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CPA Chronology

Detainee-Related Issues

Dec 03 - Jun 04

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CLASSIFIED INFORMATION

**HAS BEEN REMOVED FROM
FILE AND SCANNED
SEPARATELY**



031205-24

COALITION PROVISIONAL AUTHORITY
BAGHDAD

ACTION MEMO

December 8, 2003

FOR: THE ADMINISTRATOR
FROM: Scott Castle, General Counsel
SUBJECT: Response to Memorandum from Amnesty International

On December 4, 2003, Amnesty International released a Memorandum describing concerns related to certain CPA Orders and Regulations. The proposed CPA response to the Memorandum, incorporating your comments of December 7th, is enclosed.

RECOMMENDATION: The Administrator approve the proposed response and sign the enclosed letter forwarding it to Amnesty International.

Approve: *[Signature]* Disapprove: _____ Approve with modification: _____
031205-24

ATTACHMENTS: Letter to Amnesty International, forwarding response to its Memorandum of December 4, 2003

COORDINATION: Ministry of Justice; Ministry of Interior



COALITION PROVISIONAL AUTHORITY
BAGHDAD

Ms. Elizabeth Hodgkin
Amnesty International
International Secretariat
1 Easton Street
London WC1X 0DW, United Kingdom

Dear Ms. Hodgkin,

Thank you for forwarding Amnesty International's *Memorandum on Concerns Related to Legislation Introduced by the Coalition Provisional Authority*, dated 4 December 2003.

The CPA has carefully reviewed the Memorandum. The enclosed document provides our response to the statements and recommendations set forth therein.

Please feel free to contact Mr. Scott Castle, CPA's General Counsel, at (b)(6) if you require further information regarding the CPA's position on the matters addressed in the Memorandum.

Sincerely,



L. Paul Bremer III
Administrator

Cc: Ministry of Justice
Ministry of the Interior

Enclosure: Response to Concerns and Recommendations Raised by Amnesty International

**Amnesty International Memorandum on
Concerns Related to Legislation Introduced by the
Coalition Provisional Authority**

On December 5, 2003, Amnesty International released a "Memorandum on Concerns Related to Legislation Introduced by the Coalition Provisional Authority." The statements and recommendations set forth in the Memorandum, and CPA's responses thereto, are provided below.

1. CPA Order 15: Establishment of the Judicial Review Committee

Amnesty International Statements:

- The Order does not specify which parts of the Judiciary Act are suspended.
- It is not clear what criteria the Committee uses in appointing, removing, and confirming appointments of judges and prosecutors to their office, and whether this will be in accordance with the criteria in the Judiciary Act and the Public Prosecution Act.
 - Article 36 of the Judiciary Act and Article 41 of the Public Prosecution Act require that persons appointed as judges or prosecutors should be Iraqi by birth and be married.
 - This constitutes discrimination against those who have acquired Iraqi nationality and on the basis of social status, prohibited by Principle 10 of the Basic Principles on the Independence of the Judiciary.

Amnesty International Recommendation:

- CPA ensures that the Judicial Review Committee carries out its tasks of appointing, removing and confirming the appointment of judges and prosecutors in conformity with international standards, including the Basic Principles on the Independence of the Judiciary.

CPA Response:

- CPA agrees that Iraq should have an independent judiciary that operates in conformity with international standards.
- CPA Order No. 15 (Judicial Review Committee) suspends those portions of the Judiciary Act and Public Prosecution Act that conflict with the Order, with any decision of the CPA, the Senior Advisor to the Ministry of Justice or the Judicial Review Committee.
- We agree that it is inappropriate to deny those who have acquired Iraqi nationality or are not married the opportunity to serve as judges and prosecutors on that basis. The Judicial Review Committee has determined that the Articles cited by Amnesty International are

inconsistent with the spirit of CPA Orders 15 and 7 (Penal Code) and therefore do not apply to the Terms of Reference under which the Judicial Review Committee conducts its business.

2. CPA Order 35: Re-Establishment of the Council of Judges

Amnesty International Statements:

- The relationship between Council of Judges and the Judicial Review Committee is not clear.
- The role of the Council of Judges to nominate and fill vacancies, assign and reassign judges and prosecutors, while at the same time acting on complaints against these same officials, could give rise to conflicts of interest.
- The Order provides no clear grounds on which the Council of Judges can investigate allegations of professional misconduct of judges and take disciplinary measures. Principle 18 requires that judges shall be subject to suspension or removal only for reasons of incapacity or behavior that renders them unfit to discharge their duties.

Amnesty International Recommendation:

- The CPA should also clarify the relationship between the Judicial Review Committee and the Council of Judges. Clear criteria for disciplinary action against judges should be set and should be limited to reasons of incapacity or behaviour, in line with international standards, including the Basic Principles on the Independence of the Judiciary.

CPA Response:

- The roles and responsibilities of the Judicial Review Committee and the Council of Judges are clarified in CPA Orders 15 and 35 (Re-establishment of the Council of Judges). The role of the Judicial Review Committee is to conduct a thorough screening of the judiciary, whereas the Council of Judges provides long-term administrative oversight and a disciplinary system.
- The composition of the Council of Judges, the codes of conduct applicable to Judges and Prosecutors, and the fact that Order 35 provides a right to appeal the decision of the Disciplinary and Professional Standards Committee to the full Council of Judges, minimize the opportunity for and potential impact of any conflicts of interest. We are not aware of any problem in this area to date.
- Order 35 specifies allegations of "misconduct and incompetence" as matters to be investigated by the Disciplinary and Professional Standards Committee. The Judiciary Act and Public Prosecutor Act list the duties of judges and prosecutors, respectively, violations of which would constitute misconduct for which judges and prosecutors could be disciplined.

3. CPA Order 7: Penal Code

Amnesty International Statements:

- Several provisions in the Iraqi Penal Code included in the list of offences for which legal proceedings can only be brought after written permission from the Administrator pose a clear threat to the right of freedom of expression.
 - The list of offenses includes restrictions on dissemination of information, “insulting” the president and public figures, and violations of “public integrity and decency.”
 - The restrictions go beyond those permitted by Article 19 of the International Covenant on Civil and Political Rights.
- The Order is not clear about which criteria the Administrator should apply in determining whether legal proceedings should be commenced.

Amnesty International Recommendation:

- Amnesty International recommends that clear criteria be specified to guarantee that permission from the CPA Administrator for legal proceedings, according to CPA Order 7, should not be granted in situations where they would amount to violations of freedom of expression.

CPA Response:

- Authority to commence proceedings under the provisions of the Iraqi penal code that limit freedom of expression and which are listed in CPA Order No. 7 was withheld because the CPA has concerns about the appropriateness of such restrictions under international law.
- In the event the CPA Administrator receives a request to commence legal proceedings for any of the listed offenses, he will consider all of the relevant facts and circumstances in evaluating the merits of the case. This ad hoc analysis will ensure that criminal proceedings do not inappropriately interfere with freedom of expression.

4. CPA Order 1: De-Ba'athification of Iraqi Society

Amnesty International Comments:

- The Order may violate the right to freedom of expression and association under Article 19 of International Covenant on Civil and Political Rights.
- The Order may violate the right to work under Article 6 of the International Covenant on Economic, Social, and Cultural Rights. Article 2.2 guarantees rights enunciated in the covenant will be exercised without discrimination of any kind as to, among other things, “political or other opinion.”

- The Order may violate the right to public service in one's country under Article 25 of the International Covenant on Civil and Political Rights.
- Mere past membership in the Ba'ath party should not in itself constitute grounds to deny a person the possibility to hold employment in the top three layers of management of government ministries, especially if there is no evidence of implication in human rights violations.
- It does not appear there is any requirement for police to be vetted for past crimes before they resume their jobs. It appears that a certain number of previous members of the police force were re-instated in their positions without being subjected to any vetting.

Amnesty International Recommendation:

- Amnesty International recommends that CPA Orders and Regulations do not impose restrictions on the rights to freedom of expression, access to work and right to hold public office, beyond those that are permissible in international law. Effective and fair vetting is needed, so as to reduce the chance of restoring to their duties officials who may have been involved in human rights violations. Persons suspected of involvement in human rights violations should be duly charged and tried following fair trial procedures.

CPA Response:

- The restrictions on employment contained in CPA Order No. 1 (De-Ba'athification) are not based on "political or other opinion," but on membership in a party responsible for a repressive regime. The high-level affiliations with the Ba'ath Party that are covered under Order No. 1 constitute proper security-based restrictions under international law. The CPA recently delegated to the Governing Council broad authority to develop and implement de-ba'athification policies, consistent with Order No. 1. This delegation is conditioned upon the Governing Council's adoption of due process mechanisms that will protect those who are eliminated from their employment positions because of Ba'ath Party affiliations.
- The Ministry of the Interior established procedures for vetting police units; the Ministry of the Interior applied these procedures in vetting Baghdad police officers, and distributed the procedures to Coalition forces for application in other areas. The Ministry of the Interior is not aware of any instances where the established procedures were not followed.
- CPA is committed to ensuring persons suspected of involvement in human rights violations are investigated and, where the evidence warrants, impartially tried in accordance with applicable law and procedures.

5. CPA Order 14: Prohibited Media Activities

Amnesty International Comment:

- Any restrictions on freedom of expression should be limited to those permissible under Article 19 of the International Covenant on Civil and Political Rights.

Amnesty International Recommendation:

- The CPA should not impose any restrictions on the media and the right of people to receive and impart information and ideas in any form, beyond those defined by international law, particularly Article 19 (3) of the International Covenant on Civil and Political Rights.

CPA Response:

- The restrictions contained in CPA Order No. 14 are consistent with those permitted under international law. Specifically, the prohibition of communications designed to support the Ba'ath Party's return to power is necessary to ensure security and civil law and order within Iraq.

6. CPA Order 13 (Revised): Central Criminal Court

Amnesty International Statements:

- Order requires that judges have a background of opposition to the Ba'ath Party, non-membership of the Ba'ath Party, or membership that does not fall within the leadership tiers described in Order Number 1.
- Principle 8 of the Basic Principles on the Independence of the Judiciary states that members of the judiciary are entitled to freedom of expression and association.
- Principle 10 states that selection of judges shall be based on integrity and ability, appropriate training or qualification and prohibits discrimination on a number of grounds including political or other opinion.
- Absent evidence that previous membership in the Ba'ath Party would affect independence and impartiality of judges, such a sweeping exclusion on the basis of political opinion is discriminatory. Mere membership in the Ba'ath party should not be a criteria for exclusion.

Amnesty International Recommendation:

- Judges and prosecutors should not be excluded from appointment or unduly penalised on the basis of mere previous membership of the Ba'ath Party.

CPA Response:

- The restrictions on employment contained in CPA Order No. 1 are not based on “political or other opinion,” but senior membership in a party responsible for a repressive regime. The criteria for senior membership in the Ba’ath Party warrant a determination that such former members are unfit to serve as judges of the Central Criminal Court.

7. CPA Order 8: Travelling Abroad for Academic Purposes

Amnesty International Comments:

- It is not clear why restrictions on travel for faculty, staff, and students of public universities, colleges, or other institutions of higher education were lifted but travel restrictions have not been lifted for other categories of Iraqi professionals who suffered from similar restrictions.
- Article 12 of the International Covenant on Civil and Political Rights states that everyone shall be free to leave any country, including his own.

Amnesty International Recommendation:

- Amnesty International recommends that the CPA lift all unlawful restrictions that were imposed in the past on freedom of movement, particularly the right to travel abroad.

CPA Response:

- The CPA lifted the ban on travel by academics and students upon learning of the former regime’s practice of restricting such travel.
- The CPA is undertaking efforts to determine what travel restrictions remain in force in Iraq with a view to issuing an Order lifting other travel restrictions.

8. Delay in Publishing Arabic Translations

Amnesty International Comments:

- Many of the CPA Orders and Regulations have been issued in Arabic at a much later date than the English original version.
- CPA Orders and Regulations state they enter into force on the date of signature, which is on the English version of the instrument.
- This is inconsistent with international humanitarian law. Article 65 of the Fourth Geneva Convention states that “penal provisions enacted by the Occupying Power shall not come into force before they have been published and brought to knowledge of the inhabitants in their own language.”

Amnesty International Recommendations:

- Amnesty International urges the CPA to ensure that its penal legislation enters into force after an appropriate period of time following its publication in Arabic in the Official Gazette.
- Amnesty International calls on the CPA to ensure that all such legislation is adequately disseminated.

CPA Response:

- CPA posts Arabic translations of Orders on its website as soon as they are received from the State Department. CPA reviews the translations in order to ensure that they comport with Iraqi usage and legal terminology before publishing them in the Official Gazette.
- To date, CPA has not enforced penal Orders prior to their publication in Arabic in the Official Gazette.

9. CPA Regulation 4: Property Disputes

Amnesty International Statements:

- Regulation establishes the Iraqi Property Reconciliation Facility (IPRF) to collect real property claims and resolve such claims on a voluntary basis in a fair and judicious manner and establishes a fund for this purpose.
- It is not clear if the IPRF would apply to Iraqi law in relation to property rights or related offences and what the relationship is between the IPRF and the Iraqi legal system and courts. Neither is there clarity on possible referrals to regular courts of cases that cannot be resolved through reconciliation or dispute resolution.
- Need to define "real property claims".
- Need clarification on whether the IPRF would be granting compensation.

Amnesty International Recommendation:

- Amnesty International recommends that the CPA clarify the applicability of the existing Iraqi legislation for property disputes, and the relationship between the Property Reconciliation Facility and the Iraqi justice system, including whether cases can be referred for adjudication to the courts. Further, Amnesty International recommends that the CPA defines clearly what is meant by terms used in the order, including "real property".

CPA Response:

- CPA has drafted a comprehensive, detailed Order that would replace the IPRF with an Iraqi Property Claims Commission (IPCC). The IPCC will apply Iraqi law in adjudicating property disputes and will include procedures for appropriately involving the Iraqi judicial

system in the dispute resolution process. The draft Order, now in coordination with the Governing Council, fully responds to Amnesty International's findings and recommendations in this area.



COALITION PROVISIONAL AUTHORITY
BAGHDAD

031209-45

1209

ACTION MEMO

December 9, 2003

FOR: THE ADMINISTRATOR
FROM: Scott Castle, General Counsel
SUBJECT: Response to Letter from Amnesty International

On December 3, 2003, Amnesty International sent a letter requesting information on the circumstances surrounding the following incidents that occurred on November 26 and 27, 2003:

- The death of Major General 'Abd Hamad Mawhoush while in Coalition custody.
- The deaths of two sisters, (b)(6) near Baqubah.
- The detention of the wife and daughter of 'Izzat Ibrahim al-Duri.

The proposed CPA response to the Letter of December 3rd is enclosed.

RECOMMENDATION: The Administrator approve and sign the enclosed letter to Amnesty International.

Approve: Disapprove: Approve with modification:

ATTACHMENTS: Letter to Amnesty International

COORDINATION: CJTF-7 Staff Judge Advocate

UNCLASSIFIED



COALITION PROVISIONAL AUTHORITY
BAGHDAD

Ms. Irene Kahn
Secretary General
Amnesty International
International Secretariat
1 Easton Street
London WC1X 0DW, United Kingdom

Dear Ms. Kahn:

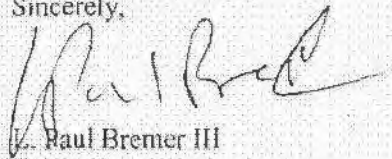
Thank you for your letter, dated 3 December 2003, expressing concern about three events that occurred in Iraq on 26 and 27 November 2003.

The CPA has made preliminary inquiry regarding these events and we provide the following interim response:

- **Major General 'Abd Hamad Mawhoush.** The death of Major General 'Abd Hamad Mawhoush is currently under investigation and any release of information regarding the investigation would be pre-mature at this point. We anticipate that additional information will be available once the investigation is complete.
- (b)(6) The sole incident matching the date and location provided in your letter and about which we could locate information involved US forces finding the body of only one girl. At 1624L, 27 November 2003, a US patrol observed two men digging on the side of the road in the vicinity of Baqubah. The patrol engaged the individuals, who then fled. In the course of clearing the area the patrol found a young girl who was dead prior to their engaging the two men. The unit believes the two men were trying to bury the body. The patrol took the girl's body to the morgue and turned the investigation over to the Iraqi Police.
- **Wife and daughter of 'Izzat Ibrahim al-Duri.** On 26 November 2003, Coalition forces detained certain individuals in Samarra because Coalition forces suspect them of activities hostile to the security of the Coalition and believe them to possess information important to mission accomplishment. They have been temporarily detained and are being treated during the course of their detention humanely and with dignity and respect consistent with the Geneva Convention.

Please feel free to contact Mr. Scott Castle, CPA's General Counsel, at (b)(6) if you require further information regarding the events addressed in your letter.

Sincerely,



Paul Bremer III
Administrator

Ref: TG AMR 51/93/2003

Ambassador L. Paul Bremer III
Presidential Envoy to Iraq
Office of the Coalition Provisional Authority
Office of the Secretary of Defence
The Pentagon
Washington DC, 20301-2400
USA

03 December 2003

Dear Ambassador Bremer,

On 27 November United States military authorities in the town of al-Qaim announced the death under interrogation of Major General 'Abd Hamad Mawhoush, a former officer in the Republican Guard who had been in Coalition custody since his arrest on 5 October 2003. While no details were given, he was said to have died of "natural causes". Amnesty International believes that all deaths in custody should be the subject of a thorough and independent investigation.

In a separate incident, also on 27 November, two sisters, known as (b)(6) aged 15 and 12 respectively, were shot dead, reportedly by US troops, as they were collecting wood from a field near the town of Baquba. An Iraqi policeman is reported to have said that one of the girls' bodies was handed over to the Iraqi police by US soldiers who indicated that she had a gun in her possession. We have also noted comments reportedly made by an official of the Coalition Provisional Authority (CPA) who denied that the girls had been shot dead by US soldiers and indicated that they had been victims of murder. According to the official their bodies had been found by US troops and the Iraqi police.

We would welcome receiving further information on the circumstances that led to the deaths of Major General 'Abd Hamad Mawhoush, Fatima and Azra and urge that a prompt, thorough, impartial and independent investigation be carried out in each case, with the results made public. We would also call for anyone suspected to have been responsible for human rights violations, including unlawful killing, to be brought to justice.

On 26 November it was announced that the wife and daughter of former Iraqi government official, 'Izzat Ibrahim al-Duri, had been arrested by US troops in the town of Samarra. Their fate and whereabouts may be unknown. We should be grateful to receive clarification as to the exact reasons for their arrest as well as details of any legal proceedings that may have been made against them. If their arrest is solely connected with their kinship to 'Izzat Ibrahim al-Duri, Amnesty International would consider them to be prisoners of conscience and would call for their immediate and unconditional release.

We look forward to receiving your response on these matters.

Yours sincerely,

For Irene Khan, Secretary General



031211-03

COALITION PROVISIONAL AUTHORITY
BAGHDAD

ACTION MEMO

December 10, 2003

FOR: THE ADMINISTRATOR
FROM: Office of the General Counsel
SUBJECT: UN High Commissioner for Human Rights Letter re: Iraqi Special Tribunal

On December 4, 2003, Mr. Bertrand G. Ramcharan, Acting High Commissioner for Human Rights, United Nations, sent a letter to the CPA and to the Governing Council expressing interest in the creation of an Iraqi Special Tribunal to address crimes committed by the former regime. The letter asserted that international legal actors should assume an active role in investigating, prosecuting and trying these crimes, and urged that the Tribunal's rules of procedure reflect human rights norms and that consultations regarding the Tribunal include all options for addressing past human rights violations.

A proposed response to the letter is enclosed.

RECOMMENDATION: That you approve and sign the enclosed response to the December 4th letter from the UN's Acting High Commissioner for Human Rights.

Approve: *[Signature]* Disapprove: _____ Approve with modification: _____

ATTACHMENTS: Proposed response to UNHCHR Letter of December 4, 2003

COORDINATION: Governance/Scott Carpenter (X)

(b)(5)





COALITION PROVISIONAL AUTHORITY
BAGHDAD

Mr. Bertrand G. Ramcharan
Acting High Commissioner for Human Rights
Palais des Nations
CH-1211 Geneve 10

Dear Mr. Ramcharan:

Thank you for your December 4, 2003 letter regarding the establishment of the Iraqi Special Tribunal (IST). The Coalition Provisional Authority welcomes your office's support in creating a forum that will ensure proper accountability for the crimes and atrocities committed by the previous Iraqi regime.

We share the goal of establishing an impartial and independent judicial body that will address the past crimes and atrocities against the Iraqi people in a manner consistent with internationally recognized standards of justice. Based upon extensive discussions with the Iraqi Governing Council (IGC) on this matter, we believe that the IGC also is fully committed to achieving this objective and in its recent press conference made clear that it would welcome international support in drafting implementing regulations.

My discussions with the IGC and my daily interactions with the people of Iraq have convinced me that it is imperative for the healing of the Iraqi people and for the future of the Iraqi nation, to take immediate steps towards achieving justice. Accordingly, I have delegated to the IGC the authority to enact a statute creating the IST.

The IGC's drafting of the IST statute entailed extensive consultations among Iraqi, Coalition and international experts. The draft statute reflects the fusion of these consultations with the IGC's unique understanding of the needs of the Iraqi people. The result will be an Iraqi process that is consistent with international law and worthy of the respect of the international community.

The IGC recognizes this community's significant expertise and resources. As you note, accounting for the crimes and atrocities committed by the previous Iraqi regime will require significant investigative and prosecutorial efforts. The IGC has made clear that it intends to draw upon the experience of the international community by allowing for international participation in the IST, including the appointment of non-Iraqi judges of high moral character, impartiality and integrity who have experience in the crimes

encompassed in the statute creating the IST. The CPA has encouraged the IGC to provide for such international participation, which we believe will help ensure the success of the proceedings.

We are committed to continuing our work with the Iraqi people, the IGC and the OHCHR to establish accountability for the crimes and atrocities of the previous Iraqi regime.

Sincerely,

A handwritten signature in black ink, appearing to read "L. Paul Bremer III". The signature is written in a cursive, somewhat stylized font.

