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Draft bill would form tribunals, allow for indefinite detention

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WASHINGTON — U.S. citizens suspected of terrorism ties might be detained indefinitely and barred from access to civilian courts under legislation proposed by the Bush administration, say legal experts reviewing an early version of the bill.

On the Net

- A copy of the report can be found at:
<http://balkin.blogspot.com/>

A 32-page draft measure is intended to authorize the Pentagon's tribunal system, established shortly after the 2001 terrorist attacks to detain and prosecute detainees captured in the war on terror. The tribunal system was thrown out last month by the Supreme Court.

Administration officials, who declined to comment on the draft, said the proposal was still under discussion and no final decisions had been made.

Senior officials are expected to discuss a final proposal before the Senate Armed Services Committee on Aug. 1.

According to the draft, the military would be allowed to detain all "enemy combatants" until hostilities cease. The bill defines enemy combatants as anyone "engaged in hostilities against the United States or its coalition partners who has committed an act that violates the law of war and this statute."

Legal experts said Friday that such language is dangerously broad and could authorize the military to detain indefinitely U.S. citizens who had only tenuous ties to terrorism networks.

"That's the big question ... the definition of who can be detained," said Martin Lederman, a law professor at Georgetown University who posted a copy of the bill to a Web log.

Scott L. Silliman, a retired Air Force judge advocate, said the broad definition of enemy combatants is alarming because a U.S. citizen loosely suspected of terrorism ties would lose access to a civilian court — and all the rights that come with it.

Administration officials have said they want to establish a secret court to try enemy combatants that factor in realities of the battlefield and would protect classified information.

The legislation is the administration's response to a June 29 Supreme Court decision, which concluded tribunals violated the Geneva Conventions, which established many international laws for warfare.

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