

John McCain

AMENDMENT NO. _____ Calendar No. _____

Purpose: Relating to persons under the detention, custody, or control of the United States Government.

IN THE SENATE OF THE UNITED STATES—109th Cong., 1st Sess.

H.R. 2863

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AMENDMENT No. 1977 e for
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By McCain

To: H.R. 2863

Refer 3
Page(s)

GPO: 2004 97-290(Mao)

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. MCCAIN, *Mr. Graham, Mr. Hagel,*
Viz: *Mr. Smith, Ms. Collins*

- 1 At the appropriate place, insert the following:
- 2 SEC. ____ . UNIFORM STANDARDS FOR THE INTERROGATION
- 3 OF PERSONS UNDER THE DETENTION OF THE
- 4 DEPARTMENT OF DEFENSE.
- 5 (a) IN GENERAL.—No person in the custody or under
- 6 the effective control of the Department of Defense or
- 7 under detention in a Department of Defense facility shall
- 8 be subject to any treatment or technique of interrogation

1 not authorized by and listed in the United States Army
2 Field Manual on Intelligence Interrogation.

3 (b) APPLICABILITY.—Subsection (a) shall not apply
4 to with respect to any person in the custody or under the
5 effective control of the Department of Defense pursuant
6 to a criminal law or immigration law of the United States.

7 (c) CONSTRUCTION.—Nothing in this section shall be
8 construed to affect the rights under the United States
9 Constitution of any person in the custody or under the
10 physical jurisdiction of the United States.

11 **SEC. ____ . PROHIBITION ON CRUEL, INHUMAN, OR DEGRAD-**
12 **ING TREATMENT OR PUNISHMENT OF PER-**
13 **SONS UNDER CUSTODY OR CONTROL OF THE**
14 **UNITED STATES GOVERNMENT.**

15 (a) IN GENERAL.—No individual in the custody or
16 under the physical control of the United States Govern-
17 ment, regardless of nationality or physical location, shall
18 be subject to cruel, inhuman, or degrading treatment or
19 punishment.

20 (b) CONSTRUCTION.—Nothing in this section shall be
21 construed to impose any geographical limitation on the ap-
22 plicability of the prohibition against cruel, inhuman, or de-
23 grading treatment or punishment under this section.

24 (c) LIMITATION ON SUPERSEDURE.—The provisions
25 of this section shall not be superseded, except by a provi-

1 sion of law enacted after the date of the enactment of this
2 Act which specifically repeals, modifies, or supersedes the
3 provisions of this section.

4 (d) CRUEL, INHUMAN, OR DEGRADING TREATMENT
5 OR PUNISHMENT DEFINED.—In this section, the term
6 “cruel, inhuman, or degrading treatment or punishment”
7 means the cruel, unusual, and inhumane treatment or
8 punishment prohibited by the Fifth, Eighth, and Four-
9 teenth Amendments to the Constitution of the United
10 States, as defined in the United States Reservations, Dec-
11 larations and Understandings to the United Nations Con-
12 vention Against Torture and Other Forms of Cruel, Inhu-
13 man or Degrading Treatment or Punishment done at New
14 York, December 10, 1984.