L. Paul Bremer III
Administrator



COALITION PROVISIONAL AUTHORITY
BAGHDAD

031213-21

Ms. Irene Khan
Secretary General
Amnesty International
Peter Benenson House
1 Easton Street
London WC1X 0DW

Dear Ms. Khan:

Thank you for your December 10, 2003 letter regarding the establishment of the Iraqi Special Tribunal (IST). The Coalition Provisional Authority (CPA) shares Amnesty International's goal of establishing an impartial and independent judicial body that will address the past crimes and atrocities against the Iraqi people in a manner consistent with internationally recognized standards of justice.

Based upon extensive discussions with the Iraqi Governing Council (IGC) on this matter, we believe that the IGC also is fully committed to achieving this objective. Indeed, in its recent press conference, the IGC made clear that it would welcome international support in drafting implementing regulations.

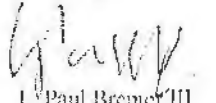
My discussions with the IGC and my daily interactions with the people of Iraq have convinced me that it is imperative for the healing of the Iraqi people and for the future of the Iraqi nation, to take immediate steps towards achieving justice. Accordingly, I have delegated to the IGC the authority to enact a statute creating the IST. The recognition of the IGC's status as a transitional sovereign in U.N. Security Council Resolutions 1483 and 1511 supports our conclusion that this initiative constitutes a proper exercise of authority under international law.

The CPA supports Amnesty International's view that widespread consultation with Iraqi lawyers and human rights groups will bolster the effectiveness and legitimacy of the IST. We were therefore pleased that the IGC consulted extensively with Iraqi, Coalition and international experts. The draft statute reflects the fusion of these consultations with the IGC's unique understanding of the needs of the Iraqi people. The result will be an Iraqi process that is consistent with international law and worthy of the respect of the international community.

Consistent with Amnesty International's recommendations, the IGC has made clear that it intends to draw upon the experience of the international community by allowing for international participation in the IST, including the appointment of non-Iraqi judges of high moral character, impartiality and integrity who have experience in the crimes encompassed in the statute creating the IST. The CPA has encouraged the IGC to provide for such international participation, which we believe will help ensure the success of the proceedings. With respect to our participation in this process, we note that there is no intention to propose that CPA's suspension of the imposition of capital punishment be reversed for crimes over which the ISF will exercise jurisdiction.

We are committed to continuing our work with the Iraqi people and the IGC to establish accountability for the crimes and atrocities of the previous Iraqi regime.

Sincerely,



L. Paul Bremer III
Administrator

UNCLASSIFIED

COALITION PROVISIONAL AUTHORITY

BAGHDAD

TALKING POINTS

December 8, 2003

SUBJECT: Transfer of High Value Detainees (HVDs) to Iraqi Authorities

The following Talking Points summarize the process by which Coalition Forces may transfer custody of HVDs to the Governing Council of Iraq for trial by the Iraqi Special Tribunal (IST).

- The HVDs currently held at Camp Cropper fall under two categories. They are either Enemy Prisoners of War (EPW) or Security Internees (SI). Some HVDs whose category is in doubt are currently awaiting hearings under the Third Geneva Convention of 1949 (GCIII) to determine their status.¹
- Generally, Coalition Forces may transfer SI to the control of the Governing Council, provided the Coalition Forces have determined that any trials would be fair. However, under DoD Policy Message Number 12, the Secretary of Defense must approve the release of any HVDs.
- As the detaining power, the United States remains responsible for all HVDs who are EPWs, until they are released at the end of active hostilities or under a parole agreement. Under Article 12, GCIII, EPWs may only be transferred to another Detaining Power that is a party to the Convention. The Governing Council does not meet this requirement.
- Once active hostilities have ceased, Coalition Forces may release EPWs into the custody of Iraqi authorities, subject to the approval of the Secretary of Defense, as noted above.
- If the Secretary of Defense were to allow the transfer of HVDs for trial by Iraqi authorities, the CPA would remain ultimately responsible for ensuring that any trials are conducted in accordance with applicable law and consistent with certain minimum standards of legal process and substantial fairness.

¹ Approximately 14 HVD have been determined to have EPW status.

UNCLASSIFIED

COALITION PROVISIONAL AUTHORITY ORDER NUMBER 48**DELEGATION OF AUTHORITY REGARDING AN
IRAQI SPECIAL TRIBUNAL**

Pursuant to my authority as Administrator of the Coalition Provisional Authority (CPA), and under the laws and usages of war, and consistent with relevant U.N. Security Council resolutions, including Resolution 1483 (2003), Resolution 1500 (2003), and Resolution 1511 (2003),

Noting the call in U.N. Security Council Resolution 1483 for accountability for the crimes and atrocities committed by the previous Iraqi regime,

Acting on the appeal by the U.N. Security Council in Resolution 1483 to Member States to deny safe haven to those members of the previous Iraqi regime who are alleged to be responsible for crimes and atrocities and to support actions to bring them to justice;

Acknowledging that the Governing Council, reflecting the general concerns and interests of the Iraqi people, has expressed a desire to establish a Special Tribunal to try members of the Ba'athist regime accused of atrocities and war crimes,

Determined to prevent any threat to public order by revenge actions or vigilantism and to promote the rule of law in accordance with applicable international law,

I hereby promulgate the following:

**Section 1
Delegation of Authority**

- 1) The Governing Council is hereby authorized to establish an Iraqi Special Tribunal (the "Tribunal") to try Iraqi nationals or residents of Iraq accused of genocide, crimes against humanity, war crimes or violations of certain Iraqi laws, by promulgating a statute, the proposed provisions of which have been discussed extensively between the Governing Council and the CPA and are set forth at Appendix A.
- 2) The statute shall establish the Tribunal, including its chambers, and set forth its jurisdiction, competence, and organization:
- 3) The statute shall provide rules for the appointment of qualified judges, prosecutors, and a director of administration.
- 4) The Governing Council shall be authorized to promulgate elements of crimes, the provisions of which shall be coordinated with the CPA.

5) The Governing Council may delegate to the judges of the Tribunal the power to promulgate rules of procedure, the provisions of which shall be coordinated with the Governing Council and the CPA.

6) The Administrator reserves the authority to alter the statute creating the Iraqi Special Tribunal, or any elements of crimes or rules of procedure developed for the Tribunal, if required in the interests of security.

Section 2 Terms and Conditions

The authority delegated under Section 1 of this Order shall be subject to the following terms and conditions:

1) The Governing Council will ensure that it promulgates a description of the elements that will apply to the crimes listed in the statute establishing the Tribunal, and that these elements are consistent with Iraqi law, as modified by CPA Orders, and international law.


2) The Governing Council will ensure that the Tribunal meets, at a minimum, international standards of justice.

3) In the event that, prior to the final transfer of governance authority to the transitional Iraqi administration, a conflict arises between any promulgation by the Governing Council or any ruling or judgment by the Tribunal and any promulgation of the CPA, the promulgation of the CPA shall prevail.

4) Non-Iraqi nationals may be appointed as judges of the Special Tribunal.

Section 3 Effective Date

This Order shall enter into force on the date of signature and shall remain in force unless rescinded in writing by me or until the establishment of a representative, internationally recognized government of Iraq.

 12/10/03
L. Paul Bremer III
Administrator

L. Paul Bremer
Administrator
Coalition Provisional Authority
Conditional Release Announcement
7 January 2004

This Friday, Iraq will celebrate 9 months of freedom from Saddam's dictatorship. Since liberation, the Iraqi people have steadily acted to realize a shared vision of the new Iraq, one which is stable and democratic.

More than ever, it is clear that the old ways of coups and corruption and divide-and-rule are over in the new Iraq. The tyrant Saddam Hussein is a prisoner; most of his henchmen are dead or captured.

It is time for reconciliation, time for Iraqis to make common cause in building the new Iraq. Thousands of conversations and newspaper columns and poll after poll have shown that the overwhelming majority of

As Delivered

Iraqis want democracy—a government that draws its legitimacy from the freely expressed will of the people.

In the coming 24 months these Iraqis will make a number of choices. They will decide the shape of democratic government when an elected assembly of Iraqis writes Iraq's new constitution early next year. They will decide who will lead their interim and their constitutional governments.

Other Iraqis have opted against the new Iraq. They made a mistake and they know it, but we are prepared to offer some of them a new chance.

To give impetus to those Iraqis who wish to reconcile with their countrymen, we are announcing today that the Coalition will permit hundreds of currently detained Iraqis to return to their homes and to their families.

As Delivered

Tomorrow, the Coalition will release the first 100 detainees. While there are specific requirements for release, two are of great importance:

- First, the person released must renounce violence and,
- Second, the person released must have a guarantor, such as a prominent person in his community or a religious or tribal leader who will accept responsibility for the good conduct of the individual being set free.

Let me underscore an important point. This is not a program for those with blood-stained hands. No person involved in the death of or serious bodily harm to any human being, an Iraqi, a citizen of the Coalition or anyone else will be released. Nor will we release anyone accused of torture or crimes against humanity.

As Delivered

Hundreds more detainees will be freed in this way in the coming weeks. We are also exploring ways to provide greater family access to those detainees not released.

But everyone must understand that this program in no way diminishes our zeal for pursuing the major criminals who plague this country, attacking Iraqis and Coalition Forces alike.

While the Coalition seeks to promote reconciliation, we recognize that some will never reconcile themselves to democracy in Iraq or to the new Iraq.

If they remain unreconciled, if they continue to fight, the Coalition is prepared to capture or kill them and, I am convinced, the coming Iraqi Government will be prepared to do the same.

As Delivered

To deal with these criminals, we have announced a reward program. We will pay \$10 million for information leading to the capture of Izzat Ibrahim al-Douri or information that he is dead. We will also pay \$1 million each for 12 other notorious criminals on our black list.

Today I am pleased to announce another rewards program. We will offer up to \$200,000 in rewards for information leading to the capture of lesser criminals or information that that person is dead. The names of the individuals and the amount of the reward for each will be released within 24 hours.

Dr. Pachaci, you have pointed out to me, peace and reconciliation and sovereignty will ultimately flow not from the Coalition, but from the acts of Iraqis.

You are of course right. Reconciliation and democracy will be Iraqi achievements. We in the Coalition hope that we have made a small contribution to this process today.

On behalf of all members of the Coalition, Dr. Pachachi, I express my hope that all Iraqis will converge into the great current of democracy which will carry you and your fellow Iraqis forward to your future of hope.

Mabruk al Iraq al jadeed.



COALITION PROVISIONAL AUTHORITY
BAGHDAD

04017-35

0114

ACTION MEMO

January 14, 2004

FOR: THE ADMINISTRATOR
FROM: Sandy Hodgkinson, Senior Advisor, Ministry of Human Rights
SUBJECT: Abu Gharaib Human Rights Ministry Office

As follow-up to Minister Abdel Bassit Turki's letter to you requesting that a Human Rights Ministry office be established at Abu Gharaib, I have coordinated this issue with CJTF-7, MOJ and OGC. I have also further discussed the parameters with Ministry personnel to take into account each specific concern that CJTF-7 initially raised. There is no opposition to the establishment of the office at this time, although Ministry of Justice expresses the concerns below. A trailer is needed to accommodate request, as MOJ/CJTF-7 state they do not have space for this office. USAID/OTI has tentatively agreed to fund and construct a trailer if necessary. Respective positions are summarized below:

Human Rights Ministry:

- Office would be established on the Abu Gharaib grounds and staffed with 1-2 personnel
- Iraqi families will not come to the Abu Gharaib Human Rights Ministry office, but can meet with Ministry personnel at the Baghdad Ministry building.
- Office would assist in providing information to Iraqi families and citizens about the status of their missing family members and serve as a family liaison/advocate.
- Office can visit with criminal detainees (not security internees) to inquire about conditions of detention, access to attorneys, family visits (at intervals tbd by CJTF-7, or in certain circumstances to be delineated by CJTF-7, such as a death, riot or otherwise).

Policy reasons: (1) Office will provide transparency and information, and counter Iraqi fears that Abu Gharaib is still being used as a center of disappearance, torture and execution. (2) Allows Minister to develop reputation for holding government to human rights standards; (3) Helps us get our message out to the Iraqi people better, and acts as showcase for the high standards of detention that the US military provides.

Ministry of Justice:

(b)(5)

- Does not have administrative office space for Ministry, needs a trailer to accommodate.

UNCLASSIFIED

CJTF-7:

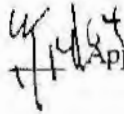
- Willing to establish a trailer office just outside the gate of Abu Gharaib.
- Willing to permit staff to utilize office space set aside for MOJ contingent inside the walls of Abu Garaib, but segregated from security detainee area.

OGC:

- Does not oppose establishment of office.

RECOMMENDATION:

Respectfully request that Ministry of Human Rights be permitted to open an office at Abu Gharaib to perform tasks as detailed above.

 Approve _____ Disapprove _____ Approve with Modification

COORDINATION: OGC, MOJ, CJTF-7, USAID/OTI

ATTACHMENTS: NONE

0122

Sent: Thursday, January 22, 2004 3:47 PM
To: Bremer, Paul
Subject: Detainee Update

1) Black List Management -- I am meeting with the ISG staff this weekend to review the Black List population in total with a view towards accelerating releases/paroles.

2) Request from Ron Schlicher (b)(5)

- (b)(5)
-
-

I will get the ISG's recommendation on whether we can parole them with guarantors to ensure they remain available as witnesses or for follow-up interrogations. If parole is the recommendation, you will need SecDef's authorization in both cases.

3) Email request from (b)(5) ref. the status of his father, (b)(5)
(b)(5)

- (b)(5) He is wanted for wire fraud in Atlanta 1991.
- I have asked (b)(6) to determine if they want to extradite him and to check the statute of limitations. If I don't get an answer this week, I'll dual channel this request through the FBI's front office.

4) Request from (b)(5),(b)(6)

- This father and three of his sons were picked up in a raid. We found them checking alternate names. They were boarded. I am waiting to find out why they were retained and will engage (b)(6) on this question at the next opportunity.

5) Request from (b)(6)

- This gentleman was allegedly detained 8 months ago in the South by the British. He is said to be in his 60s and in poor health. The IGC thinks he was suspected of collaboration with some Iranians that were up to no good.
- We have no hits against this name or any alternate spelling. I have asked our UK counterparts to run the name also.

6) Request from (b)(6)

- This is the release you signed just before we departed last week. He's gone home, where he will complete his interrogations.

7) Request from (b)(6)

- One of these gentlemen missed his wedding. CJTF-7 has no hits on either of these names or any alternate spellings.

V (b)(6)

-----Original Message-----

From: (b)(6)

Sent: Sunday, January 18, 2004 8:22 PM

To: Schlicher, Ronald L. (CIV); (b)(6) Col: Carpenter, Scott CIV Ministry of Governance;

(b)(6)

(b)(6) (FS-O2)

Subject: da'wa detainees

All,

Da'wa asked me today about 2 detainees that they want released. Apparently they gave the names directly to LPB. Do any of you have any info or update on this?

Best,

(b)(6)

0124

(b)(6) Col

From: (b)(6) Col
Sent: Saturday, January 24, 2004 3:38 PM
To: Bremer, Paul
Cc: Jones, Richard H. (AMB) (b)(6) (O-6)
Subject: Your Question on Detainee Management

Sir – You asked: “What are the right questions with respect to management of the detainee population?” I’ve listed the questions I would ask below. Please highlight those you want CJTF-7 to address next week.

- I learned today that Amb Jones has the Executive Board seized of this issue, so I hope this list may be useful in that forum also.

(b)(5)



Vr (b)(8)

Detainee Way Ahead

Basic Facts

- What is the size and composition of the present detainee population (EPW, Criminal, Security, MEK, Third Country)?
- What are our take, release, and growth rates and historical totals (EPW, Criminal, Security, MEK, Third Country)?

5/12/2004

- What is the projected size and composition of the detainee population on 1 Jun 04 and 1 Jan 05 based on historical take, release, and growth rates (EPW, Criminal, Security, MEK, Third Country)?

Prisons

- What is the current composition and capacity of detention facilities?
- What is our construction plan and budget; and our programmed capacity on 1 Jun 04 and 1 Jan 05?
- Are maximum security requirements a limiting factor and, if so, what is the get well plan?
- Are prison personnel and/or training a limiting factor and, if so, what is the get well plan?

Initial Processing

- Are we complying with our 72-hour policy for judge advocate review?
- Have we altered data collection procedures to improve our ability to locate detainees after initial processing (cards completely filled out in English and Arabic)?

Justice

- What is our plan to process each component of the detainee population through the justice system? (Criminal, Security, EPW, War Crimes and/or Human Rights Violators, Third Country)
- For each component, is there a requirement to notify detainees of their right to appeal, are we complying, and if we are not what is the way ahead?
- What is the average time from initial apprehension until the CJTF-7 Review and Appeal Board? What is the trend?
- For each component, is there a deadline on the right to trial and what is our plan for compliance?
- What will be the disposition of security detainees after transition to Iraqi sovereignty?

- Will we require a US internment and interrogation facility and, if so, what is the plan? Abu Gharaib?
- Will we require tribunals and, if so, what is the plan?
- How can we better resource the CCCI to assist with prosecution of criminal detainees?
- Several defendants have not made their trial dates before the CCCI. Have they been "found?" What is the process fix?
- What is our plan to defend judges?

Reconciliation initiative

- How many candidates have we fronted to date and how many have been released?
- What is our plan to bring forward more guarantors?
 - Why not go to the prisoners themselves to get names of potential tribal sponsors and then use the police or other local components to make contact?

Detainee Information Systems

- What are the strengths and weaknesses of our detainee information systems and what policy and/or resource options are available to improve them?
 - Integration of four databases?
 - Translation into Arabic?
 - Criminal detainees under Iraqi control?
 - Plan for data-sharing and national distribution of data (Coalition & Iraqi)?
- How is detainee data currently made available to the public and what are our plans to improve access?

- What is the current distribution plan and data refresh rate?
- Why not make our database available on-line so the public can access it in internet cafes?

Next of Kin (NOK) Notifications

- What progress has the ICRC made on NOK notification and how do we enable better notification through the ICRC?
 - Are we complying with requirement to fill out ICRC red tags across-the-board?
 - Are we getting Red Tags to the ICRC?
 - Can we energize the ICRC NOK process by providing better security arrangements?
- What are coalition forces themselves doing with respect to NOK notifications and what options are available for improvement?
- What is the plan for Iraqi NOK and how can we improve that?

Legal Counsel

- Who has the right to legal counsel, are we complying, and how can we improve access?

Visitation

- Who has family visitation rights, are we complying, and how can we improve access?

Minors

- Are minors accorded any special rights or privileges and are we complying?

Humane Treatment of Prisoners

- What are the standards? What Coalition safeguards do we have in

place?

- Do the same safeguards exist for detainees held by intelligence agencies? Who is accountable?
- Do we have ICRC inspections? When and how often?
- Has the ICRC submitted any allegations of mistreatment and what is our record of investigation and response?
- What safeguards are we developing in coordination with the Iraqis?

Human Rights Office

- What functions will this office perform?
- Where are the Terms of Reference and Memorandum of Agreement between CJTF-7 and CPA on the prerogatives of this office? When will it be open for business?

ISG

- What are our legal requirements with respect to the HVD population and what is our plan?
- Can we develop a reconciliation policy for HVDs? (Note: I am meeting with ISG staff tomorrow on this)

MEK

- What is the plan and timetable?

PKK

- What is our contingency plan?

For All of the Above

- What are the critical metrics we require to measure progress? (Examples: average time from apprehension to database entry; to NOK; to Review)

Board; to Trial; wait time for family visitation, and so on).

- What is our plan to reduce/eliminate Iraqi dependence upon the coalition -- by 1 July 05 and by 1 Jan 05?
- What is our strategic communication plan for management of the detainee population and what are the messages and talking points associated with each of the above?
 - What is our plan to counter allegations of human rights abuses as more detainees are released?

0126

(b)(6) Col

From: (b)(6) (O-6)
Sent: Monday, January 26, 2004 7:31 PM
To: (b)(6) Col
Subject: RE: OBTAINING AN UNCLASSIFIED DETAINEE BRIEF

Will do, on the way. v/r (b)(6)

-----Original Message-----

From: (b)(6) Col
Sent: Monday, January 26, 2004 7:16 PM
To: (b)(6) (O-6)
Subject: RE: OBTAINING AN UNCLASSIFIED DETAINEE BRIEF

(b)(6) – I missed the brief, so let me take a look at it on SIPR and I'll pull out what we want to use.

Thx

Vr (b)(6)

-----Original Message-----

From: (b)(6) (O-6)
Sent: Monday, January 26, 2004 7:12 PM
To: (b)(6) Col
Subject: RE: OBTAINING AN UNCLASSIFIED DETAINEE BRIEF

(b)(6) These were not my slides, they were put together by the C-2 and PMO. I will pass on the request, but most of the intelligence/interrogation slides are particularly sensitive, as well as classified. v/r (b)(6)

-----Original Message-----

From: (b)(6) Col
Sent: Monday, January 26, 2004 7:10 PM
To: (b)(6) (O-6)
Subject: FW: OBTAINING AN UNCLASSIFIED DETAINEE BRIEF

(b)(6) – Can we get a sanitized version of your brief to build a press release; and can I get the classified brief on SIPR.

Thx much

Vr (b)(6)

-----Original Message-----

From: (b)(6) (MAJ)
Sent: Monday, January 26, 2004 4:23 PM
To: (b)(6) Col
Subject: OBTAINING AN UNCLASSIFIED DETAINEE BRIEF

Sir,

That Detainee Briefing that was delivered to the boss this morning was quite helpful (particularly when coupled with the

points he made... in fact, he stressed many of your suggestions to LTG Sanchez; e.g., [redacted]

[redacted]
(b)(5)

For my part, do you think it would be possible to obtain an unclassified version of that brief? I am not sure why it's SECRET, so I don't know how hard it would be to either declass it or to scrub it free of classified stuff. It would be very helpful for me to accurately brief Iraqi reporters. Please let me know what you think. Thank you.

