

(1) REQUIREMENT FOR REPORT- Not later than 90 days after the date of the enactment of this Act, the President shall submit to Congress a report that describes the President's plan to implement this section.

(2) REQUIREMENT TO UPDATE- The President shall keep Congress fully and currently informed of the steps taken to implement this section.

(d) Construction-

(1) IMMIGRATION STATUS- The transfer of an individual under subsection (b) shall not be considered an entry into the United States for purposes of immigration status.

(2) NO ADDITIONAL DETENTION AUTHORITY- Nothing in this section may be construed as altering or adding to existing authorities for, or restrictions on, the detention, treatment, or transfer of individuals in United States custody.

SEC. 4. LIMITATION ON INTERROGATION TECHNIQUES.

No individual in the custody or under the effective control of personnel of an element of the intelligence community or a contractor or subcontractor of an element of the intelligence community, regardless of nationality or physical location of such individual or personnel, shall be subject to any treatment or technique of interrogation not authorized by the United States Army Field Manual on Human Intelligence Collector Operations.

SEC. 5. PROHIBITION ON INTERROGATIONS BY CONTRACTORS.

The Director of the Central Intelligence Agency shall not allow a contractor or subcontractor to the Central Intelligence Agency to carry out an interrogation of an individual. Any interrogation carried out on behalf of the Central Intelligence Agency shall be conducted by an employee of such Agency.

SEC. 6. NOTIFICATION OF THE INTERNATIONAL COMMITTEE OF THE RED CROSS.

(a) Requirement- The head of an element of the intelligence community or a contractor or subcontractor of such element who detains or has custody or effective control of an individual shall notify the International Committee of the Red Cross of the detention of the individual and provide access to such individual in a manner consistent with the practices of the Armed Forces.

(b) Construction- Nothing in this section shall be construed--

(1) to create or otherwise imply the authority to detain; or

(2) to limit or otherwise affect any other rights or obligations which may arise under the Geneva Conventions, other international agreements, or other laws, or to state all of the situations under which notification to and access for the International Committee of the Red Cross is required or allowed.

<i>THIS SEARCH</i>	<i>THIS DOCUMENT</i>	<i>GO TO</i>
Next Hit	Forward	New Bills Search
Prev Hit	Back	HomePage
Hit List	Best Sections	Help
	Contents Display	

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