

QUESTIONS FOR THE RECORD

For Brigadier General Stephen Xenakis

From Senator Amy Klobuchar

"CLOSING GUANTANAMO: THE NATIONAL SECURITY, FISCAL, AND HUMAN RIGHTS IMPLICATIONS"

July 24, 2013

Responses inserted BG (Ret) Stephen N. Xenakis, M.D.

Detainee Policy

- Closing Guantanamo is important and would end a troubling period in our country's history. But we also need to look to the future. We are almost certain to face continued threats from transnational terrorists who will try to attack the United States at home and overseas. We will end up capturing, detaining, and interrogating some of them. We need to ensure we have a clear policy for how to handle them.
 - Do you believe the United States currently has a clear policy for handling foreign terror detainees?
- **Dr. Xenakis responds** Apart from the anomaly of Guantanamo, the United States appears to have a policy preference for interrogation and prosecution of terrorism suspects by civilian authorities in the domestic criminal justice system. Any policies being considered or developed may not be accessible to me as a medical expert. Nonetheless, I presume that establishing effective policies and practices for handling foreign terror detainees would help allay the fears and anxieties of American citizens over prosecuting alleged terrorists in the continental United States.
 - What key elements would you focus on in crafting detainee policy for foreign terror suspects?
- **Dr. Xenakis responds** Effective policies aimed at handling foreign terror suspects are comprehensive. Based on my extensive interviews, assessments, and reviews of interrogation records of detainees in Guantánamo, basic elements for crafting detainee policy for foreign terror suspects include:
 1. Establishing the full range of programs and policies for apprehending, interrogating, and detaining suspects (including releasing them when appropriate). The elements of effective detainee policy are interdependent and do not stand alone from each other.
 2. Establishing effective and proven interrogation practices that do not involve abusive, cruel, or inhumane treatment or torture. Good practices explicitly reject the proposals and so-called enhanced interrogation techniques (EITs) of

the CIA. They conform to tactics and techniques typically used by the FBI and experienced operators in human intelligence.

3. Establishing procedures and practices for interrogation that are differentiated from gathering evidence for future prosecution. The debate over closing Guantánamo indicates that the public in general, and perhaps the Congress, do not distinguish between gathering intelligence on the battlefield and collecting evidence for court proceedings.
4. Establishing policies and practices that realistically ascertain the dangerousness and commitment to terrorism of the detainee at the point of apprehension. Despite the implementation of the High Interest Group (HIG), usual current policies and practices lump most detainees into a broad category of “terrorist” and indiscriminately attribute dangerousness to them. These policies lack realistic analysis of the background, circumstances, or battlefield conditions when the detainee was captured.
5. Effective practices for handling detainees must grade, more effectively than current procedures, the dangerousness and military threat of suspects when apprehended. My review of interrogation logs and collateral records reveals that military authorities did not distinguish between the leadership and frontline actors. The military and associated courts (The Military Commissions) have not differentiated the “generals and colonels” from the “sergeants and privates.”
6. Expediting the transfer of “cleared” detainees from Guantánamo. Effectively crafting detainee policy for foreign terror suspects involves solid procedures for apprehending and prosecuting suspected terrorists and releasing them expeditiously when appropriate.
7. Stopping force-feeding of the hunger strikers. Hunger strikers are not engaging in tactics of asymmetrical warfare, but expressing their despair over indefinite detention. Effective policies for foreign terror suspects require appropriate release when not prosecuted or convicted for terrorist acts.
8. Guantánamo lacks an effective program for rehabilitation and transfer to appropriate locations of “cleared” detainees. Effective policy for foreign terror suspects requires backend programs for rehabilitation and transfer of detainees after detention.
9. The Government sequester of funding has downgraded operations in Guantánamo. It has constrained the base in its ability to sustain adequate capability for detaining foreign terror suspects for many years. My recent visit of August 12-16 indicates that the base does not have adequate medical support for the current population that is aging and incurring more serious illnesses. The detainees increasingly manifest symptoms of serious cardiac disease, cancer, and diabetes. The absence of standard diagnostic testing for seriously ill detainees adversely impacts medical support to this aging population.

Thank you for the opportunity to respond to these questions.

Respectfully,
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