V/R, [redacted] (b)(6)

Maj [redacted] (b)(6) USMC
Amb. Bremer's Office
Coalition Provisional Authority
Baghdad, Iraq
APO AE 09335

[redacted] (b)(6)

UNCLASSIFIED

040131-39

0131

COALITION PROVISIONAL AUTHORITY

PRB HAS SEEN

BAGHDAD

ACTION MEMO

January 31, 2004

FOR: ADMINISTRATOR

FROM: Sandy Hodgkinson, Senior Advisor, Ministry of Human Rights

SUBJECT: Detention: Proposed Plan to improve communication with families through General Information Centers, prison accession centers and creation of OPO Detainee Unit

Background:

As you are aware, efforts are ongoing to improve communication with Iraqi families as to the whereabouts of detainees. The Ministry of Human Rights is establishing a two lawyer office at Abu Ghraib to provide general information to the Iraqi population about times and parameters for family and attorney visits, conditions of detention, and to serve as a family liaison / advocate. There is also a recognized need to improve access to and quality of the current detainee list. Chief Policy Officer, OPO, CJTF-7, MOJ, MOHR believe that creating, and updating daily, a parallel Iraqi-run Arabic database which records detainee names in Arabic, under the same number as in our English database, will ameliorate problems of transliteration and therefore improve our ability to provide information to families. We propose the following way ahead.

Plan to improve communication:

- Begin online dissemination of public detainee list.
- As many Iraqis cannot access internet today, General Information Centers (GICs) in Baghdad and all governorates will serve as point of access for information.
 - If a name does not show up on a list at the GIC, a GIC staff member can e-mail "OPO Detainee Unit" for follow-up.
 - OPO Detainee Unit is being created with O-4 Civil Affairs Officer, a staff sergeant, and 3 Iraqis (to coordinate overall effort, and track possible detainees that are not showing up in the current databases).
- Update detention list daily and ensure correct Arabic spelling:
 - Establish new desk as final step in each of eight Prison Accession Points. Iraqi will input Iraqi-Arabic version of name, number assigned in English version of database, identifying information and place of detention all in an Arabic database. This will be uploaded daily to the online list through the OPO Detainee Unit and Strategic Communications webmaster.
- Initial start-up costs and one-year budget of \$250,000 to be brought before PRB for funding out of seized funds.

UNCLASSIFIED

- o Hires additional 27 Iraqis for GICs (18 Governorates, 9 Baghdad)
- o Desk, computer, printer, chairs, and file cabinets for 8 prison accession centers
- o Hires additional 2 persons for each of 8 accession centers
- o Hires 3 Iraqis for OPO Detainee Unit

Task, Responsible Office and Timeline:

- Draft Plan and PRB submission – Ministry of Human Rights (Feb. 3)
- Selection of O-4 to lead OPO Detainee Unit – CJTF-7 SJA (Feb. 3)
- Money allocated – Ministry of Finance (Feb. 10)
- Development of IO Plan – Strategic Communications (Feb. 10)
- Procure Equipment and hire OPO Detainee Unit Iraqis -OPO (Feb 10)
- Build website link – Strategic Communications / OPO (Feb. 10)
- Governorate Teams hire new locals for GICs - GTs (Feb 15)
- Establish Iraqi desk at 8 Prison Accession Points – OPO (Feb 20)
- Test, debug and refine plan – OPO (Mar 5)
- IO Plan Roll-Out – Strategic Communications (Mar 5)
- Expand program to include family visit appointment program on-line, general information inquiries, and photographs of incoming detainees – OPO (Mar 31)

Recommended Action:

1. Respectfully request approval of placing detention list online with link to CPA webpage.

W 2/1 Approve _____ Disapprove _____ Approve with Modification

2. Respectfully request creation of OPO Detainee Unit and opening of 8 prison accession center offices. This will require \$250,000 from seized Iraqi funds to establish and run for the 1st year.

W 2/1 Approve _____ Disapprove _____ Approve with Modification

3. Respectfully request approval of expanded GIC mission to require GICs to e-mail inquiries to OPO Detainee Unit on Iraqi families that do not find their loved one on the detainee list.

W 2/1 Approve _____ Disapprove _____ Approve with Modification

COORDINATION: Chief Policy Officer, CJTF-7, MOI, MOJ, OPO, StratComm, OGC

ATTACHMENTS: None.

DISCUSSION POINTS FOR S FEB

0205

MEETING W/ JONES / CASTLE / CARPENTIER

STRATEGY FOR ADDRESSING DETENTION ISSUES

THE PROBLEM

- CJTF-7 is currently holding about 6,900 "security internees"—individuals who are in Coalition custody because they pose a security threat or are of intelligence value. Our current mechanism for releasing internees or transferring them into the civilian criminal justice system cannot keep up with the intake or reduce the backlog. Without amending current procedures, CJTF-7 could have 10,000 civilians under custody by 30 June.
- During the occupation, the legal basis for placing civilians under Coalition custody is Geneva Convention IV, which authorizes an occupying power to intern civilians when "it is necessary for imperative reasons of security." This legal basis will not apply when the occupation ends.
- There are significant challenges in responding to inquiries from Iraqis regarding the identity and location of civilians under our custody.

WAY AHEAD

- (b)(5)
-
-
- MOI conducted a comprehensive census of the civilians under custody and developed an Arabic language database. CJTF-7 and MOI are devising ways to keep this database current and make it more accessible.

(b)(5)

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(b)(5)

**32 pages exempt from
release under
FOIA exemption
(b)(3) 10 USC §130c**



COALITION PROVISIONAL AUTHORITY
BAGHDAD

0202
26

ACTION MEMO

February 25, 2004

FOR: THE ADMINISTRATOR

FROM: Office of General Counsel *EM*

SUBJECT: Meeting with Delegation from International Committee of the Red Cross (ICRC)

This memorandum provides recommended talking points for your use in an upcoming meeting with representatives of the ICRC. The Head of the ICRC Delegation in Iraq, Mr. Pierre Gassmann and Ms Eva Svoboda, Delegate for Protection in Iraq have scheduled a courtesy call with you and Ambassador Jones on Thursday February 26, 2004 at 4:00 p.m., and will formally present you with their Report on Detainees at that time. The ICRC provided an advance copy of its Report to Ambassador Jones on February 11, and CPA dispatched a cable summarizing the Report to SECDEF, SECSTATE, NCS and Geneva on February 12. Both documents are enclosed.

The CG, CJTF-7 is responsible for addressing the matters described in the Report. The SJA, CJTF-7 is establishing a working level meeting with the ICRC to discuss aspects of the Report. These meetings will be in addition to the weekly meetings already held on detention matters. Set out below are some suggested talking points for your consideration.

(b)(5)



ATTACHMENTS: Copy of ICRC Report and CPA cable summarizing its contents.

COORDINATION: CJTF-7, SJA - ok

UNCLASSIFIED

oain

(b)(6) Col

From: (b)(6) Col

Sent: Tuesday, February 17, 2004 9:40 PM

To: Bremer, Paul

Subject: Detainee Database

Sir - FYI -- If you haven't seen it, the detainee database is now available off our CPA website and in Arabic. It is not comprehensive but it is a good start. Now we need to get the word out while we improve it.

Vr (b)(6)

<http://iraqcoalition.org/arabic/prisoners/index.html>

Foreign Language

5/8/2004

Foreign Language



COALITION PROVISIONAL AUTHORITY
BAGHDAD

ACTION MEMO

February 19, 2004

FOR: THE ADMINISTRATOR
FROM: Office of General Counsel
SUBJECT: Establishment of Ministry of Human Rights

The enclosed CPA Order formally establishes the Ministry of Human Rights (MOHR), and documents its responsibilities for matters pertaining to the promotion, protection and restoration of human rights in Iraq.

The Order:

- Ratifies all acts and decisions of the interim Minister of Human Rights appointed by the Governing Council on 3 September 2003;
- Provides that the MOHR will develop policies to protect human rights in Iraq and establish programs to assist the Iraqi people in healing from the atrocities committed by the Ba'athist regime.
- Identifies the MOHR as the focal point for relations with the United Nations High Commissioner for Human Rights, the United Nations Commission on the Status of Women and other organizations promoting human rights;
- Provides for appropriate support to the MOHR, in terms of facilities and resources.

Saïem Chalabi, Deputy to the Iraqi Governing Council, has reviewed and supports the order. In addition, the Governing Council approved the establishment of an interim Minister of Human Rights pursuant to CPA Memorandum No. 6, September 2, 2003. Accordingly, the coordination requirements of UNSCR 1483 have been met.

RECOMMENDATION: That you sign the Order establishing the Ministry of Human Rights.

Approve: _____ Disapprove: _____ Approve with modification: _____

ATTACHMENTS: CPA Order No. 60

COORDINATION: Human Rights/ Sandra Hodgkinson; Audrey Glover (ok)
Governance Team/S. Carpenter (ok), Ministry of Justice/E. Schnults (ok)

COALITION PROVISIONAL AUTHORITY ORDER NUMBER 60

MINISTRY OF HUMAN RIGHTS

Pursuant to my authority as Administrator of the Coalition Provisional Authority (CPA), and under the laws and usages of war, and consistent with relevant U.N. Security Council resolutions, including Resolutions 1483 and 1511 (2003),

Recognizing that the Iraqi people have long suffered from terrible abuses of their fundamental human rights and fundamental freedoms; and that the implementation of the rule of law and a system of protection for human rights and fundamental freedoms, as well as the adoption of international standards of human rights and the revival of traditional Iraqi standards of humane treatment are vital to Iraq's social and political stability,

Furthering the purposes of the Governing Council to create a ministry responsible for addressing past human rights atrocities and safeguarding the human rights and fundamental freedoms of all persons within the territory of Iraq in the future,

Recalling CPA Memorandum Number 6, publishing the appointment of the Interim Minister of Human Rights, and

Recognizing the obligations assumed by Iraq under international human rights treaties to which it is party, including the International Covenant on Civil and Political Rights, the Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination Against Woman, and the Convention on the Rights of the Child.

I hereby promulgate the following:

**Section I
Establishment**

- 1) The Ministry of Human Rights (MOHR) is hereby established.
- 2) All acts and decisions by the interim Minister of Human Rights (hereinafter "interim Minister") in connection with this office and within his authority, together with all acts and decisions by the Ministry made within its authority from its appointment by the Governing Council on September 3, 2003, are hereby ratified. For the purposes of this ratification, the Ministry of Human Rights is deemed to have been established on September 3, 2003.

Section 2 Functions

- 1) The MOHR shall work to establish, through appropriate programs, services, initiatives, and studies, conditions conducive to the protection of human rights and fundamental freedoms in Iraq, and the prevention of human rights violations in Iraq.
- 2) The MOHR shall make formal recommendations regarding the establishment of new institutions, or the effective operation and reform of present institutions, as deemed necessary to prevent human rights violations in Iraq.
- 3) The MOHR shall establish programs to assist all the people of Iraq and Iraqi society in general in healing from the atrocities committed by the Ba'athist regime to include appropriate cooperation with the Iraqi Special tribunal or other judicial institutions. This shall include requesting and coordinating appropriate support from the CPA, Coalition Forces and non-governmental agencies.
- 4) The MOHR shall develop policies and implement programs as may be necessary to give effect to this Order.
- 5) The MOHR shall be the focal point in the transitional Iraqi administration for relations with the United Nations High Commissioner for Human Rights, the United Nations Commission on the Status of Women and other international, national, and nongovernmental organizations promoting human rights.
- 6) The MOHR shall provide advice to lawmakers on whether proposed legislation is consistent with international human rights law, including the obligations Iraq has assumed pursuant to international human rights treaties it has ratified.

Section 3 Organization

- 1) The interim Minister shall organize the MOHR into such divisions and departments as he deems necessary and appropriate. The interim Minister shall ensure, at a minimum, that programs and policies are developed and implemented to address the atrocities committed by the Ba'athist regime; that institutions are in place and operating to protect the fundamental rights of all the people of Iraq, including women and children; that these institutions receive the support required to achieve their goals; that the Iraqi people are educated and knowledgeable on fundamental human rights, including the standards and norms of international human rights law; and that Iraq takes an active role in initiating a regional and international dialogue on human rights issues.

- 2) The interim Minister shall ensure, at a minimum, that the following administrative needs of the new MOHR are accomplished: hiring and training qualified personnel; developing a finance department; appointing an Inspector General and a senior Ministry legal advisor; establishing at least one Ministry facility; and creating an information and technology management office and a press relations office.
- 3) The interim Minister may establish a consultative body comprised of representatives from other Ministries to coordinate on policies and programs relating to human rights and fundamental freedoms of all persons in Iraq and to ensure that new legislation is adopted taking into account the obligations that Iraq has assumed pursuant to the international human rights treaties it has ratified.
- 4) The interim Minister may set up such regional offices as he deems necessary and appropriate to facilitate, implement, and coordinate the work of the MOHR at the local level.

Section 4 Personnel and Administration

- 1) The MOHR may hire and employ personnel in accordance with Iraqi law, as amended by CPA Orders and Memoranda, and subject to established budget constraints. Such hiring shall be consistent with CPA Order Number 1 and any authorized implementation thereof.
- 2) Salaries of MOHR personnel shall conform to the salary structure applicable to Iraqi government employees.

Section 5 Property

In accordance with CPA Order No. 9, Management and Use of Iraqi Public Property (June 8, 2003), the MOHR shall be granted the use of properties needed to accomplish its missions.

Section 6 Budget

The MOHR shall coordinate with the Ministry of Finance regarding its budget.

Section 7
Administrative Instructions


The interim Minister, in consultation with the CPA Senior Advisor for Human Rights, may issue administrative instructions prescribing all matters necessary for carrying out the duties described under this Order. These instructions must not be inconsistent with any CPA Order, Regulation or Memorandum, or any Iraqi law or obligation assumed by Iraq under international human rights instruments to which it is party.

Section 8
Durability and Precedence

This order will remain in force unless repealed by the Administrator or superseded by legislation issued by an internationally recognized Iraq government. This order shall take precedence over all other laws and publications to the extent such other laws and publications are inconsistent.

Section 9
Entry into Force

This Order shall enter into force on the date of signature.

 2/12/04
L. Paul Bremer, Administrator
Coalition Provisional Authority

(b)(6)

0224

Col

From:

(b)(6)

Sent:

Tuesday, February 24, 2004 6:30 PM

To:

Bremer, Paul

Subject:

Detainees in Iraq

Dear Mr. Bremer:

I am writing concerning an urgent matter regarding Iraqi citizens detained by the Coalition Provisional Authority in Iraq. International human rights observers have collected the testimonies of dozens of family members and detainees that indicate serious violations of international law in the capture and treatment of prisoners by Coalition Forces. (See report by Christian Peacemaker Teams at www.cpt.org/iraq/iraq.php.) These violations include house raids using excessive and sometimes lethal force; theft and destruction of personal property; mistreatment during interrogation and detention, including torture and inadequate food, water and sanitation; and denial of access to legal representation or due process. In addition, families of detainees have virtually no access to information about their loved ones; they often do not know where they are being held or even if they are alive. The CPA admits its records on detainees are incomplete, and Iraqis captured before May 1, 2003 are not listed.

A case in point is that of (b)(6). He and a friend were traveling home from work on April 4, 2003 when they were fired upon and wounded by Coalition Forces. They were transported to hospital. The friend was later able to leave the hospital and related the incident to family members. (b)(6) family has not been able to locate him, and only through the reports of released detainees have they learned that he has been seen in three different prison camps.

I urge you to insist that the CPA: 1) Make an immediate and comprehensive effort to register all prisoners captured by U.S. forces prior to May 1, 2003; 2) Ascertain and communicate the status of (b)(6) to his family immediately; 3) Institute regular family visits and immediate access to legal representation once (b)(6) is found and registered; 4) Establish a transparent and accountable judicial process for security detainees or release them.

International human rights workers have observed how the CPA's abusive behavior toward detainees and their family has fueled anger and resentment toward Coalition Forces, leading to incidents of violence. Improving the conditions of detainees and minimizing the violation of their rights will be a first step in creating a climate for greater peace and security for Iraqis and CPA personnel alike. Thank you for your consideration of these issues.

Sincerely,

(b)(6)

(b)(6)

Personnel and Delegation Coordinator
Christian Peacemaker Teams

PO Box 6508
Chicago, IL 60680
Tel: 773-277-0253; Fax: 773-277-0291

Christian Peacemaker Teams is an initiative of the historic peace churches (Mennonites, Church of the Brethren, and Quakers) with support and membership from a range of Catholic and Protestant denominations.

0308

Executive Summary

The Transitional Administrative Law will be the Supreme Law of Iraq, during the transitional period. It will expire once a government is elected under a permanent constitution and take effect no later than December 31, 2005. The transitional period will consist of two phases:

- *Phase I:* On 30 June 2004, an Iraqi Interim Government will be vested with full sovereignty and the Coalition Provisional Authority will dissolve. This Iraqi government will be formed through a process of widespread consultation with the Iraqi people and will govern according to the Transitional Administrative Law and an annex to be issued before the beginning of the transitional period.
- *Phase II:* The Iraqi Transitional Government will take office after elections for the National Assembly. These elections will take place as soon as possible, but no later than 31 July 2005.

The Fundamental Principles of the Law include the following:

- The system of government in Iraq will be republican, federal, democratic, and pluralistic. Federalism will be based on geography, history, and the separation of powers and not on sect.
- The Iraqi Armed Forces will fall under the control of Iraq's civilian political leaders.
- Islam will be the official religion of the State and will be considered a source of legislation. Law will respect the Islamic identity of the majority of the Iraqi people and guarantee the freedom of religious belief and practice.
- Arabic and Kurdish will be the official languages of Iraq.

The people of Iraq are sovereign and free. All Iraqis are equal in their rights and without regard to gender, nationality, religion, or ethnic origin and they are equal before the law. Those unjustly deprived of their citizenship by previous Iraqi regimes will have the right to reclaim their citizenship. The Law will respect the rights of the people, including the rights:

- To freedom of thought, conscience, and expression;
- To assemble peaceably and to associate and organize freely;
- To justice: to a fair, speedy, and open trial and to the presumption of innocence;
- To vote, according to law, in free, fair, competitive and periodic elections;
- To file grievances against officials when these rights have been violated.

The Transitional Iraqi Government will contain checks, balances, and the separation of powers. The federal government will have the exclusive right to exercise sovereign power in a number of areas, including the management and control of the following:

- National security policy; independent militias shall be prohibited,
- Foreign policy, diplomatic representation, and border control,
- National fiscal, monetary and commercial policy,
- National resources; revenues from which must be spent on the needs of all of Iraq's citizens in an equitable manner.

The Transitional Legislative Authority will be vested in a National Assembly, which will help select and oversee the work of the executive authority. The National Assembly will be elected by the people of Iraq, under an electoral system designed to achieve representation of women and minorities, as well as fair representation of all of Iraq's communities.

The Transitional Executive Authority will consist of the Presidency and the Council of Ministers, including the Prime Minister.

- The Presidency Council will consist of the President and two Deputy Presidents, elected by the National Assembly as a group. The Presidency Council will represent the sovereignty of Iraq, may veto laws, and make appointments. All decisions of the Presidency Council will be taken unanimously.
- The Presidency Council will nominate the Prime Minister and, on the recommendation of the Prime Minister, will also nominate the Council of Ministers. All ministers will need to be confirmed in a vote of confidence by the National Assembly.
- The Prime Minister and the Council of Ministers will oversee the day-to-day management of the government.

The Federal Judicial Authority will be independent. A Federal Supreme Court will be established to hear judicial appeals and to ensure that all laws in Iraq are consistent with the Transitional Administrative Law. It will consist of nine members, who will be appointed by the Presidency Council upon the recommendation of an impartial Higher Juridical Council.

Federalism and local government will ensure a unified Iraq and prevent the concentration of power in the central government that enabled decades of tyranny and oppression. This will encourage the development of local authority in which all citizens are able to participate actively in political life.

- The Kurdistan Regional Government will be recognized as an official regional government of a unified Iraq, and will continue to exercise many of the functions it currently exercises. The functions of governorates elsewhere in Iraq will be permitted to form regions, and take on local government authorities.
- The governorates will have Governors and Governorate Councils, in addition to provincial and city councils as appropriate.
- All authorities not reserved to the Federal Government may be exercised as appropriate by the governorates and the Kurdistan Regional Government.
- Elections for Governorate Councils throughout Iraq, and also for the Kurdistan National Assembly will be held at the same time as elections for the National Assembly, no later than January 2005.

Iraq's security will be defended by Iraqi Armed Forces, working together with the Coalition Forces. Consistent with Iraq's sovereign status, the Iraqi Armed Forces will play a leading role as a multinational force helping to bring security to Iraq in the transitional period. The Iraqi Transitional Government will also have the authority to negotiate a security agreement with the Coalition Forces.

The National Assembly will be responsible for drafting the permanent constitution.

After consulting with the Iraqi people and completing a draft, the proposed constitution will be presented to the public in a referendum, which will occur no later than 15 October 2005. If the constitution is approved, it will be in effect on 1 July 2006.

adopted, elections for a new government under the constitution will be held, and the new g
take office no later than 31 December 2005.

0311

From: McArthur, Doman O. (SES)
Sent: Thursday, March 11, 2004 7:47 AM
To: Jones, Richard (AMB)
Subject: RE: Explanation of "Rebuttable Presumption"
Thank you.

