

By Charlie Savage

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WASHINGTON — The 48 [Guantánamo Bay](#) detainees whom the Obama administration has decided to keep holding without trial include several for whom there is no evidence of involvement in any specific terrorist plot, according to a report disclosed Friday.

The report was a 32-page summary of the findings of a task force whose members were drawn from national security agencies across the executive branch. The group worked throughout 2009 to evaluate each of the 240 detainees held at Guantánamo Bay, Cuba, when the Obama administration took office and to decide their fates.

The task force's general findings have been known since its report was completed in January. But the report itself was not made public. It was obtained Friday by The Washington Post, which [posted](#) the report on its Web site.

Of the 240 detainees, it recommended transferring 126 home or to a third country, prosecuting 36 for crimes, and holding 48 without trial under the laws of war because they are believed to be members of an enemy force. Thirty were Yemenis who have been deemed safe to release as individuals but will continue to be held until security conditions in Yemen stabilize.

About 180 detainees remain at the base today. Of that group, the 48 whom the administration has designated for continued indefinite detention without trial have attracted the greatest controversy, in part because many Democrats sharply criticized that policy when the Bush administration created it after the terrorist attacks of Sept. 11, 2001.

The report said most such detainees fell into at least one of four categories: they had had a significant organizational role in [Al Qaeda](#) or the [Taliban](#); “advanced training or experience” in matters like explosives; they had “expressly stated or otherwise exhibited an intent to reengage

in extremist activity upon release;" or they had a "history of engaging in extremist activities or particularly strong ties (either directly or through family members) to extremist organizations."

The report also cited two primary reasons why the 48 detainees could not be prosecuted. First, it said, the vast majority were captured in combat zones when the focus was warfare, not court cases. While the intelligence against them was deemed credible, it said, evidence was not collected or preserved about them in a form that would be deemed admissible in court or that could prove their guilt beyond a reasonable doubt.

"One common problem is that for many of the detainees, there are no witnesses who are available to testify in any proceeding against them," it said.

Legal limitations also posed a problem for prosecutions, the report said. For example, the task force found no evidence that some detainees had "participated in a specific terrorist plot" or that they had acted to support Al Qaeda after October 2001, when laws criminalizing the general provision of material support to a terrorist group were extended to apply to foreigners overseas. Furthermore, it noted, the statute of limitations for providing material support to terrorists expires after eight years.

The report's disclosure comes as the Senate Armed Services Committee said it had voted to bar the construction of a military detention facility in Thomson, Ill., in a further blow to the Obama administration's fading hopes to shutter the Guantánamo prison.