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'We Do Not Torture'

Editorial

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Ordinarily, there would be no need to enact legislation that deals with suspected terrorists. After all, the United States is a founding member of the Geneva Conventions on the treatment of war prisoners. And President Bush has asserted, "We do not torture."

But Defense Secretary Donald Rumsfeld is also on record saying the United States would not necessarily have to follow the Geneva Conventions because terrorists do not belong to conventional armies. Others in the administration have contended that suspects held without charges for long periods at the U.S. military prison in Guantanamo Bay, Cuba, are not entitled to hearings in U.S. courts.

Extraordinary circumstances require extraordinary reminders that the United States honors the international treaties it signs and is determined to follow the rule of law even when it comes to dealing with those suspected of committing acts of terror.

One section of the defense bill, which cleared the Senate and is headed to a House-Senate conference committee, gives detainees limited access to appeal the verdict of a secret military tribunal. The administration prefers no access whatsoever, but the U.S. Supreme Court has ruled otherwise. It has said prisoners at Guantanamo are entitled to access to federal courts under the age-old right of habeas corpus.

The habeas corpus legislation, approved by a 49-42 Senate vote, limits that access to a single federal appellate court and the Supreme Court.

The Senate provision on torture, which passed by a resounding 90-9, says: "No individual under the physical control of the government, regardless of nationality or physical location, shall be subjected to cruel, inhumane or degrading treatment or punishment."

It calls for a revision of the Army manual on interrogations to spell out what procedures are beyond the pale. The manual would apply to all intelligence officers as well as military personnel.

Republican Sens. John McCain of Arizona and John Warner of Virginia, cosponsors of the legislation, said they believe that developing a guide on interrogation and honoring the Geneva Conventions would be in the best interest of our soldiers. They are right.

As Mr. McCain notes, what constitutes torture "in some ways is in the eyes of the beholder." But there are some techniques that are clearly cruel and inhumane, such as the abuse at the Abu Ghraib prison. Reports of other abuses in Iraq and Afghanistan have surfaced. There are also reports of secret CIA prisons in Eastern Europe

where suspected terrorists are being interrogated.

In short, the provision on torture didn't emerge in a vacuum. There is a need for it as well as a reminder that habeas corpus should not be a casualty of the war on terrorism. After all, we operate on higher moral and ethical ground than our enemies.