-----Original Message-----

From: Jones, Richard (AMB)
Sent: Wednesday, March 10, 2004 10:30 PM
To: McArthur, Doman O. (SES)
Subject: RE: Explanation of "Rebuttable Presumption"

Dobie: Thanks for the explanation of rebuttable presumption. I thought it must mean something like that. Here are some thoughts on the issues on which you requested guidance:

(b)(5)

DJ

-----Original Message-----

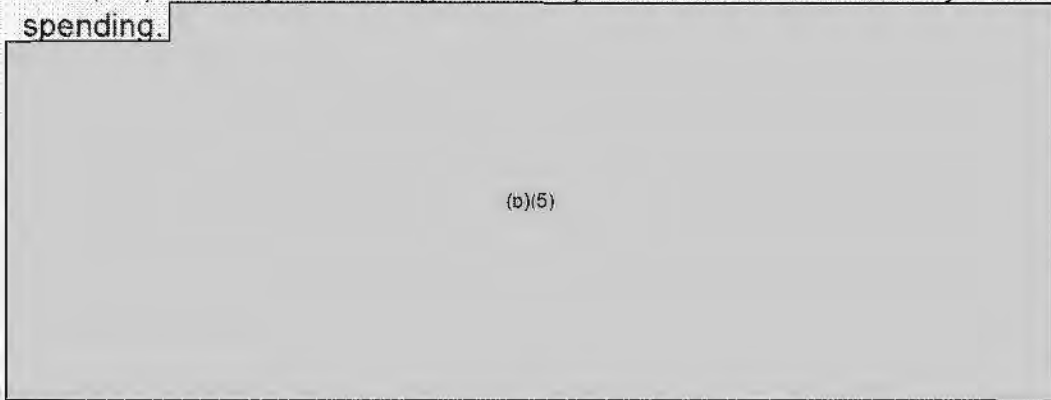
From: McArthur, Doman O. (SES)
Sent: Wednesday, March 10, 2004 6:13 PM
To: Jones, Richard (AMB)
Cc: (b)(6) (O-6)
Subject: Explanation of "Rebuttable Presumption"

Sir:
Ambassador Jones:

You asked for an explanation of the term "rebuttable presumption." It is applied by the Review and Appeal Board to cases where there may be a shadow of a doubt in the case but they do not have enough information to justify continued internment. The presumption is that the individual will be released unless the capturing unit objects and can explain why the individual should not be released.

The latest figures show that since February 17, the Review and Appeal Board has reviewed more than 1,800 cases, and has approved close to 1,600 of them for release. As of today, 991 have actually gone out the door. They are scheduled to do a big release of about 500 people on Sunday. They will have 12 busses taking people to major cities throughout the country. It is not door-to-door service, but it is a vast improvement over their past practice of simply

dropping them off on the highway about five miles from Abu Ghraib. I just got off the phone with the person who is organizing the busses. He will have a contract written on Friday for \$95,000 that will provide 19 busses per week for three months. They will re-evaluate at about the 8th week to determine whether there is a need to change the number of busses. He has taken \$20,000 from their CERP funds to keep the busses running until the contract is in place. CJTF-7 is paying for all of the transportation so far. What he would like is help getting the contract moved through rapidly so they don't run out of funds, and help replenishing part of the CERP funds they are using. The \$10,000 they are asking for is only about 1/10th of what they are spending.

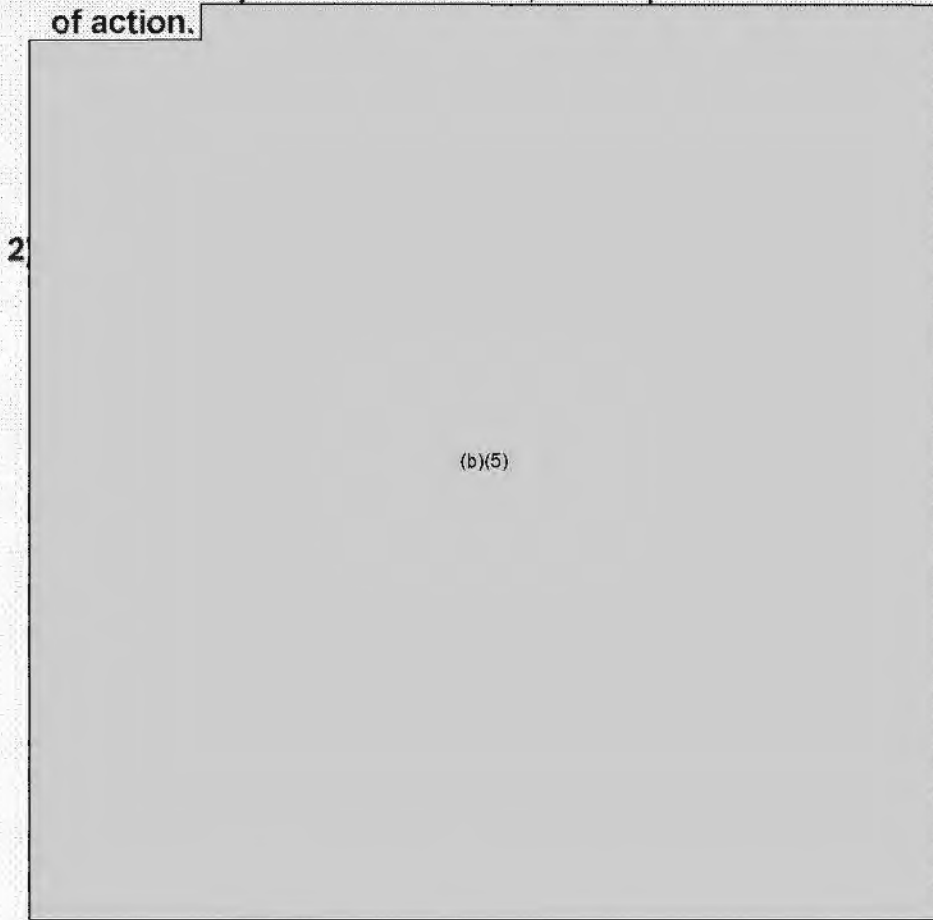


At your convenience, I would like to seek your guidance on two issues:

- 1) 

I am told that 44% of the detainees are being sent back

by one division, and there is hope that the change out of units will improve the situation, but hope is not a course of action.



2

(b)(5)

Dobie



COALITION PROVISIONAL AUTHORITY
BAGHDAD

ACTION MEMO

March 17, 2004

FOR: THE DEPUTY ADMINISTRATOR
FROM: Dobie McArthur, Senior Advisor for Detainee and Prisoner Issues
SUBJECT: Administration of the Conditional Release Program

This memo proposes a new method of administering the Conditional Release Program, including the establishment of a new, three-person Detainee Issues Cell within the Office of Provincial Outreach, and the reallocation of funds previously approved by PRB #632.

Background

The Conditional Release Program you announced in December 2003 has not been fully implemented, primarily because the number of requests overwhelmed the ability of CPA and CJTF-7 to track and act on the requests with existing resources, and without the establishment of a formal mechanism for doing so. Attachment (1) describes a proposed process for preparing, submitting, and tracking Conditional Release requests that will make it possible for CPA and CJTF-7 to implement the program as you envisioned it. In the new process, the Detainee Issues Cell in OPO will work with the Iraqi Assistance Center (IAC) to gather all the required information for Conditional Release Requests, including the full name and Internment Serial Number (ISN) of the detainee, as well as the name and contact information of the Guarantor. When this information has been gathered, the OPO Detainee Issues Cell will forward the request electronically to the Magistrate Cell in CJTF-7, which will pull the detainee's case file and place it on the next available docket to go before the Review and Appeal Board. The Detainee Issues Cell will check the results of the Review and Appeal Board daily to determine when the cases it is tracking have been acted upon. The MPs will conduct releases on scheduled days (Sunday, Tuesday and Thursday), and Review and Appeal Board results will be tied to the nearest scheduled release date that is at least seven days past the date of the Board. Scheduling releases in this manner precludes the need for extensive coordination with Guarantors -- they will simply be informed of the scheduled release date and will arrive to pick up the individual for whom they are acting as Guarantor. If the Guarantor is unable to pick up the individual on the scheduled release date, the individual will be provided transportation on the regularly scheduled busses that are carrying other detainees to the regional center closest to their home.

Most of the elements to make this program work are in place now or will be in place shortly. Many of them are recent changes of policy or practice without which this program would not be possible. For example, CJTF-7 and the IAC recently completed a census at Abu Ghraib, and the Arabic language list -- complete with all five names, date of birth, place of birth, and home address -- is now available on the Internet. The list is being updated, and procedures

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have been put in place by CJTF-7 to keep the list up to date. The list serves as a critical tool in making sure that we are able to process the correct person for release. The Office of Provincial Outreach will also play a critical role in the process by acting as liaisons with the Guarantors.

Two critical elements to make the new system work are not yet in place. The first requirement is the placement of two additional personnel within the Detainee Issues Cell to track and process Conditional Release Requests. The second critical element is the reallocation of the \$250,000 provided by PRB #632 as described in attachment (3). Among the key items on that list are additional local Iraqi cell phones so we can communicate with Guarantors more easily, and new scanners so signed documents can be sent over the Internet to all interested parties rather than hand carried.

Finally, it should be noted that during the first 30 days it will not be practical to get the detainees into the hands of particular Guarantors at the gates of Abu Ghraib, and the focus will be on simply getting them home. When the system is fully implemented, we will be able to coordinate releases into the hands of individual Guarantors.

RECOMMENDATION (1): Authorize the implementation of the Conditional Release Program, as described in Attachment (1)

Approve: AB Disapprove: _____ Approve with modification: _____

RECOMMENDATION (2): Authorize the establishment of the Detainee Issues Cell within the Office of Provincial Outreach, consisting of a Senior Advisor for Detainee and Prisoner Issues (Dobie McArthur), plus two new billets, as described in Attachment (2)

Approve: AB Disapprove: _____ Approve with modification: _____

RECOMMENDATION (3): Authorize the reallocation of the \$250,000 provided in PRB #632, as described in Attachment (3)

Approve: AB Disapprove: _____ Approve with modification: AB

- ATTACHMENTS: (1) PROPOSAL FOR ADMINISTERING THE CONDITIONAL RELEASE PROGRAM
 (2) DESCRIPTION OF ADDITIONAL HIRES FOR OPO DETAINEE ISSUES CELL
 (3) REALLOCATION OF \$250,000 PROVIDED BY PRB #632

COORDINATION: CJTF-7 SJA/Colonel (b)(6)
 CJTF-7 PMO/LTC (b)(6)
 OPO/Mr. Ron Schleicher
 CPA OGC/Mr. Eric Pelofsky
 MOHR/Mrs. Audrey Glover
 MOJ/Mr. Ed Schmults

(b)(5)

(b)(5)

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Attachment 1 - Description of Conditional Release Program Process

Subj: PROPOSAL FOR ADMINISTERING THE CONDITIONAL RELEASE PROGRAM

This memo recommends procedures for administering the Conditional Release Program through which Guarantors may make requests for the release of qualified individuals in Coalition custody. Upon approval by the Administrator, there will be an immediately available limited capability to handle Conditional Release requests, and the process can be fully implemented within 30 days of receiving the full complement of necessary staff and equipment.

Step 1 - Receipt of Conditional Release Request/Input to Review & Appeal Board

Conditional Release requests come into the system from several sources: those made directly to the Administrator; those made directly to CG CJTF-7; requests that come into the Iraqi Assistance Center (IAC), and requests made either directly or by referral to the CPA Senior Advisor for Detainee and Prisoner Issues. Assisted by the IAC, the Office of Provincial Outreach (OPO), and CJTF-7 representative(s), the CPA Senior Advisor for Detainee and Prisoner Issues will:

- 1) Manage the Detainee Issues Cell within OPO
- 2) Establish centralized tracking of every Conditional Release request referred to the OPO Detainee Issues cell, regardless of source
- 3) Manage the flow of Conditional Release requests to the CJTF-7 Magistrate Cell to ensure appropriate balance between sources, with capability to respond to urgent requests by senior leadership and humanitarian cases from any source
- 4) Through Case Managers, provide liaison with the Guarantor. The Case Manager is the contact person from the agency/entity to whom the Conditional Release request was originally made - e.g. one of the officers in OPO who got a request at a meeting with a sheikh, or the officer designated by CG CJTF-7 to serve as the point of contact for relaying information and results back to the Guarantor.
- 5) Through Case Workers in the OPO Detainee Issues Cell and at the IAC, coordinate with CJTF-7 and the Guarantor to obtain sufficient information to process each Conditional Release request (see step 5 below). The Case Worker is the person within IAC or OPO who does the initial research to create the spreadsheet containing the required information, and then tracks that case through the process, conveying necessary information to the Case Manager for further relay to the Guarantor.
- 6) **Using the ISN of the detained individual as the filename**, create an excel spreadsheet for each Conditional Release request containing the following information
 - a. Name of Guarantor
 - b. Contact information for Guarantor
 - c. Name and contact information for the Case Manager
 - d. Name and contact information for the Case Worker

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Attachment 1 – Description of Conditional Release Program Process

- e. Full name and ISN for detainee to be released
- f. Location of detained individual
- g. Signed hard copy of the conditional release request form (This will be scanned in and embedded in the excel spreadsheet which serves as an electronic request form.)

The output from Step 1 will be twofold: 1) an Excel spreadsheet (named by the ISN of the detainee) for each request, and 2) an entry into the Master Conditional Release Tracking Worksheet for each request. **Once the process described herein is fully implemented, the Conditional Release request will not be forwarded until sufficient information has been obtained to create the file described above.** The goal at the 30-day mark is an individual file for each request. The reason for having an individual file rather than lists is to allow different outcomes for each case, i.e., some may go before the Review and Appeal Board one day, some may go another day; certain cases may get approved, while other individuals may remain interned. If all these cases are on the same list, it will be impossible to manage. If the cases are treated individually, tracking them is easier.

Step 2 – The Board Process

When the request is in proper order, the OPO Detainee Issues Cell will forward the Conditional Release Request, in the form of an Excel Spreadsheet, to the CJTF-7 Magistrate's Cell. **The Magistrate Cell will find the detainee's record and put the case on the next available Review and Appeal Board docket. If this can be done within 2-3 days, no further action is required by the Magistrate Cell. The Detainee Issues Cell will review the daily results of the Review and Appeal Board to find the results applicable to each case. However, if the Magistrate Cell cannot find the record and place it on the Review and Appeal Board docket within 3 days, the OPO Detainee Issues Cell will be notified. This can be accomplished by returning an appropriately annotated Conditional Release request spreadsheet to the OPO Detainee Issues Cell, and by following up in a similar fashion when the record is found.**

Assuming that the record is found and placed on the next available docket, the case should go before the board within 7-8 days of receipt by the Magistrate Cell. This will allow processing time to prepare the docket, as well as for MI and CID review. The OPO Detainee Issues Cell will monitor the release lists daily to see which of cases have been acted upon, and will take appropriate action. For example, if the individuals are to be released, the Detainee Issues Cell will coordinate with the Guarantor to ensure the Guarantor is present to pick up the detainee on the release date (see below for description of this process). If the individual is returned to internment, placed on MI hold, or referred to CCCI, the Case Manager will be notified by the Detainee Issues Cell, and will communicate that fact to the Guarantor. To facilitate this tracking, it would be helpful if the Review and Appeal Board would signify on the release list those cases that are associated with a Conditional Release request.

Attachment 1 – Description of Conditional Release Program Process

Please note that at this point, the case has been all the way through the Review and Appeal Board and the only two things CJTF-7 is being asked to do that are different from current operations are that: 1) the Magistrate Cell finds the file belonging to a particular individual, based on that person's ISN, and gets it on the docket within 2-3 days, and 2) the Review and Appeal Board identifies conditional releases in its reporting of results to facilitate case tracking.

Step 3 – Post Review and Appeal Board Action

The OPO Detainee Issues Cell will review the release list created by the Review and Appeal Board each day to determine which Conditional Release cases have been acted upon. If the request for release has been denied, the Detainee Issues Cell will inform the Case Manager who will, in turn, inform the Guarantor.

Specific Review and Appeal Board days will be tied to specific release dates, to the maximum extent possible. (There will, of course, be exceptions, but the pattern described below will be the norm). The Review and Appeal Board will meet daily. Scheduled releases will occur on Sundays, Tuesdays, and Thursdays.

Th	F	S	Su	M	T	W	Th	F	S	Su Rel	M	T Rel	W	Th Rel	F	S	Su Rel
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18
										1,2,3		4,5		6,7			8,9,10

With releases scheduled on the first release date that is at least 7 days after the Review and Appeal Board acts, the amount of coordination required to accomplish the hand off of released detainees to their Guarantors will be minimized. The OPO Detainee Issues Cell will check the Review and Appeal Board lists daily to see who is cleared for release. The Case Workers at IAC will contact the Guarantors to notify them of which detainees will be released on which days. This notification will occur within the mandatory 7-day waiting period, so there remains the possibility that an individual scheduled for release will be held over as a result of a veto. In such instances, the Case Manager will work with the Guarantor to address his concerns.

On release days, individuals being released under the Conditional Release program will be processed first so they can be handed off to their Guarantors. The Iraqi Ministry of Human Rights (MOHR) has tentatively agreed to provide a liaison person to come to Abu Ghraib each release day to facilitate the linking up of released detainees and their Guarantors. This relieves the MPs of the burden of identifying the Guarantors out of the crowd, and will ensure that the correct detainee gets into the hands of the correct Guarantor. The OPO Detainee Issues Cell will provide the MOHR liaison with a list of detainees scheduled to be released on that day, contact information for the Guarantors, and a means of communication to effect the required coordination.

Attachment 1 – Description of Conditional Release Program Process

Among the likely pitfalls that must be considered:

- 1) The Guarantor does not show or does not like the release date. Since the release date will be known at least 7 days in advance, it will be necessary to make clear to the Guarantor that if he does not show, the detainee will be released without the Guarantor present. To make this work, Conditional Releases will be processed first on scheduled release days. If their Guarantor does not show up at the appointed time, the regularly scheduled busses become the default transportation plan.
- 2) The Detainee does not get released on the expected date. Since it is possible that an objection will be raised to the release of a specific individual during the 7-day waiting period, it is to be expected that, upon occasion, the Guarantor will be present, expecting someone to walk out the door, and that person is not going to show. We will have to deal with that in the detainee section. The only way to do that is to have someone from the OPO detainee section present each release day to gather information and sort out the details later.

Critical Requirements

The following is a list of critical requirements for this system to work. Changes or modifications to current procedures are annotated in bold:

- 1) The Arabic version of the detainee list must be available to the Case Workers in the IAC, and must be relatively up to date (this should be in place by March 20)
- 2) **The Magistrate Cell will be able to find a case file and get it on a docket within 2-3 days of receipt of the request**
- 3) **The Review and Appeal Board will annotate conditional releases**
- 4) **To assist Case Workers in preparing Conditional Release request forms, additional information about detainees must be updated regularly and made available in unclassified form to the Case Workers in the IAC;**
 - a. The Magistrate Cell's database,
 - b. The Not In Camp Roster, and
 - c. The Criminal Detainee Roster
- 5) Releases must occur on scheduled days, or at least days that are known in advance to the OPO Detainee Issues Cell so that Guarantors can be contacted and told when to pick up the released detainees.
- 6) MOHR will provide liaison on release days to facilitate transfer of detainees to their Guarantors

(b)(5)

Additional Resources

The OPO Detainee Issues Cell will require two additional staff assistants to input data to the Master Conditional Release Request Tracking Worksheet, to review lists from the Review and Appeal Board, and to coordinate with Case Managers and Case Workers regarding the results of the Review and Appeal process.

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Attachment 2- Personnel Requirements for Conditional Release Program

Personnel Requirements for Administration of the Conditional Release Program

A new entity, the Detainee Issues Cell, is being established within the Office of Provisional Outreach to administer the Conditional Release Program. The Cell will consist of three personnel:

CPA Senior Advisor for Detainee and Prisoner Issues (1)

(b)(5),(b)(6)

- Through the Director of the Office of Provisional Outreach and the Deputy Administrator/Chief Policy Officer, responsible to the Administrator for all detainee and prisoner related issues that are not the direct responsibility of another Senior Advisor
- Overall coordinator for the Conditional Release Program.
- Supervises the operation of the Detainee Issues Cell within OPO.
- Serves as CPA's primary point of contact on all queries related to detainees, particularly with regard to requests for release of particular detainees.
- Acts as liaison with CJTF-7, particularly SJA and PMO staff sections, on detainee and prisoner issues
- Acts as liaison with other CPA Ministries, particularly MOJ, MOI, and MOHR, on detainee and prisoner issues

Detainee Issues Specialist (2)

(b)(5)

- Under the supervision of the CPA Senior Advisor for Detainee and Prisoner Issues, coordinates Conditional Release requests
- Works with CPA, CJTF-7, and the Iraqi Assistance Center to ensure that electronically filed Conditional Release requests contain accurate and complete information
- Tracks Conditional Release requests through CJTF-7 system, based on information provided by CJTF-7 regarding the status of individual requests
- Coordinates with Conditional Release Guarantors and Ministry of Human Rights liaison to ensure detainees released under the Conditional Release Program are linked up with Guarantors upon release

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Page 1 of 1

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Attachment 3 – Reallocation of \$250,000 provided by PDB #632

Explanation of Request for Reallocation of \$250,000 Provided by PDB #632

PDB #632 provided funding for purposes described in a January 31, 2004, Action Memo prepared by Sandy Hodgkinson, former Senior Advisor for the MOHR. The purpose of that Action Memo was to facilitate communications with families of Security Internees. Many of the items covered in the Action Memo have already been accomplished, mostly through internal policy changes within CJTF-7 and through the actions of the Iraqi Assistance Center. The purpose of this request for reallocation of funds is to accomplish the remaining unfinished business from the Action Memo and to implement the Conditional Release Program.

The bulk of the funding will be spent in almost an identical fashion to what was anticipated in the original action memo. The key exceptions are as follows:

- 1) The locus of effort in this spending plan is on Baghdad, specifically on improving the administrative and information technology capabilities of the existing GICs. The purchase of generators to enable GICs to operate throughout the day, rather than having to close down when the electricity shuts off, will greatly improve productivity.
- 2) The addition of funds for local cell phones – so Iraqis can talk directly to the IAC and the Detainee Issues Cell without having to make an international call. The amount set aside is \$10,000, but the actual expenses could be smaller. We anticipate purchasing 6-10 cell phones and providing a specific number of minutes per month for each. The allocated amount should be sufficient to cover this expense.
- 3) Funding is set aside for hiring additional personnel for regional GICs, but those hires will come at a later date than anticipated in the original action memo. Some of the funds for personnel are being reallocated to pay bonuses and overtime for the existing Iraqi workers.

The detailed breakout of the proposed funding reallocation is on the second page of this attachment.

