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Senators Say Legislation Needed for Guantanamo

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WASHINGTON - The U.S. Congress should pass legislation defining the legal status of enemy combatants at Guantanamo Bay to avoid more damage to the United States' image abroad and reprisals against U.S. soldiers, senators said on Thursday.

But the Pentagon said existing laws allow the indefinite detention of people the United States has deemed enemies in the war on terrorism, and that legislation could be too restrictive and was not needed.

"The truth is due to no one's fault Guantanamo Bay is a legal mess," Sen. Lindsey Graham, a South Carolina Republican, said at a Senate Armed Services subcommittee hearing.

With the Pentagon under fire for the treatment of detainees at Guantanamo, Graham is working on legislation with fellow Republicans John Warner of Virginia, the Armed Services Committee chairman, and John McCain of Arizona to clarify the legal standing of people the administration calls "enemy combatants" who can be held indefinitely.

Human rights groups and a number of European countries have said that term has no standing under international law, and the detainees should have the rights of prisoners of war.

Guantanamo, opened after the Sept. 11, 2001, attacks on the United States, has become a lightning rod for criticism with accusation that the mostly Muslim detainees from the U.S.-led offensive in Afghanistan have been tortured and humiliated.

The Pentagon contends detainees have not been tortured, although it found a key prisoner was subjected to "abusive and degrading" treatment when U.S. interrogators told him he was a homosexual, forced him to wear a bra, made him wear a leash and perform dog tricks, and subjected him to interrogations up to 20 hours a day for about two months.

There are about 520 detainees at Guantanamo from more than 40 countries being held because they are deemed dangerous or to extract information from them on the al Qaeda network blamed for the Sept. 11 attacks. Many have been held for more than three years. Only four have been charged and none prosecuted.

Senators said harsh interrogation practices and the refusal to grant prisoner of war status to detainees could backfire when U.S. soldiers are captured.

"Our troops are looking at us to see whether we're going to adopt a standard that if they were captured would be acceptable," said Sen. Carl Levin of Michigan, the committee's top Democrat.

Warner defended Guantanamo's current operations "as the best they can do under a framework of laws that is either not clear or needs to be refined."

Graham pressed a panel of Pentagon legal officials on whether a law passed by Congress clarifying the status of enemy combatants would speed up the legal dispute that has blocked prosecutions of detainees.

Daniel Dell'Orto, the Pentagon's principal deputy general counsel, said the litigation would continue with or without legislation. "I don't know that that's a panacea for any problem we have right now," he said.

The U.S. Supreme Court in June 2004 ruled that detainees had the right to go to federal courts to seek their release from Guantanamo, but there have been sometimes contradictory lower court rulings since then.