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Page 1 of 2

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Attachment 3 – Reallocation of \$250,000 provided by PDB #632

Conditional Release Program
Funding Requirements

Item	Description	Unit	Quantity	Unit Costs	Subtotals	# GICs	Total Cost
desks	standard (140x80X73)	Unit	1	\$176.00	\$176.00	10	\$1,760.00
chairs	desk	Unit	1	\$140.00	\$140.00	10	\$1,400.00
chairs	visitor	Unit	20	\$64.00	\$1,280.00	9	\$11,520.00
file cabinets	4-drawer (40x52x132h)	Unit	2	\$170.00	\$340.00	10	\$3,400.00
book shelves	186x33x207h	Unit	1	\$283.00	\$283.00	10	\$2,830.00
refrigerator	small	Unit	1	\$80.00	\$80.00	10	\$800.00
scanner	HP PSC 1210 scanner	Unit	1	\$500.00	\$500.00	11	\$5,500.00
battery backup	UPS battery backup	Unit	1	\$500.00	\$500.00	10	\$5,000.00
a/c unit	Wall unit	Unit	2	\$500.00	\$1,000.00	10	\$10,000.00
10KW generator	10KW generator	Unit	1	\$3,500.00	\$3,500.00	9	\$31,500.00
laptop	Panasonic toughbook CP50 Personal Computer	Unit	2	\$1,200.00	\$2,400.00	1	\$2,400.00
computer	Pentium III 1100 Mhz@ OBG, RAM 128, Office 2000, Arabic Keyboard	Unit	3	\$918.00	\$2,754.00	10	\$27,540.00
printer (laser)	Xerox Laser 3110, 10 ppm, 8 MB, A4, A5	Unit	1	\$505.00	\$505.00	10	\$5,050.00
photo copier	Xerox WC 321	Unit	1	\$2,960.00	\$2,960.00	11	\$32,560.00
Telecommunications	Local cell phones						\$10,000.00
Personnel	Iraqi local hires for regional GICs, when established and overtime/bonus for existing staff						\$78,740.00
Bus Transportation	Supplement CJTF-7 efforts to ensure detainees have transportation home						\$20,000.00

\$16,418.00

\$250,000.00

Point of Contact is (b)(6) Manager, Iraqi Assistance Center Baghdad
Email (b)(6)

Military Point of Contact is MA (b)(6) IAC-
B
Email (b)(6)
(b)(6)



COALITION PROVISIONAL AUTHORITY
BAGHDAD

0322

UNCLASSIFIED

INFORMATION MEMO

March 22, 2004

FOR: THE ADMINISTRATOR
FROM: Dobie McArthur, Senior Advisor for Detainee and Prisoner Issues
SUBJECT: Analysis of Detention Operations

You requested input on detainee operations. Because most of the items discussed are within the purview of CJTF-7, this is an information memo rather than an action memo. It does, however, address areas that you may wish to discuss with LTG Sanchez. The recommendations are premised upon the following assumptions:

(b)(5)

These recommendations are offered to resolve problems that are occurring alongside some very positive developments on the detainee front:

- The Arabic language version of the detainee roster has been available on the CPA website since February 16. Colonel (b)(6) and the staff of the Iraqi Assistance Center (IAC, directed by Ms (b)(6) and the General Information Centers (GIC) completed this census in January. This information has been very helpful in providing information to Iraqi families about detainees.
- A complete new census of the population at Abu Ghraib was recently conducted, and procedures are now in place to update the list weekly. LTC (b)(6) and the staff of the IAC and the GICs completed the new census, and CJTF-7 has added linguists to the detainee induction process to capture the information for the Arabic lists as part of routine in-processing.
- At the direction of Mr. Terry Bartlett, Senior Advisor for Prisons within the Ministry of Justice, and with the cooperation of CJTF-7, a census of criminal detainees has also been conducted, and the results will be made available publicly. This will make it possible to track individuals who came into Coalition custody as a Security Internee but were

JAMES DIRECTS
REWORK AS ACTION
MEMO

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reclassified as a Criminal Detainee, or who were criminals from the start but were under Coalition control.

- The Ministry of Justice has been reviewing the cases of individuals who were reclassified from Security Internee to Criminal Detainee, and has been releasing those against whom the evidence is insufficient to support a trial, either because the file is incomplete or witnesses are not available.
- The Reception Trailer at Abu Ghraib has been in operation since early March, and is able to handle about 100 requests for information per day. In more than 95% of all cases, the staff of the reception trailer has been able to identify and confirm the status of the individual about whom the request was made. CPT (b)(6) worked tirelessly to get the reception trailer in place and to train the staff to respond to detainee inquiries.
- Detainees are now being transported closer to their home towns. They do not get door-to-door service, but CJTF-7, and particularly LTC (b)(6) has made extraordinary efforts to get released detainees at least close to their home town.
- CJTF-7 is now providing detainees a \$10 stipend upon their release.
- The recently established standing Review and Appeal Board has been considering almost 100 cases per day since February 17th, and has cleared more than 2,000 detainees for release. Without their efforts, the detainee population would be substantially larger than it is today.

Recommendation 1 - (b)(5)

The first of the four principal objectives or "core foundations" listed in the CPA transition plan is that of establishing a secure and safe environment in Iraq.

(b)(5)

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Page 2 of 7

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(b)(5)

The following analysis shows that the Coalition is, in fact, continuing to capture more than it releases.

Since the first of the year, CJTF-7 has been capturing an average of 80 detainees per day. In the early part of the year, the number of cases going before the Review and Appeal Board was not sufficient to keep pace, and the detainee population was rising. On February 15, LTG Sanchez authorized the establishment of a standing Review and Appeal Board to increase the number of cases reviewed. Slightly less than 100 cases per day (2672) went before the board from February 17 through March 18. Of that number, almost 80 % were recommended for release (2140/2672), which equates to about 70 per day. The cases that went before the board were broadly representative in terms of the units involved in the captures and the length of time that the individuals had been in detention.

(b)(5)

(b)(5)

to address the problem. One of them may actually make it worse. The first procedural change, included in the February 15 package of changes ordered by LTG Sanchez, is to empower magistrates at the division level to release individuals against whom a good case cannot be made.

(b)(5)

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Page 3 of 7

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(b)(5)

The second, more recent, change is to allow the Forward Operating Base (FOB) commander at Abu Ghraib to return to the divisions those detainees whose case files do not at least make a *prima facie* case for holding the individual.

(b)(5)

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Page 4 of 7

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(b)(5)



The following steps would help to harmonize detention tactics and strategy:

1)

(b)(5)



2)

3)

4)

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(b)(5)



- (b)(5) data must be manually keyed into several tracking systems, spread across three computer systems (NIPR, SIPR, and CENTRIX). In one recent 18 day period, "administrative correction for reporting error" of the daily loses and gains in the detainee population approached 20 percent, making efforts to ascertain the number of releases and new-inductions next to impossible.
- Maintaining unclassified information on classified systems reduces the number of people who can have access to it. This is inefficient as it concentrates the workload on individuals who have security clearances, when much of the work (tracking lists of detainees to determine who is coming up for release, for example) could more easily and effectively be performed by administrative staff, including Iraqi nationals without security clearances.
- Data latency between the systems means that decisions are often made on incomplete and inaccurate data. This increases the workload on an already overloaded administrative staff, which must frequently spend inordinate amounts of time tracking updated information that should be readily available.

(b)(5)



(b)(5)





COALITION PROVISIONAL AUTHORITY

BAGHDAD

040405-10

0403

ACTION MEMO

April 3, 2004

FOR: THE ADMINISTRATOR
 THRU: THE DEPUTY ADMINISTRATOR
 FROM: Dobie McArthur, Senior Advisor for Detainee and Prisoner Issues
 SUBJECT: Detention Operations Recommendations

(b)(5)

RECOMMENDATION (1):

(b)(5)

Approve: _____ Disapprove: _____ Approve with modification: _____

RECOMMENDATION (2):

(b)(5)

Approve: _____ Disapprove: _____ Approve with modification: _____

RECOMMENDATION (3):

(b)(5)

Approve: _____ Disapprove: _____ Approve with modification: _____

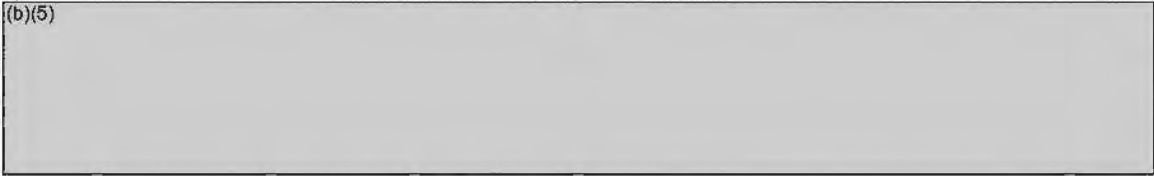
RECOMMENDATION (4):

(b)(5)

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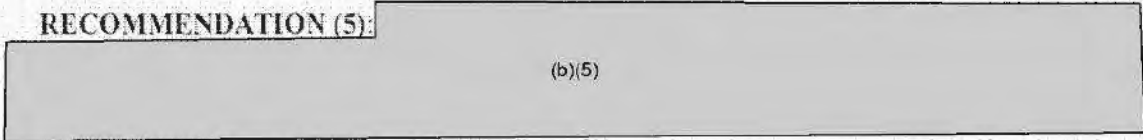
(b)(5)

(b)(5)



Approve: _____ Disapprove: _____ Approve with modification: _____

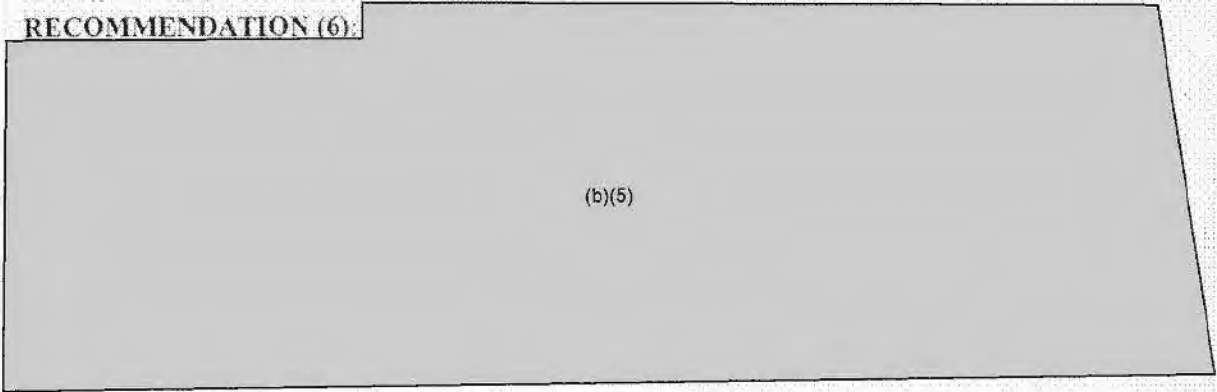
RECOMMENDATION (5):



(b)(5)

Approve: _____ Disapprove: _____ Approve with modification: _____

RECOMMENDATION (6):



(b)(5)

Approve: _____ Disapprove: _____ Approve with modification: _____

ATTACHMENTS: (1) List of Positive Developments on Detainee Issues
(2) Detailed Analysis of Detention Operations

COORDINATION: None

COPY TO: Dr. (b)(6) CJTF-7 Pol/Mil Advisor

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Attachment 1 – List of Positive Developments on Detainee Issues

- A Major General has been designated as Deputy Commanding General for Detention Operations, and is due to arrive in country around April 15. (Details are yet to be confirmed, but this will be a positive development when it happens.)
- The Arabic language version of the detainee roster has been available on the CPA website since February 16. Colonel (b)(6) and the staff of the Iraqi Assistance Center (IAC, directed by Ms. (b)(6) and the General Information Centers (GIC) completed this census in January. This information has been very helpful in providing information to Iraqi families about detainees.
- A complete new census of the population at Abu Ghraib was recently conducted, and procedures are now in place to update the list weekly. LTC (b)(6) and the staff of the IAC and the GICs completed the new census, and CJTF-7 has added linguists to the detainee induction process to capture the information for the Arabic lists as part of routine in-processing.
- At the direction of Mr. Terry Bartlett, Senior Advisor for Prisons within the Ministry of Justice, and with the cooperation of CJTF-7, a census of criminal detainees has also been conducted, and the results will be made available publicly. This will make it possible to track individuals who came into Coalition custody as a Security Internee but were reclassified as a Criminal Detainee, or who were criminals from the start but were under Coalition control.
- The Ministry of Justice has been reviewing the cases of individuals who were reclassified from Security Internee to Criminal Detainee, and has been releasing those against whom the evidence is insufficient to support a trial, either because the file is incomplete or witnesses are not available.
- The Reception Trailer at Abu Ghraib has been in operation since early March, and is able to handle about 100 requests for information per day. In more than 95% of all cases, the staff of the reception trailer has been able to identify and confirm the status of the individual about whom the request was made. CPT (b)(6) worked tirelessly to get the reception trailer in place and to train the staff to respond to detainee inquiries.
- Detainees are now being transported closer to their home towns. They do not get door-to-door service, but CJTF-7, and particularly LTC (b)(6) has made extraordinary efforts to get released detainees at least close to their home town.
- CJTF-7 is now providing detainees a \$10 stipend upon their release.
- The recently established standing Review and Appeal Board has been considering almost 100 cases per day since February 17th, and has cleared more than 2,600 detainees for release. Without their efforts, the detainee population would be substantially larger than it is today.

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Attachment 2 – Detailed Analysis of Detention Operations

The analysis and recommendations in this section are premised upon the following assumptions:

- (b)(5)
-

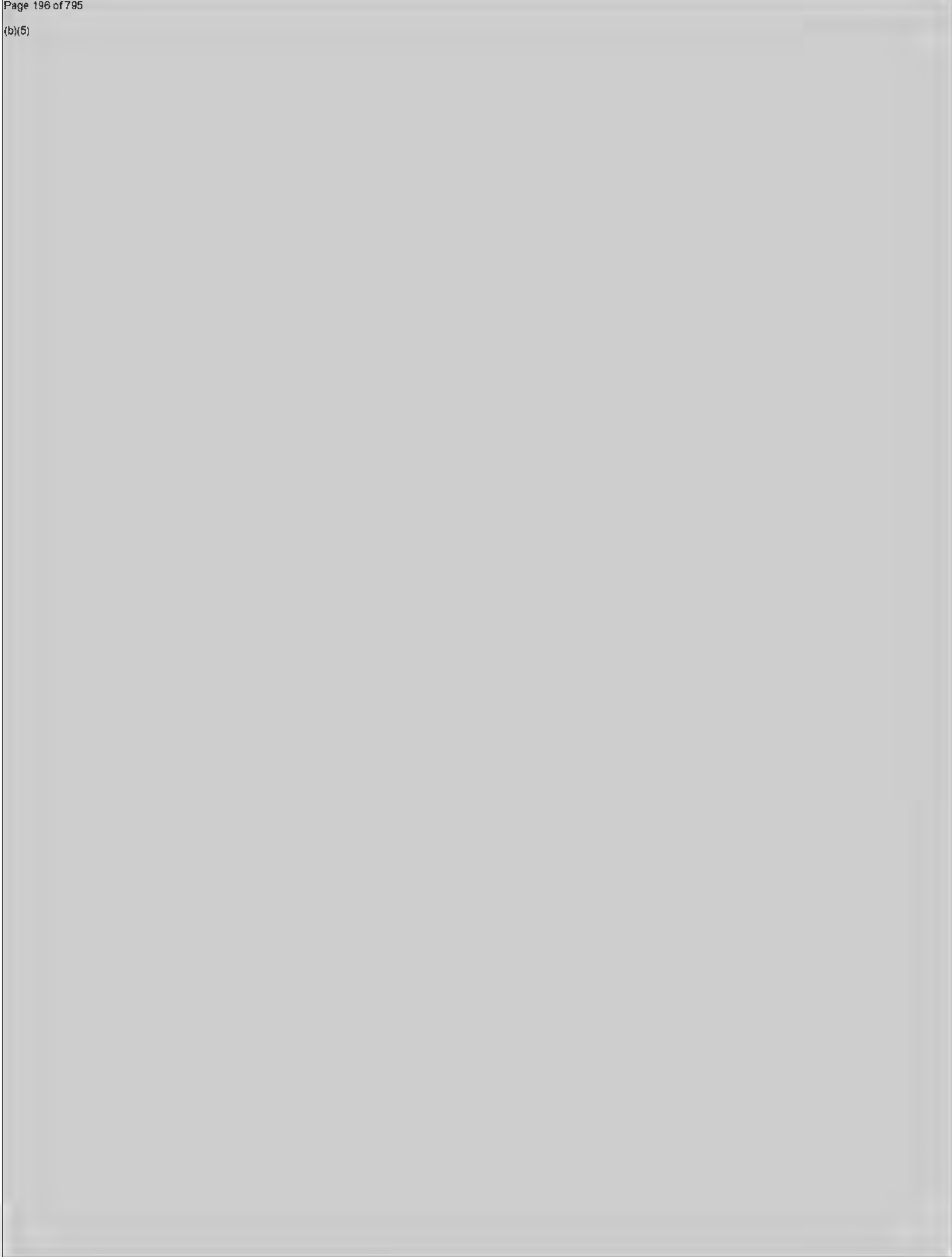
(b)(5)

Military strategy speaks of finding the enemy's center of gravity. In Iraq, as in all insurgencies, the center of gravity for both sides is the support of the population.

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(b)(5)



- (b)(5) as data must be manually keyed into several tracking systems, spread across three computer systems (NIPR, SIPR, and CENTRIX). In one recent 18 day period, "administrative correction for reporting error" of the daily loses and gains in the detainee population approached 20 percent, making efforts to ascertain the number of releases and new-inductions next to impossible.
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- Data latency between the systems means that decisions are often made on incomplete and inaccurate data. This increases the workload on an already overloaded administrative staff, which must frequently spend inordinate amounts of time tracking updated information that should be readily available.

(b)(5)



(b)(5)



0415



COALITION PROVISIONAL AUTHORITY
BAGHDAD

040415-29

TO: COMMANDING GENERAL, COMBINED JOINT TASK FORCE SEVEN

FROM: L. Paul Bremer III
Administrator

SUBJECT: (b)(5)

DATE: 15 April 2004

(b)(5)

A large rectangular area of the document is completely redacted with a solid grey fill.

ATTACHMENTS:

1. (b)(5)
 - 2.
 - 3.
 - 4.
 - 5.
-
- A rectangular area of the document is redacted with a solid grey fill, covering the details of the attachments listed.

CC: CDRUSCENTCOM

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**4 pages exempt from
release under FOIA
exemption (b)(5)**



COALITION PROVISIONAL AUTHORITY

BAGHDAD

17 February 2004


Barbara G. Fass
Brigadier General (PA), U.S. Army
C2
Combined Joint Task Force - Seven, IRAQ

Dear General Fass:

I am requesting the release of (b)(6) detained on or about October 10, 2003 in the Al Anbar Province. I have received a request from (b)(6) (b)(6) a leading Sunni cleric, who has agreed to be the guarantor for (b)(6). Unless the Coalition has specific information that can lead to the trial and conviction of (b)(6) I would appreciate your assistance in coordinating his release. If he can be released, we would seek to leverage our gesture in ways that enhance force security and further our goals of spurring greater Sunni Arab political participation. (b)(6) is a prominent cleric in the Al Anbar Province and his release will enhance the efforts of Coalition Forces in the Al Anbar Province.

My point of contact for this action is Colonel (b)(6) at cell (b)(6) (b)(6)

Respectfully yours,


Ronald L. Schlicher
Director
Office of Provincial Outreach

cc: AMB Brenner
AMB Jones



COALITION PROVISIONAL AUTHORITY

BAGHDAD

17 February 2004

Barbara G. Fast
Brigadier General (P), U.S. Army
O2
Combined Joint Task Force - Seven, IRAQ

Dear General Fast:

I am requesting the release of (b)(6) detained in late December 2003 in Mosul. I have received numerous requests from community leaders throughout Iraq to secure the release of (b)(6). I would appreciate a review of (b)(6) charges and the opportunity to discuss with you possible condition of his release. If he is a candidate for release, I would seek to leverage our gesture on ways that aim at enhancing force security and spurring greater Sunni Arab cooperation in support of our security and political goals.

(b)(6) My point of contact for this action is Colonel (b)(6) at cell (b)(6)

Respectfully yours,

Ronald L. Schlicher
Director
Office of Provincial Outreach

cc: AMB Bremer
AMB Jones



COALITION PROVISIONAL AUTHORITY
BAGHDAD

17 February 2003

Barbara G. Fast
Brigadier General (P), U.S. Army
C2
Combined Joint Task Force - Seven, IRAQ

Dear General Fast:

(b)(6) I am requesting information on the charges against (b)(6) detained on or about October 10, 2003 in the Al-Anbar Province. I have received a request from (b)(6) who is perhaps the leading Sunni cleric in Iraq, who seems to be the guarantor for (b)(6). I ask that we review the charges against (b)(6) to determine if he is a candidate for release. If he is a candidate for release, CPA would seek to leverage his release and (b)(6) sponsorship of him in ways that would aim at the enhancement of force security in the field, and encouragement of Sunni Arab participation in the political process.

(b)(6) My point of contact for this action is Colonel (b)(6) at cell (b)(6)

Respectfully yours,

Ronald L. Schlicher
Ronald L. Schlicher
Director
Office of Provincial Outreach

cc: AMB Bremer
AMB Jones


0461

(b)(6)

Col

From: L. Paul Bremer
Sent: Thursday, April 01, 2004 6:46 AM
To: Castle, Edwin S BG OTJAG
Cc: Jones, Richard (AMB); Oster, Jeffrey W (O-9)
Subject: detainees

(b)(5),(b)(6)



LPB

5/9/2004

0417

(b)(6) Col

From: (b)(6) Col
Sent: Saturday, April 17, 2004 7:22 AM
To: L. Paul Bremer
Subject: RE: CCCI

Sir --

- JTF is still working on number of detainees ready for release.
- Sanitized intel you requested on foreign fighters and the intel reports Gen Sanchez referred to should be here this morning.
- Again, Gen Sanchez has a commander's conference today, so you might consider what you'd like him to pass along or ask on behalf of CPA.

vr (b)(6)

-----Original Message-----

From: L. Paul Bremer
Sent: Saturday, April 17, 2004 7:14 AM
To: (b)(6) Col
Cc: (b)(6) (O-6); Jones, Richard (AMB)
Subject: RE: CCCI

(b)(6)

Thanks. Do get (b)(6) input and then have him get with (b)(6)

Where are we now on releasing the 2700 apparently cleared for release?

-----Original Message-----

From: (b)(6) Col
Sent: Saturday, April 17, 2004 7:11 AM
To: L. Paul Bremer
Cc: (b)(6) (O-6); Jones, Richard (AMB)
Subject: CCCI

Sir - You ask how to boost CCCI production. Here are some thoughts after speaking to a number of folks responsible for various parts of the process. I have not been able to talk to Ed Schmults yet.

- (b)(5)

(b)(5)

- Witness Delivery -- Same thing. Note: Efforts are underway to track down witnesses who have left the theater to prosecute more promising cases via SVTC.
- Case Development -- To forward cases, C-9 vets prisoner records, selects promising cases, then deploys into the field to depose coalition members who are potential witnesses (to see if there is really a case). There are 10 four-person teams that do this country-wide.

(b)(5)

(b)(5)

This is all out of my lane, so these are preliminary thoughts. After I discuss with (b)(6) I'll recommend that he get with (b)(6) and work out a way ahead.

vr (b)(6)

**L. Paul Bremer, III
Administrator
Coalition Provisional Authority
Turning the Page
Baghdad
23 April 2004**

Good Evening

Iraq faces a choice.

You could take the path which leads to a new Iraq, a peaceful, democratic Iraq, an Iraq of political freedom and economic opportunity, an Iraq where the majority is not Sunni, Shia, Arab, Kurd or Turcoman, but Iraqi. This is the path to a bright and hopeful future.

Or you could take the path which leads to the dark Iraq of the past where violence and fear rule, where power comes from a gun, and where only the powerful and ruthless are secure.

Thousands of conversations with you over the past year have made me certain that the vast majority of Iraqis reject the brutality and darkness of the old days. You have told me you want a new Iraq that honors the best of your past, but provides freedom, equality and opportunity for all.

**As Delivered
Friday, April 23, 2004**

The Coalition shares your vision of Iraq's future, a future of hope.
Working together we can create the future you want.

But we have much to do as we walk this path.

The enemies, domestic and foreign, of your bright future are trying to force you to take the path that leads backwards to brute force, division and hatred. These anti-democratic forces will not disappear by themselves, but working together we can defeat them. We in the Coalition will do our part to restore security. But you must do your part, too.

If you do not defend your beloved country it will not be saved.

For the past three weeks my Coalition colleagues and I have asked Iraqi citizens all across the country--workers, students and professionals—about the current situation. Our military commanders are meeting regularly with local sheiks and notables to get their views on ways to reduce tensions. Your fellow citizens recommended ways to reduce tensions in Iraq.

We listened to you and tonight I want to tell you what we plan to do about the issues which are most on your minds: security, jobs, healing the nation's wounds and the political process.

Everyone we spoke to said security was their first priority and that we should use Iraqis to provide security.

As Delivered
Friday, April 23, 2004

Security is our top priority.

The threats to your security come from members of the former regime's intelligence services and Republican Guards, and from foreign terrorists. These groups do not want a democratic Iraq. They must be defeated.

The Coalition has over 130,000 troops providing security in Iraq. We recognize that we cannot provide real security unless Iraqis stand shoulder to shoulder with us.

Our training of an Iraqi Army and an Iraqi police service continues at an extraordinary pace.

Sunday the Minister of Defense announced his appointment of the top Iraqi generals in the new Iraqi Army. Iraqi officers, drawn almost entirely from the many honorable men of the former Iraqi Army, already command these forces. Over 70 percent of all the men in the Iraqi army and Iraq Civil Defense Corps served honorably in the former army. They have asked to serve their country again and we welcome their renewed service. In reconstituting these forces, we have also benefited from the skills of the many who served in armed groups that fought against Saddam's regime. We will continue to welcome these individuals into the army, the Iraqi Civil Defense Corps, the police and border guards.

As Delivered
Friday, April 23, 2004

The Minister of Defense informs me that he intends to have a meeting with vetted senior officers from the former regime next week to discuss how best to build the new Iraqi military establishment.

More of these officers with honorable records—from the former army and elsewhere-- will serve in the months ahead as your new Army grows. In the coming months, we will steadily strengthen our security partnership, placing increasing responsibility in the hands of Iraqis. By June 30, Iraqi soldiers in the ranks will report up through an Iraqi chain of command to Iraqi generals.

Every Iraqi can help defeat these threats. The Coalition has instituted a robust rewards program to pay those who provide information about foreign fighters and others threatening your security. If you have such information, you should provide it to the nearest police or military post.

When we transfer sovereignty to an Iraqi government on June 30, Coalition and Iraqi forces will continue to work as partners to defeat the terrorists. These forces, Coalition and Iraqi, will provide you and your families with security.

I understand from my conversations around the country that you are concerned by the situation in Fallujah.

So are we.

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Friday, April 23, 2004

The situation in there has calmed in recent days. But those responsible for the lawlessness and unrest that began in Fallujah in February with the murder of 17 Iraqi policemen still bear heavy arms in the streets. Some of these men belonged to the banished instruments of Saddam's repression-- the former intelligence services and former Republican Guards. Others are foreigners working for professional terrorists like Abu Mussah al-Zarkawi. These are the people who have brought death and destruction to Fallujah. And Fallujah cannot be peaceful while such men remain at liberty.

To reduce the suffering in Fallujah I have twice sent my deputy along with Governing Council members to negotiate with the city's leaders. These leaders say they do not support those who are holding the city hostage from within. These talks have eased access to hospitals, allowed ambulances to evacuate the dead and wounded. Medicine and food have come in and we have permitted doctors, police, civil defense members and technicians to enter the city to provide critical services to its citizens.

We call upon the people of Fallujah to support the legitimate Iraqi authorities in bringing this crisis to an end. We hope that they join in ridding the city of heavy military weapons. Those who turn in weapons voluntarily will not be arrested for weapons violations.

The current ceasefire is a good start, but without exception, armed bands in the city must submit to national authority. If these bands do not surrender their military weapons and instead continue to use them

As Delivered
Friday, April 23, 2004

against Iraqi and Coalition Security forces, major hostilities could resume on short notice.

Militias also threaten security. Ultimately, Iraq cannot be secure, free and united if people can set up armed militias and define the law of the land to suit their own ambitions. That is why all armed elements in Iraq must be controlled by the central government, not just now, but during the next government and the next and the next.

This applies equally to those armed groups who fought valiantly against Saddam's tyranny. For some time we have been engaged in talks with these groups over how their members can be integrated into Iraq's armed forces or move into civilian life. I urge our partners in these talks to move quickly to comply with the Transitional Administrative Law, including those provisions which prohibit militias and other armed groups.

Militias present a particular problem in Najaf and Karbala. We in the Coalition recognize the holy nature of these cities. I add my voice to those of the religious authorities who have called for disarmament in these holy cities. We are prepared to work with these authorities to achieve disarmament. Armed militias should not be allowed to exploit holy shrines to advance personal political interests.

Earlier this week, a group of professors told me their concerns about those detained by the Coalition. It is a familiar complaint. During the war and since, Coalition forces have detained thousands of Iraqis, and

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Friday, April 23, 2004

hundreds of foreigners. But we have already released over 75 percent of those detained.

I understand your concerns and want to tell you what we are doing. We have simplified the processing of detainees. All cases are reviewed within 72 hours by an attorney. In many cases, the person detained is released immediately. Two months ago, we established a special board to expedite the review of all detainees. Since then we have released over 2,500 detainees. We give highest priority to reviewing the records of female detainees. Right now fewer than 10 females are detained. Of course we will not release any detainee guilty of serious crimes, as Saddam did when he flooded the streets with criminals in 2002.

Many of you have told us that you are frustrated by the lack of information about individual detainees. So we now publish a complete list in Arabic daily on the Coalition website. This list is available at Coalition Information centers across the country and we are going to post it regularly at the country's police stations and courthouses starting on May 10.

A couple of days ago I met with 25 Iraqi women who told me that their primary concern was security against common criminals. Criminals, many of them released from prison by Saddam Hussein before the war, continue to prey on innocent Iraqis. The answer is to build a highly capable police force and we are doing that. The Coalition, using funds provided by the American people, has embarked on the biggest police training program in history. Two thousand highly trained police officers

As Delivered
Friday, April 23, 2004

will graduate from the police academies every month from now until next February. They will make your lives more secure from criminals.

A number of different Iraqi groups have told us of their concerns about border security. These concerns are well founded. Iraq's long borders, especially those with Iran and Syria are difficult to defend and there is evidence that foreign terrorists are coming into Iraq. But here too we are working towards solutions.

When interim government takes office on June 30 that government will have the equipment, staff, training and materials necessary to operate each of its 20 major border crossing points. We expect to have 16,000 Iraqis devoted to border security by June 30. Until that time we are going to limit and control the number of people crossing into Iraq from other nations. Additionally, the Coalition is providing Iraq with sophisticated technical systems to help screen and track foreign visitors.

The lack of security affects everyone, even those not directly touched by violence. Saboteurs and insurgents attack the country's power lines and oil facilities. These attacks deny electricity to you and your family and oil revenues to all Iraqis. We are working with Iraqis to improve protection of your national infrastructure. Today over 20,000 Iraqis in specialized electricity and oil security forces work with Coalition Forces to guard your national property against these attacks.

* * * * *

As Delivered
Friday, April 23, 2004

The second subject we have heard from you about is economic security. For too long, Saddam used economic resources to create divisions between Iraq's people and regions. Some were punished, others were rewarded. Now, we have the chance to correct the terrible economic legacies of the past and ensure opportunities for all Iraqis.

We understand that Iraqis need jobs and the Coalition is working to create them. Since Liberation, the Coalition has completed over 20,000 individual reconstruction projects worth billions of dollars. These projects have employed hundreds of thousands of Iraqis building and renovating schools, orphanages and medical clinics; roads, bridges and dams. Iraqis from Dohuk to Basra have worked on these projects and millions have benefited from them. Thousands of additional projects will be financed by over 19 billion dollars from America.

I have told my colleagues in the Coalition to accelerate these projects everywhere in country. We expect that they will create over a million and a half jobs over the next year. I have instructed the Coalition to give priority to Iraqi firms whenever possible in order to create as many opportunities for Iraqis as possible. To date, the firms working on these projects have given contracts to several hundred Iraqi firms. I have also give our military commanders and Coalition offices around the country an additional \$500 million to spend on reconstruction projects which can be quickly completed, like fixing roads or schools, and which will provide jobs for you. Already our officials are meeting with provincial and municipal leaders to hear their priorities.

As Delivered
Friday, April 23, 2004

* * * * *

But Iraq's reconstruction requires more than security, more than bricks and mortar, more than jobs.

While this is a time for all Iraqis to work together on the future, some things must not be forgotten, must not be forgiven. You have spoken to us on this subject, too.

I know that memories of Saddam's tyrannies haunt many of you. I have stood at the edge of the mass graves in Hillah. I have looked into the faces of the survivors in Halabja. I have seen the torture chambers and rape rooms in Saddam's prisons. I have seen these things and I think about the horror of them. I think about them, but you have lived them.

It is justice you demand and it is justice you will have.

That is why the Governing Council created the Iraqi Special Tribunal--to try those accused of grievous crimes during the past administration, people like Saddam, "Chemical" Ali and others. This Iraqi court, run by Iraqis, has just appointed seven judges and five prosecutors. As soon as the court asks us, the Coalition will turn these criminals over to face justice in this Iraqi court.

To further the cause of justice for you, I pledge to give all possible assistance to the Iraqi Special Tribunal as it prepares for these trials. The United States will pay \$75 million for the court's annual budget and

As Delivered
Friday, April 23, 2004

we will provide judicial training for the newly appointed judges and prosecutors.

This Special Tribunal serves a purpose beyond bringing criminals to justice. The Tribunal becomes a national remembrance for the hundreds of thousands murdered by Saddam's regime.

We must attend to the spirit. We must recall suffering; we must honor sacrifice.

To commemorate those who suffered the atrocities of Saddam's regime, I have directed the establishment of a National Commission for Remembrance. This Commission will be part of a broader effort to come to terms with Iraq's immediate past. The Commission will administer a \$10 million fund for remembrance and will consider proposals from across the nation on how best to memorialize the suffering of Iraq's many communities under Saddam. In addition the Commission will seek to raise private funds to establish a national museum in Baghdad to ensure that the nation forever recalls Saddam's depredations. The commission and museum will probably want to focus their efforts on the sufferings during the 1991 Intifada, the 1988 Anfal campaign and Saddam's "Arabization" campaign that savaged Kurds, Arabs and Turcomans alike.

Remembering is indispensable both as a comfort to the oppressed and tyrannized and as a cautionary tale for the future. It is necessary protection against future tyranny, but it is not enough by itself.

As Delivered
Friday, April 23, 2004

The Baath Party poisoned Iraqi political life. Baathism was one of the most brutal instruments of Saddam's tyranny. There is no room in the new Iraq for Baathist ideology, for Baathist criminals. Banning the party and removing from public life those who used it to commit crimes was necessary and remains necessary if we are to achieve your vision of a democratic Iraq.

But many Iraqis have complained to me that debaathification policy has been applied unevenly and unjustly. I have looked into these complaints and they are legitimate. The debaathification policy was and is sound. It does not need to be changed. It is the right policy for Iraq. But it has been poorly implemented. The requirement to join the party was strongly enforced among teachers and university professors. A group of teachers told me yesterday that poor execution of the debaathification process has had a severe impact on teachers and university professors.

We cannot shortchange the children of Iraq. They are your future. I have discussed this matter with the Minister of Education, the Minister of Higher Education and with the Chairman of the Debaathification Commission. We have agreed that decisions made by local appeals committees of the Ministry of Education will be effective immediately. This will allow thousands of teachers to return to work. Thousands more will begin receiving pensions this week. Those primary and secondary school teachers formerly of the rank of *firqah* members whose appeals have not yet been heard will have their appeal adjudicated within

As Delivered

Friday, April 23, 2004

20 days. I have asked the Commission to handle the cases of hundreds of university professors with the same urgency. Professors who did not use their posts to intimidate others or commit crimes should be allowed to return to work promptly.

* * * * *

You have asked us about the future.

In our consultations, many Iraqi groups asked whether the occupation is really going to end on June 30. They asked what kind of a government will follow.

President Bush promised the Iraqi people that the occupation would end on June 30. And it will end on June 30. But our military forces will remain, working alongside Iraqi forces as partners to provide security after that date.

The Coalition Provisional Authority will dissolve. The Iraqi government that replaces it will be a fully sovereign one, invested with the authority to govern Iraq until elections are held in January 2005. This government, described by UN envoy Lakhdar Brahimi, will be made up of competent people of the highest integrity and reflecting the broad diversity of the Iraqi people.

As Delivered
Friday, April 23, 2004

You will determine what kind of government will follow this interim period. The process for you to create a government of your choice is explained in the Transitional Administrative Law.

Under the Transitional Administrative Law, you will have free, fair and national elections for a National Assembly in January. That assembly will have responsibility for choosing a government. The same Assembly will also write Iraq's new, permanent Constitution. In writing your new, permanent constitution the National Assembly will be guided but not bound by the Transitional Administrative Law. This will be your constitution. Your elected representatives will write it and you will approve it and it will determine how you are governed.

* * *

Much is going to happen in the 10 weeks before Iraqi sovereignty.

In the days and months ahead the Coalition will work with you to provide security, justice and prosperity for all Iraqis.

Such an Iraq will honor Iraq's history, a proud and ancient history stretching back to the beginnings of civilization.

Such an Iraq will honor the generations who came before you.

Such an Iraq will serve the generations who will come after you.

As Delivered
Friday, April 23, 2004

Such an Iraq will place Iraqis securely on the path to a future of hope for all.

Mabruk al Iraq al Jadeed.

Aash al-Iraq!

As Delivered
Friday, April 23, 2004

0425

(b)(6) Col

From: (b)(6) Col

Sent: Monday, April 26, 2004 7:10 AM

To: Tappan, Robert A. (SES-4); (b)(6) (GS-15)

Cc: (b)(6) Carpenter, Scott (SES-2); Jones, Richard (b)(6) O-6; L. Paul Bremer; (b)(6) (GS-13)

Subject: Foreign Fighters Visit

Rob - The IGC delegation ultimately got to Abu Ghayb. Their visit was successful. They interviewed a Syrian and Moroccan in the interrogation section who both claimed they were Jihadists. Both told them how clerics encouraged them to come to Iraq to defeat the Coalition. (b)(5) Other aspects of their visit worth highlighting are given below.

The IGC delegation included GC Deputies only:

(b)(6)

They spent 3 hours going through all areas of the camp. They talked with the 6 female detainees, 20 juvenile detainees, and visited with about 250 detainees in Camp Ganci. The visit to the hospital was productive. Wounded detainees spoke positively of the medical care. They were informed detainees receive the same quality of care as our soldiers.

The visit ended with a roundtable. They asked how quickly we intended to release the females and were informed that two are in process, but the remaining four were linked to terrorist activities and that we required that they be forthcoming about their crimes (HVDs). They heard about the family visit and release plans and agreed to return on 13 or 14 May to observe these. They provided nothing but positive feedback.

Please coordinate press through Maj (b)(6). Alternate points of contact are (b)(6) and (b)(6) (b)(6)

(b)(6) led the delegation. (b)(6)

Again, the sooner we can make use of this the better.

vr (b)(6)

(b)(6) Col

0427

From: (b)(6) Col
Sent: Tuesday, April 27, 2004 3:09 PM
To: (b)(6)
Subject: FW: Shaykh Jamal / Detainees

SHAYKH BARAKAT ALSO
RELEASED

-----Original Message-----

From: (b)(6) Col
Sent: Tuesday, April 27, 2004 2:39 PM
To: (b)(6)
Cc: (b)(6) Jones, Richard (AMB); (b)(6) (O-6); Schlicher, Ronald (SES-5); (b)(6) (O-6)
Subject: Shaykh Jamal / Detainees

Sir - Amb Jones and (b)(6) visited (b)(6) today. Here is the backbrief and guidance I received from Amb Bremer.

(b)(6)

He would like you to meet with Amb Jones and/or Ron Schlicher as soon as possible to work out the who, where, who, and how of the release. He would like a backbrief on where we stand by 1900 tonight.

Thx much
vr (b)(6)

(b)(6) Col

From: L. Paul Bremer
Sent: Thursday, April 29, 2004 11:53 AM
To: (b)(6) Col
Cc: Jones, Richard (AMB)
Subject: RE: ICRC & Foreign Fighters

Yes.

-----Original Message-----

From: (b)(6) Col
Sent: Thursday, April 29, 2004 10:02 AM
To: L. Paul Bremer
Cc: Jones, Richard (AMB)
Subject: ICRC & Foreign Fighters

(b)(5)

Is this something you want to pursue?

(b)(6)

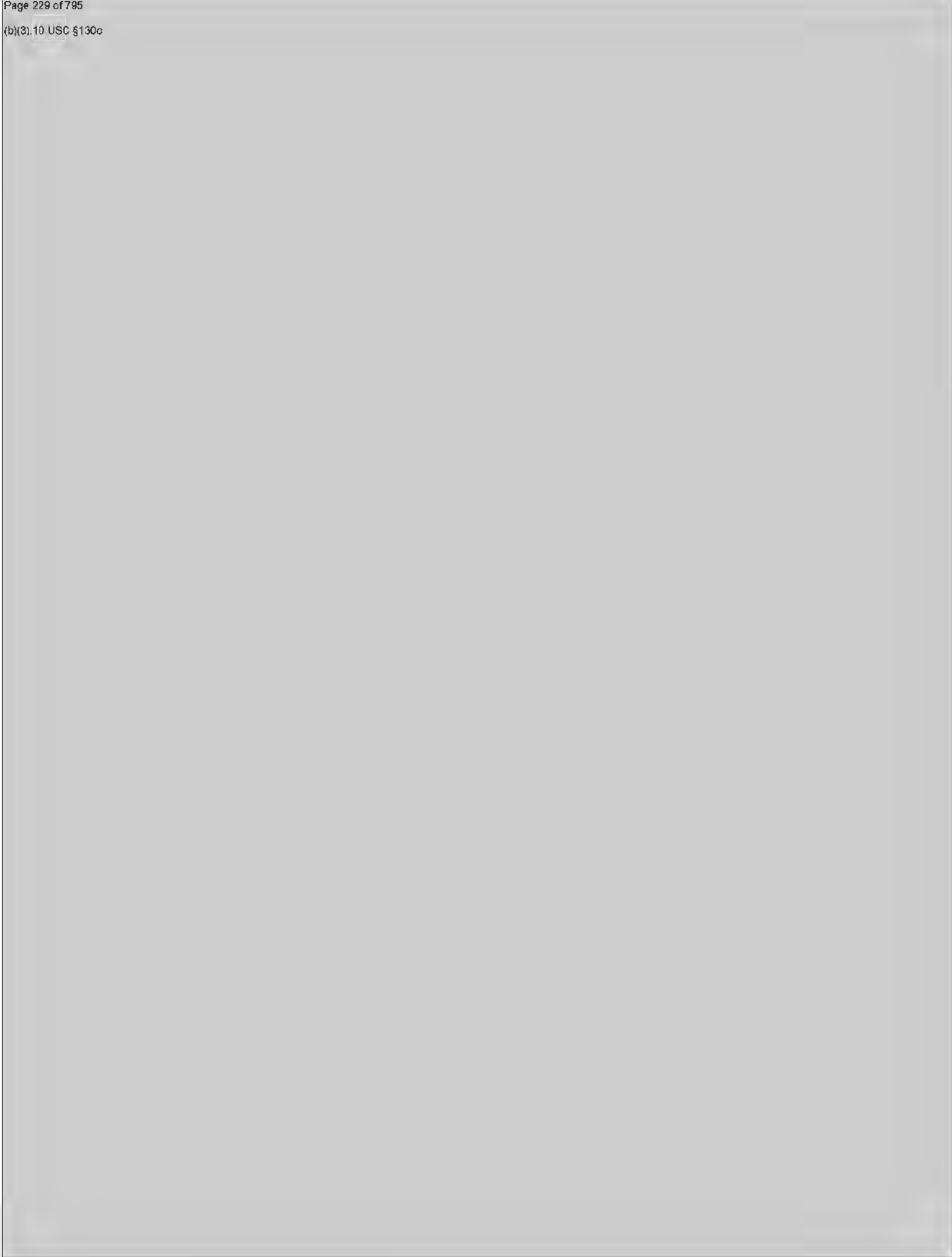
vr

5/11/2004

(b)(3), 10 USC §130c



(b)(3), 10 USC §130c



0504

Sent: Tuesday, May 04, 2004 5:52 AM
To: (b)(6) Col
Subject: FW: (b)(6)

(b)(5)

-----Original Message-----

From: (b)(6)
Sent: Tuesday, May 04, 2004 12:16 AM
To: Bremer, Paul
Subject: (b)(6)

Paul Bremer
US Ambassador,
Coalition Provisional Authority,
Iraq

Dear Mr. Bremer,

I write to inquire about the policy of Coalition Provisional Authority (CPA) forces in Iraq detaining Iraqis without due process and notification of families. In particular I'm writing about (b)(6) and his family.

Several news outlets and international advocacy organizations have criticized the CPA's treatment of Iraqi detainees. I am concerned that CPA tactics designed to secure the region are in fact compromising the long-term interests of Iraqis, other internationals, and even the CPA.

I believe that CPA forces have the moral obligation to demonstrate respectful treatment of detainees and, of course, the legal responsibility to uphold the provisions of the Geneva Convention. Further, we must make sure that CPA's treatment of detainees does not sow the seeds of resentment by Iraqis, subjecting CPA forces, other internationals, and Iraqis cooperating with the CPA, to great danger.

Seizing suspects in the middle of the night and leaving a bewildered, uninformed family behind brings to my mind the "disappeared" victims of detestable regimes around the world in the past. Nobody wants to see the CPA regarded as being in any way like those discredited regimes.

I am concerned that CPA forces are not balancing the need to secure the region and arrest insurgents with their obligation to fair treatment of detainees and with the need to gain the cooperation of the general populace in the eventual transition of political power to the people of Iraq.

I urge you to institute regular family visits for (b)(6) while he is imprisoned. Also, I urge you to grant him immediate access to legal representation and establish a transparent and accountable judicial process for security detainees or release him.

I look forward to your reply. I thank you for your cooperation with this matter.

Sincerely, (b)(6)

0505

From: (b)(6) (FS-06) on behalf of Executive Secretary
Sent: Wednesday, May 05, 2004 8:23 AM
To: (b)(6) (AD00)
Cc: (b)(6) (O-6); (b)(6) (O-6); (b)(6) Mrs. (CIV); (b)(6) (GS-12);
Executive Secretary

Subject: Procedures for Responding to Correspondence Related to Detainees (040504-16)
(b)(6)

Ambassador Bremer read your Action Memo. He approved both recommendations and made a comment. Please stop by ExecSec to pick up a copy. Thank you.

(b)(6)

Action Officer
CPA- Executive Secretariat
(Please reply to Exec Sec)



COALITION PROVISIONAL AUTHORITY
BAGHDAD

040507-19

LPB HAS SEEN

INFO MEMO

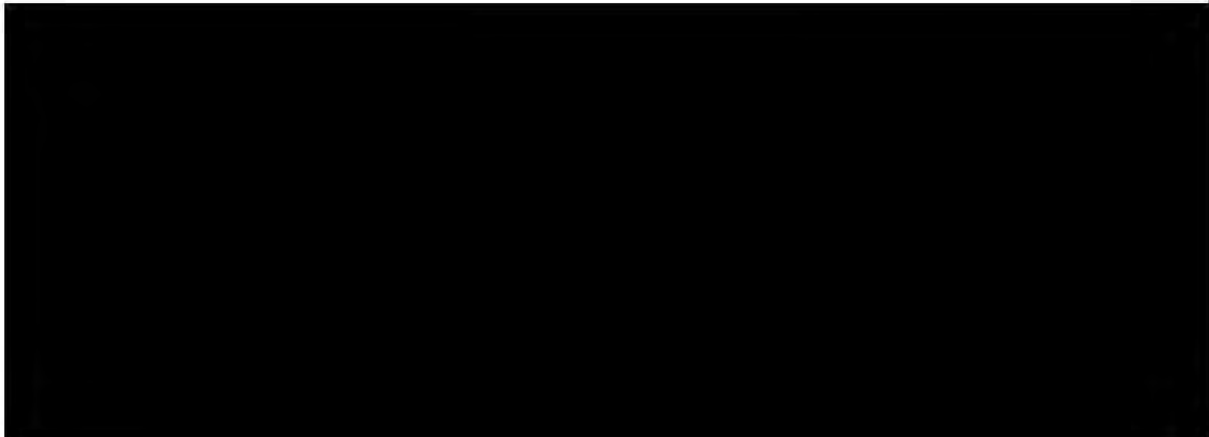
May 7, 2004

FOR: THE ADMINISTRATOR
FROM: Hon. Edward C. Schmults, Senior Advisor to the Ministry of Justice
SUBJECT: Release of 216 prisoners

My office recently referred to local Iraqi courts the cases of over 1,000 criminal detainees who had initially been arrested by Coalition forces as security detainees, and then reclassified as criminal detainees. The local Iraqi courts were free to investigate further or dismiss the case as they saw fit. The courts declined to open investigations with respect to 216 of the detainees as to whom there was little or no evidence, including 160 as to whom no file existed at all. The process is described in greater detail in the attached memorandum from my staff to myself. We plan to release these 216 detainees in the near future.

ATTACHMENT: Memorandum
COORDINATION: None
COPY: Amb. Jones
Civil Affairs
Governance
Ministry of Interior
CJTF-7 Staff Judge Advocate

UNCLASSIFIED





COALITION PROVISIONAL AUTHORITY
BAGHDAD

INFO MEMO

1 May 2004

FOR: SENIOR ADVISOR--MOJ

FROM: Lt Col (b)(6)

SUBJECT: Release List for Persons at Abu Griah and Tesferat Rusafa

Through the last several weeks Mr (b)(6) and myself have been working on a plan to insure that all the prisoners confined as criminal detainees (as opposed to the security internees) are put on track to have their cases presented to an Iraqi judge or, if insufficient information exists regarding a case, to order release of the detainee.

Specifically, we examined approximately 1000 files and identified the appropriate court jurisdiction. We gave the case files to the court liaison attorneys to distribute. Some of these files were deemed to have insufficient evidence to pursue prosecution. However, in an attempt to give the Iraqi judges a greater amount of control over Iraqi criminal procedure, we distributed these files and directed the court liaisons to coordinate with local courts and IPs to gather more evidence. If additional evidence is not available and the judge is unwilling to open an investigation for that case, then the liaisons documented each instance. We prepared a list for release containing these names.

We also compiled a list of approximately 160 names of detainees who are incarcerated but who have no corresponding case file. We sent these names to our court liaisons, and the liaisons coordinated with the respective courts to determine whether the judges wanted to open investigations. If the judge is unwilling to open an investigation, the liaisons documented each instance, and we prepared a list for release containing these names.

Mr (b)(6) discussed this possible scenario with (b)(6) and he concurred with its implementation. We propose to implement this release plan unless otherwise directed.

Release List as of 5May 2004 -(Note: Some persons may already have been released)

No.	Detainee #	Detainee Name	Court Name
1			ADHAMIYA
2			ADHAMIYA
3			ADHAMIYA
4			ADHAMIYA
5			ADHAMIYA
6			ADHAMIYA
7			ADHAMIYA
8			ADHAMIYA
9			ADHAMIYA
10			AHDAMIYA
11			AHDAMIYA
12			AHDAMIYA
13			AHDAMIYA
14			AHDAMIYA
15			BAYAA
16			BAYAA
17			BAYAA
18			BAYAA
19			BAYAA
20			BAYAA

21		(g)(q) BAYAA
22		BAYAA
23		BAYAA
24		BAYAA
25		CCCI
26		CCCI
27		CCCI
28		CCCI
29		DIWANIYA
30		DIYALA
31		DIYALA
32		DIYALA
33		DIYALA
34		DIYALA
35		DIYALA
36		DIYALA
37		DIYALA
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39		DIYALA
40		DIYALA
41		DIYALA
42		DIYALA
43		DIYALLA

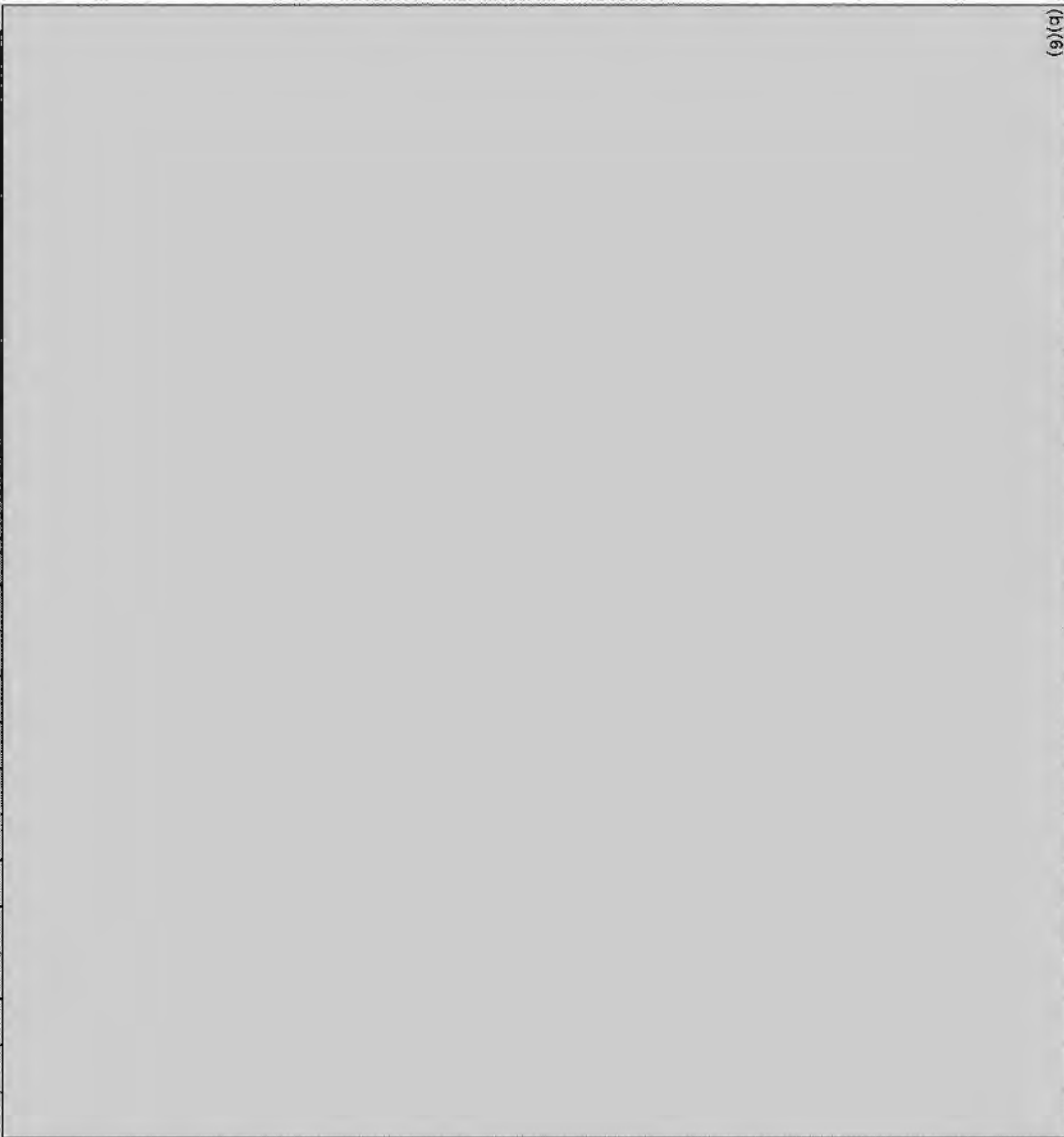
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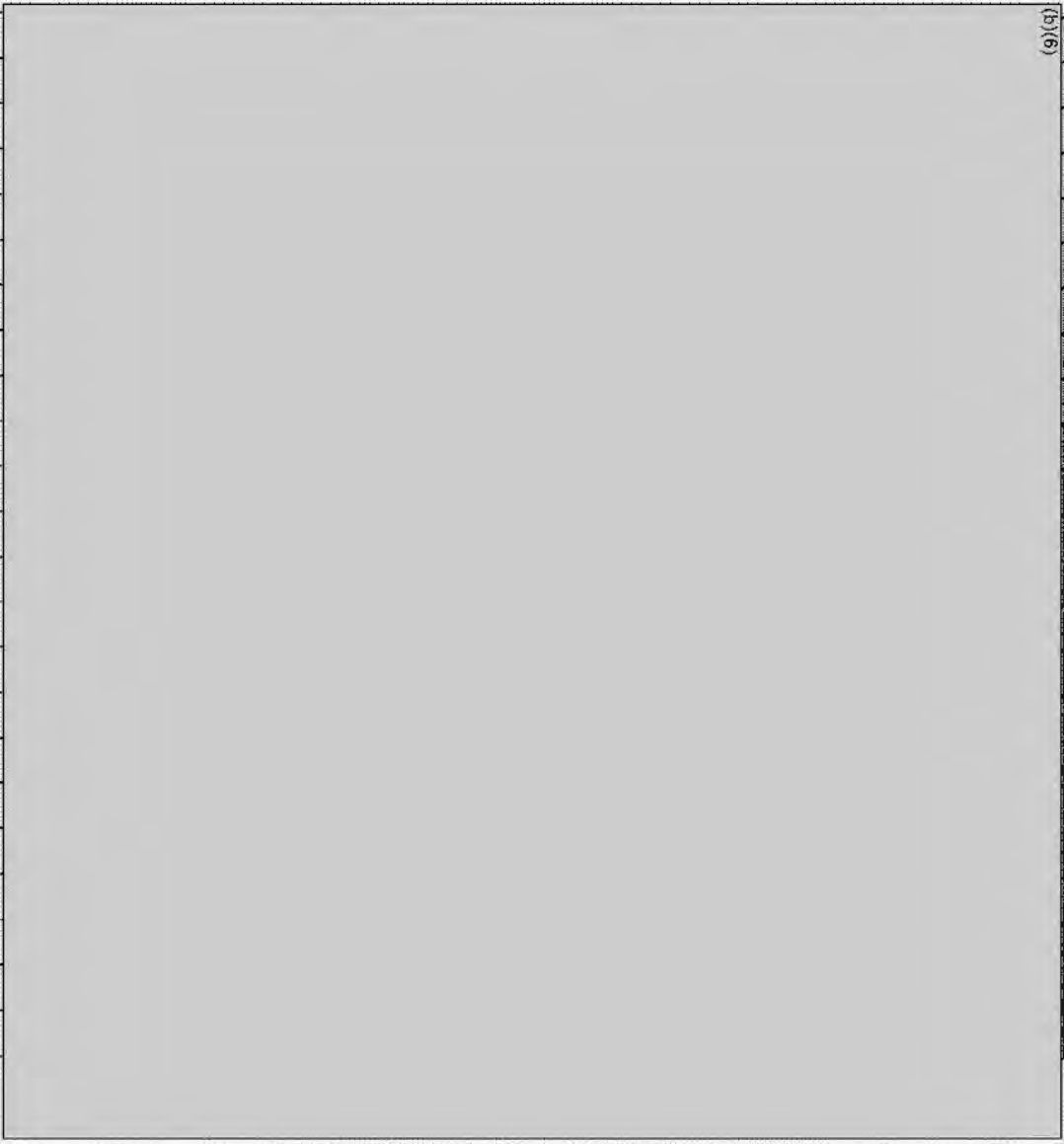
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NEW BAGHDAD

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117		RAMADI	
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**7 pages exempt from
release under
FOIA exemption
(b)(3) 10 USC §130c**

0510

(b)(6)

From: Jones, Richard H. (AMB)
Sent: Monday, May 10, 2004 11:14 AM
To: (b)(6) (GS-13); (b)(6)
Subject: FW: Hot Detention Issues

FYI. Please call the underlined text below to LPB's attention. Thanks. DJ

-----Original Message-----

From: (b)(6) (SES)
Sent: Monday, May 10, 2004 7:37 AM
To:
Cc:

(b)(6)

Subject: RE: Hot Detention Issues

Major (b)(6)

Thanks for the explanation. I still have a couple of questions.

- 1) **If your system only tracks the results of the board, and does not follow through to determine whether or not the individuals were actually released, how do you know which individuals are still in detention and will need to be boarded again? This is a fundamental problem that must be addressed. If you build your docket based on your records, you are not likely to re-board someone who your records indicate has been released. However, unless you track the individual to make sure he is released, you will end up – exactly as you are now – with lots of people who should be released, some going as far back as February. Moreover, who are you going to ask to weigh in on a release that was ordered in February and March? There is a very high probability that the unit responsible for capturing the individual is no longer in country. If the board, based on the file before it, decided to release the individual, who can make a better decision than the board?**
- 2) I understand that your information is limited. It would be helpful, however, if you could tell me who has the information I need in relation to the list of individuals that I sent over in April. Can you point me to the person who can tell me when/if these people are going to be released?
- 3) You mentioned getting lots of other lists from different people. Where do those lists come from? There was an agreement that the release requests would be funneled through my office. The list I sent includes a number of people requested by LTG Sanchez, so if he is working within that system,

where are the other requests coming from? If it is from the divisions, I can understand that, but if they are coming from CPA or elsewhere, I'm not sure I understand.

(b)(5)

I would be more than happy to speak with anyone on the addressee list, or anyone not on the addressee list, to see if we can't get this cleared up.

(b)(6)

-----Original Message-----

From: (b)(6) MAJ CJTF7-OIC DETENTION OPERATIONS

Sent: Sunday, May 09, 2004 11:11 AM

To: (b)(6) (SES)

Cc:

(b)(6)

Subject: RE: Hot Detention Issues

(b)(6) the SJA database contains only those detainees that were in processed at Abu Ghraib. Several third country nationals (TCN) detainees that are interned at Bucca, many months ago, are not in our database. The only way we get information on them is by Bucca sending us a spreadsheet for their review. Currently MAJ (b)(6) sends those to us and we board them based on his information. The TCNs rarely have files and other than an intelligence check, we have nothing to put before the board on them. They may be listed in the PMO database but my predecessor chose this process that I just described. It works, but we cannot provide you with the information on those not in our database.

Next, when you see released but still at Abu, it was the paralegal's way of saying we boarded them and recommended them for release on that date but they were not released by the MPs. We have no way of checking to see when someone is actually released until the MPs give us that information. We are finding several people that were boarded pre February who have not been released. Those we find have to be published in a DTU for unit comment under the new process. We did a scrub of our database in February to find as many of those detainees as we could but did not find them all. We published those names in FRAGO 549. I have told that the list you sent to PMO (CPT (b)(6)) and I assume it's the same one from me, is almost a verbatim copy of FRAGO 549. That FRAGO includes detainees recommended for release before February 17. PMO and I are preparing that list to be approved by the DCG-D in the next several days.

5/11/2004

Unfortunately, what I have provided is pretty much all I have to offer. I have no absolute way to track the detainees you ask about from start to finish. I don't even have a person that I can devote to focus on your requests only, especially when I get such requests, in smaller volumes from dozens of people each week. The only other assistance I can provide is that we publish every detainee that is recommended for release in the CJTF-7 DTUs on the website (<http://www.iraq.centcom.smil.mil>). PMO now publishes a list of the people that are scheduled to be released on a certain day. Unfortunately, neither of our methods are foolproof because we are both finding people who are already released (not sure how) and people who don't get released on the date they are scheduled (not sure why). I have no fix for you other than to say my office will provide what we can but the majority of our attention has to be to boarded and publishing for release and being available to the DCG-D, MG Miller, especially now as we approach 30 June.

The two listed below are not on FRAGO 549. Any not on that list will be published in another FRAGO soon.

v/r,
MAJ (b)(6)

-----Original Message-----

From: (b)(6)

Sent: Saturday, May 08, 2004 10:56

To: (b)(6)

Cc: (b)(6) DCG(D)

Subject: Hot Detention Issues

Hello: This e-mail is in several parts. I've divided it by who I believe I should be asking about on each issue.

Visit to Abu by Minister of Human Rights and GC member, Dr. Raja

Col (b)(6) LTC (b)(6)

The GC member who is coming to Abu is Dr. Raja. (b)(6)

(b)(5)

As I understand it, she is due to visit Abu on the 11th. I have also heard that a British MP is going to be visiting then (b)(6) (b)(6) or something close to that.)

The MOHR, Bakhtiar Amin, would like to visit the prison to start coordination for getting his staff there on a regular basis as we discussed (mayors, women, juveniles, medical). He wants to come on the afternoon of the 10th, after the press event. For some reason, he wants to do it before the British MP gets there.

Please tell me when and how you want to do this. If you want to group them all into the meeting on the 11th, I will try to make that

happen. If you want to do something else (MOHR Monday PM and the other two on Tuesday) please let me know. I'm willing to support anything you want, I just need enough time to coordinate logistics.

Please let me know ASAP.

Conditional Release List

Col (b)(6) / Co (b)(6) / Colone (b)(6)

I understand the attached file to be the response from the conditional release request list that I submitted this morning. My problem is that I don't know how to interpret it. Take the two cases below. Where I come from in Texas, someone who was released on 12 Feb should not still be in Bucca. The same holds true for the person who was supposedly released on the 20th but is still in Abu.

(b)(6) Released 12 Feb still in Bucca
 (b)(6) Released 20 Feb still in Abu

Or, consider the following case:

(b)(6) Not in Database

I interpret this to mean that this individual is not in the database. However, according to the theater roster from May 7, he is still in detention. (See below)

(b)(6)

Based on this information, I'm not sure what to do.

I know that the list we submitted was not perfect. We work from CJTF-7's data, and if there are errors there, we have no way to know it. We also make mistakes ourselves, I am sure. What I need to be able to do is get a good answer on all of these cases. If the board recommended release but they are still in detention, what is their status? Have they been interned? (I am told that the cases where individuals are referred to the criminal side are also designated as "released" so I can't assume that the guy has really been interned. I just need to know what the status is.)

Please help me sort this out

OPO Release List

Col (b)(6)

I apologize that the list is not in a helpful format. We weren't able to meet to discuss this until late last night, and I had no way to get it in a more useful format. **If it would be helpful, I will have it translated, put into a spreadsheet, and sent electronically. I just thought it would be best to get it in your hands so you could work off the ISNs rather**

than holding it for another couple of days while I worked through getting it translated. I'll understand if this one takes a while to deal with, and we bear some responsibility for that. We'll do better in the future.

I'll provide updates on other issues later, but wanted to get this on the wire.

(b)(6)

-----Original Message-----

From: (b)(6)

Sent: Saturday, May 08, 2004 6:13 PM

To: (b)(6)

Subject: list

Sir, here is the updated list of the detainees ATW!

SPC

(b)(6)

5/11/2004



COALITION PROVISIONAL AUTHORITY
BAGHDAD

0512

ACTION MEMO

DATE: 12 MAY 2004

FOR: THE ADMINISTRATOR
FROM: Ed Schmults, Senior Advisor, Ministry of Justice
SUBJECT: Iraqi Correctional Service - Prisons Department

The following information is included in the packet for your information.

- Civilian Advisors (107) Authorized
- Baghdad Region Prisons/Detention Centers
 - Abu Gharaib Prison for Men
 - Rusafa Complex Detention Center for Men
 - Kadamiya Detention Center/Prison for Women and Juvenile Females
 - Al Karh Juvenile Detention Center/Prison for Boys
 - Isktbaret Detention Center/Prison for Men
- Systemic Operational Issues
 - Transportation System
 - Training Academy
 - Judicial Orders
 - Count Sheet
 - Construction Program
 - Travel/Escort Requirements
- Attachments
 - Count Sheet (Baghdad Region)
 - Prison Population & Capacity Report
 - Iraqi Correctional Officer Status Report
 - Abu Ghraib CPD #1 - Site Plan

CLR/s

cc: Iraqi Correctional Service File


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COALITION PROVISIONAL AUTHORITY
BAGHDAD

ACTION MEMO

DATE: 12 MAY 2004

FOR: Ed Schmults, Senior Advisor, Ministry of Justice
FROM: Chuck Ryan, Director, Prison Operations 
SUBJECT: Prisons Department – Iraqi Correctional Service (ICS)

The issues regarding the Iraqi Correctional Service (ICS) include operational, training, and managerial challenges, all of which have been impacted by the level of violence throughout Iraq during the previous 45 days.

Civilian Advisors

Correctional Professionals from throughout the United States are providing advisory, mentoring and training services to the Iraqi Correctional Service. The growth of this team has slowly developed from three (3) in September, 2003, to seventy-three (73) in April, 2004, to fifty-nine (59) currently. Funding exists for 107 team members to be deployed throughout Iraq to “stand up” the ICS in each region.

Given the level of violence and the travel restrictions imposed which preceded the Arba’een holiday (9-11 APR) the team assignments have been limited to the Baghdad Region, at the following locations: Abu Ghraib Prison (adult males), Rusafa Complex (Reception Center for Men), Kadamiya Prison for Women, Iskitbareh Prison for Men and Al Karkh Juvenile Facility for Boys.

From 3 APR 2004 until 25 APR 2004, the Prison’s Department team was “locked down” at the Al Sadeer Hotel (red zone), due to the violence and attacks throughout Iraq. With the assistance of COL Mel Howry, C-9, CJTF-7, we were able to begin working at the prisons with the assistance of the Security Escort Control Center. If it were not for these soldiers, given the requirement of up-armored Humvees and armored SUVs for the Civilian Advisors, the mission of the Prisons Department would have ceased to operate or function effectively.

Through approved recurring travel requests, the Prisons Department is able to be on-site at each facility on a daily basis, and is also billeted at the Abu Ghraib Prison. The Senior Advisor to the Ministry of Justice, effectively argued for the support and movement authorization of this team.

Below please find a synopsis of what transpired during this “lock down” period:

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COALITION PROVISIONAL AUTHORITY
BAGHDAD

Abu Ghraib

Prisoners rioted for several days in early April, 2004, while the CPA team was on "lock down" status at the Al Sadeer Hotel in the "red zone." At the behest of the Military, the Abu Ghraib Team was flown to the prison site, to assist in the restoration and order of the facility. With the assistance of the Military, a team of ten (10) Civilian Advisors are on-site 24/7. Every four (4) days, five (5) team members are rotated from Baghdad to Abu Ghraib.

During this 27 day period of time, numerous disturbances and escape(s) and attempts occurred. In early April, the US Military had to use lethal force during a riot, and two (2) prisoners were killed as a result. Furthermore, on the first day back at the prison, 7 APR 2004, the Civilian Advisors were attacked by rioting prisoners. During this disturbance, two (2) prisoners were shot, but not killed, and the prisoner attack was repelled. Since the team has remained on-site on a full-time basis, no disturbances have erupted.

Besides the severe damage to the prison, because prisoners were only being contained in the cell blocks, and not in the individual 8-man cells, most of the prisoners either destroyed their identification cards or wrist-band numbers, thus making re-identification extremely difficult.

A new warden has been assigned, (b)(6). He replaces the previous administrator, (b)(6) who was reassigned by (b)(6) to the position of deputy warden at Rusafa Complex.

Following the 30 APR Prisons Department meeting, Prison Department Senior Advisor, (b)(6) and Director of Operations, (b)(6) met with COL (b)(6) and LT (b)(6) at Abu Ghraib on 4 MAY and

(b)(5)

The transportation system in the Baghdad Region is being de-centralized. Thus, a bus has been assigned to Abu for the transportation and movement of prisoners to the Rusafa Complex in Baghdad, for scheduling and appearances before the courts. An accountability process is being put in place to record the names/numbers of those being released at each of the facilities.

The prisoner population is hovering at approximately 1,400 prisoners, although the prison has an operating capacity of approximately 2,200 beds. Given the damage and renovation issues, it will

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BAGHDAD

probably be another week or two before the ICS will be able to resume receiving some prisoners from the Rusafa Complex on a regular basis.

Rusafa Complex

The Rusafa Complex is the primary reception center and detention center for the Baghdad Region Courts. The prison continues to receive prisoners from the CCCI on an intermittent basis. Scheduling appearances before the court is a major activity for the court liaisons and ICS Transportation Manager. The lack of an adequate transportation fleet is a major problem. The Iraqi's are procuring more vehicles locally due to the significant delay in the delivery of vehicles from the Port of Kuwait (donated from Korea). Twenty vehicles, to include 44 and 21 passenger buses are pending movement, although they have been sitting in the port for approximately 6 months.

The operating capacity of this facility (now exclusively for adult males) is 856 beds, and during the "lockdown" some damage was sustained as a result of rioting prisoners. The physical plant has been restored sufficiently to resume receiving sentenced prisoners.

Kadamiva

On 7 APR 2004, male prisoners began rioting, attempted to escape and started one of the two cell blocks on fire. With the aid of a neighborhood militia, the Iraqi Correctional Officers were able to contain the population until Civilian Advisors responded to the scene, under Military escort. Following the quelling of the disturbance, the prison was vacated and the population was transferred to the Rusafa Complex. Thereafter, it was decided by the ICS to re-open the facility exclusively for adult and juvenile female prisoners.

Once the restoration is completed, the prison will have an operating capacity of 220 beds for adult women and 32 beds for juvenile females. It currently has a population of 80 adult and 9 juvenile females. The reoccupation, following the recent riot and fire caused by the male prisoners, has been completed, currently housing all prisoners in one building. The second building is being renovated and is to be completed within the month. This will provide additional space to house prisoners by classification, thus separating the pre-trial from the sentenced, and the adult women from the juvenile females.

Al Karkh

On 7 APR 2004, an escape attempt by a number of juvenile offenders occurred, while a Correctional Officer left his duty post. Although the escape attempt was foiled, the arson fire set by the juveniles to facilitate their escape resulted in the death of three (3) juveniles. Again, due to the "lock down" Civilian Advisors were not on site.

The arson/homicide preliminary investigation report is currently being reviewed. Upon final completion, it is anticipated that 2-3 juveniles will be charged criminally. Considerable interest

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is being given to this matter by an independent media source, and we have withstood the query, pending a final determination by the CPA and the Iraqi Director General. The CPA media liaison, Shane Wolfe, is briefed on this matter and will manage the response accordingly.

Isktharet

This maximum security prison currently has a population of 72 adult male prisoners, the majority of whom were transferred from Abu Ghraib and Kadamiya, following disturbances. This week 22 prisoners were reclassified to Abu Ghraib, after having been involved in disturbances during the preceding 2 months. The facility construction program is ongoing, and design modifications to the second building are being created, thus the capacity of the facility will be about 150 beds in single-cell and/or small dormitory configuration.

Other Regions

Until such time as we are able to be assigned to the other regions throughout Iraq (Mosul, Hillah, Al Amarah and Basrah) the development and growth of the Iraqi Correctional Service will prove to be extremely difficult. Until either the commitment of assets to escort personnel to these locations, or a revision to the travel restrictions is authorized, the mission will remain focused on the Baghdad Region.

Systemic Operational Issues

The Transportation System is undergoing modifications and decentralization so that a "hub and spoke" approach can be taken to moving the prisoners to and from the courts in Baghdad on a daily basis. In order to facilitate this new approach, additional vehicles are critical, thus the fleet in Kuwait is invaluable. The ICS has been asked to procure some additional vehicles locally, to continue the process. The court liaisons are assuming greater responsibility in the acceptance and delivery of commitment documents and release/transfer orders.

The Training Academy program is being expanded from a two week to a six week program and will be taught by new instructors (civilian advisors) for the first iteration, as they simultaneously train and facilitate the instruction of the new curriculum to the Iraqi Instructors. Be advised that Human Rights International Standards will be emphasized throughout the training. Although the construction program is ongoing (30-45 days behind schedule) the temporary academy is of sufficient size to accommodate a class of 200 cadets. The Ministry of Labor and Social Affairs (MLSA) and the Ministry of Justice (MOJ) personnel are collaborating on recruitment, screening and hiring processes with the goal of starting the new academy on 29 MAY. Be advised that during the preceding nine (9) months, approximately 3,500 Iraqi Correctional Officers (ICOs) have completed the training program.

Judicial Orders have been provided inconsistently by the Military. Although there are a number of logistical support issues at Abu Ghraib, some of which can be pursued/resolved at the prison itself, the most contentious issue the ICS is dealing with has been the practice by the military to

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commit criminal detainees directly from Camp Ganci to the prison without legal judicial orders or commitment documents. No less than 70 prisoners have been "walked over" and dropped by the military during the previous 2-3 weeks. The attempt to do so as recently as this week with another 92 was denied. Major General Miller stated that the 70 would be retrieved by the Military and so directed COL (b)(6). Until the legal process of committing prisoners to the ICS is followed to the letter, the ICS will not accept the prisoners at any facility. Preferably, all prisoners will be delivered to the Rusafa Complex, the reception area for the prison system.

The Count Sheet for the Baghdad Region is attached and is current as of 12 MAY 2004, with approximately 2,500 prisoners/detainees in custody. Unknown to the ICS at this time are the numbers of detainees pending transfer from the Iraqi Police (IP) "D" cells. However, we have been advised that the "D" cells are 100+% occupied.

The Construction Program also had been delayed because of the violence throughout the month of April. Attached please find a comprehensive document that provides information about the operating capacity of the system, which facilities are currently occupied, which facilities are pending activation and/or construction and the timeframe following occupation when we estimate that the Iraqi's will be able to operate and manage the facilities independent of the Civilian Advisors.

Travel/Escort Requirements were facilitated by COL (b)(6) and C-9 is greatly appreciated for its intervention and assistance. Without these collaborative efforts, the Prison Mission would be handicapped, almost to the point of being ineffective. Without question, the cooperation of CPI (b)(6) the Security Escort Control Center, and most importantly, the soldiers who provide the escorts are appreciated greatly. They are professional, safety conscious and a pleasure to work with. We could not perform our mission without the assistance of these men and women. We cannot thank them enough for their hard work!

The Iraqi Correctional Service is evolving slowly, but is now under the management of Director General (b)(6) formerly the warden of the Al Hillah Prison. His commitment to excellence is untiring; his major challenge is the development of the middle and upper management team, to effectively oversee and operate the prisons independently. In our experience, it will be a process that will take 12-18 months to achieve.

Lastly, we also recognize the great difficulty the Abu Ghraib Prison abuse cases have created, and the urgency to assume responsibility for the entire facility. However, the training and development of the Iraqi Correctional Officer staff will take time. The Civilian Advisory Team is committed to this mission, as well as the expansion to the other regions throughout Iraq, when it is determined reasonably safe to do so. If further clarification is required, please advise accordingly.

Attachments

cc: Iraqi Correctional Service File

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IRAQI CORRECTIONAL SERVICE
BAGHDAD REGION COUNT SHEET

5/12/2004

FACILITY	CUSTODY	BED CAPACITY	CURRENT POPULATION	VACANT BEDS	ISOLATION BEDS	ISOLATION POPULATION	TOTAL PRISONERS
ADULT							
RUSAFA 1	MED/LOW	392	323	69	3	5	328
RUSAFA 2	HIGH/MED	366	339	27	16	12	351
RUSAFA 3	HIGH/MED/LOW	98	34	64	0	0	34
RUSAFA TOTAL		856	696	160	19	17	713
AL KARKH HOSP	HIGH/MED	14	1	13	0	0	1
AL RASHEED HOSP	HIGH/MED	80	28	52	0	0	28
EISENBARET	HIGH	80	72	8	0	0	72
KHADIMIYA (F)	MED/LOW	220	82	138	7	0	82
ABU 2AB,3AB,4A,5A,6A,7A	HIGH/MED	1280	943	337	48	3	946
ABU 4B,5B,6B	MED	312	66	246	30	0	66
ABU 5CU,5D,6C,6D,7C	MED/LOW	540	322	218	20	9	331
ABU INTAKE - 4B	HIGH/MED	32	2	30	0	0	2
HOSP, MEDICAL, COURT	MED/LOW	100	124	-24	0	8	132
ABU TOTAL (8MAY04)		2264	1457	807	98	20	1477
TOTAL MALE		3294	2254	1040	117	37	2291
TOTAL FEMALE		220	82	138	7	0	82
TOTAL ADULT		3514	2336	1178	124	37	2373
JUVENILE							
AL KARKH (J/M)	HIGH/MED	254	125	129	5	0	125
KHADIMIYA (J/F)	MED/LOW	32	9	23	0	0	9
TOTAL JUVENILE		286	134	152	5	0	134
TOTAL ICS		3800	2470	1330	129	37	2507

12-May-04

DISTRIBUTION:
Director
Deputy Directors
Wardens

Senior Advisor, MOJ
16th MP BDE
89th MP BDE
Count Sheet File - Baghdad

CJTF7-LNO
Ministry of Health-LNO



COALITION PROVISIONAL AUTHORITY
BAGHDAD

ACTION MEMO

DATE 10 MAY 2004

FOR: LTC (b)(6) CENTCOM OPCC-Baghdad
FROM: (b)(6) Director, Prison Operations
SUBJECT: Prison Population & Capacity - Request for Information

Pursuant to your 8 MAY 2004 Request for Information, the following information is provided:

Number of Prisons (Detention Centers) Operational

The following Ministry of Justice (MOJ) facilities have been activated and are under the jurisdiction of the Iraqi Correctional Service (ICS). Some of the facilities were Ministry of Interior (MOI) facilities operated by the Iraqi Police (IP), but have since been transferred to ICS through a Memorandum of Agreement (MOA) between MOI and MOJ.

Facility	Population	Custody	Bed Capacity
Mosul	Adult Male	High/Medium	250
Irbil	Adult Female	Medium/Low	80
Irbil Transfer	Adult	Medium/Low	40
Kadamiya*	Adult Female	High/Medium/Low	220
Kadamiya*	Juvenile Female	Medium/Low	32
Al Karkh*	Juvenile Male	Medium/Low	254
Iskbaret*	Adult Male	High/Medium	80
Rusafa #1*	Adult Male	Medium/Low	392
Rusafa #2*	Adult Male	Medium/Low	366
Rusafa #3*	Adult Male	Medium/Low	98
Abu Ghraib*	Adult Male	High/Medium/Low	2,174
Al Karkh Hospital*	Adult/Juvenile	Medium/Low	14
Rasheed MH Hospital*	Adult Male	Medium/Low	80
Samawah	Adult/Juvenile	Medium/Low	100
Al Kut#	Adult/Juvenile	Medium/Low	120
Baquba#	Adult/Juvenile	Medium/Low	300
Al Hillah# (ICS Control)	Adult/Juvenile	High/Medium	700
Basrah*	Adult/Juvenile	High/Medium	200
Total:17 Prisons/Det Ctr			5,500

*Civilian Advisors Present

#MOA and Civilian Advisors not on site regularly

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BAGHDAD

The 5,500 bed capacity is based upon an international standard of 25 sq. ft. per prisoner/detainee. Be advised that the above listing is subject to minor adjustments, particularly at Baquba, Samawah and Al Kut.

Number of Planned for Future Use

Facility	Population	Bed Capacity	Completion	Iraqis Control
Mosul CPD B	Adult Male	750	90 days	6-9 months*
Mosul CPD C	Adult	750	120 days	6-9 months*
Diwaniyah	Adult	3,000	24 months#	1 year*
Khan Bani Sa'ad	Adult	3,600	24-30 months#	1 year*
Dahuk	Adult/Juvenile	1,500	24-30 months#	1 year*
Nasiriyah	Adult/Juvenile	4,400	24 months#	1 year*
Basrah Central	Adult/Juvenile	1,200	12-16 months#	6-9 months*
Al Amarah	Adult/Juvenile	600	90-120 days	6-9 months*
An Najef	Adult/Juvenile	300	90-120 days	6 months*
Ar Ramadi	Adult/Juvenile	300	90-120 days	6 months
Abu Ghraib CPD 2+	Adult	3,000	6 months+	1 year*
Abu Ghraib CPD 3+	Adult	1,500	9 months+	18 months*
Abu Ghraib CPD 4+	Adult	1,000	12 months+	18 months*
Rusafa #4	Adult	500	60 days	1 year*
Rusafa #5	Adult	600	60 days	1 year*
Total		23,000		

#After Contract Award

*After Activation/Occupation of Facility

+These remain in our plan; however the US Army is reconsidering vacating these prison complexes and is planning on using them as LSA's indefinitely

Number of Iraqis Trained and Working in Iraqi Prisons

The following table indicates the number of Correctional Officers (guards) authorized throughout the Iraqi Correctional Service (ICS) as reported in May, 2004. The Training Academy had been idle because of the delay in the construction program. Commencing 29 MAY 2004, a revised curriculum, increasing the program from two to six weeks will be implemented. The ICS is in the process of advertising, recruiting, and hiring approximately 2,000 officers over the next four (4) months.

The National Training Academy is under construction, but approximately 60-90 days behind schedule, given the violence in the Baghdad area and travel restrictions throughout April 2004.

To date, approximately 3,000 Correctional Officers have graduated from the program. The majority will have to complete an additional four weeks through an in-service program.

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BAGHDAD

IRAQI CORRECTIONAL SERVICE CORRECTIONAL OFFICER STATUS REPORT

NAME / PRISON / UNIT	MINISTRY	AUTH CO	FILLED	VACANT	% VAC	ASSIGN	ON JOB
RUSAFA 1	MOJ	150	150	0	0%	0	0
RUSAFA 2	MOJ	200	199	1	1%	0	0
RUSAFA 3	MOJ	54	54	0	0%	0	42
COMPLEX	MOJ	119	99	20	17%	0	0
RUSAFA 4 & 5	MOJ	109	105	4	4%	0	100
TOTAL RUSSAFA COMPLEX	MOJ	632	607	25	4%	0	142
AL SALYIA	MOJ	9	9	0	0%	0	0
RASHAD HOSP	MOJ	25	25	0	0%	0	25
KADAMIYAH	MOJ	158	158	0	0%	0	21
AL KARKH HOSP	MOJ	40	40	0	0%	0	25
ABU GHRAIB #1	MOJ	540	540	0	0%	0	47
ISTKHBARAT BLDG 1	MOJ	120	120	0	0%	0	60
AL KARKH	MOJ	128	128	0	0%	0	20
DAWOODIE	MOJ	10	10	0	0%	0	0
AL HILLAH	MOJ	270	271	-1	0%	0	20
BAGHDAD ACADEMY	MOJ	18	18	0	0%	0	0
COURT/TRANSPORTATION	MOJ	75	75	0	0%	0	18
ICS HEADQUARTERS	MOJ	35	35	0	0%	0	0
BAQUBA	MOJ	30	30	0	0%	0	0
MOSUL	MOJ	742	612	130	18%	0	0
INTERIM DET	MOJ	30	15	15	50%	0	0
IRBIL #A	MOJ	78	78	0	0%	0	0
IRBIL WOMEN/JUV	MOJ	20	16	4	20%	0	0
DIWANIYAH	MOJ	107	75	32	30%	0	0
AL KUT	MOJ	16	16	0	0%	0	0
BASRAH	MOJ	73	62	11	15%	0	0
SAMAWAH	MOI	46	37	9	20%	0	0
AN NAJEF	MOI	67	62	5	7%	0	0
TOTALS		3269	3039	230	7%	0	378

If you have additional questions or require clarification, contact me at your convenience. Thank you.

cc: (b)(6) Senior Advisor, Ministry of Justice
(b)(6) Director, Prisons Department
File

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IRAQI CORRECTIONAL SERVICE CORRECTIONAL OFFICER STATUS REPORT

NAME / PRISON / UNIT	MINISTRY	AUTH CO	FILLED	VACANT	PERCENT	ASSIGNED	ON JOB
RUSAFA 1	MOJ	150	150	0	0%	0	0
RUSAFA 2	MOJ	200	199	1	1%	0	0
RUSAFA 3	MOJ	54	97	-43	-80%	0	0
COMPLEX	MOJ	119	99	20	17%	0	0
RUSAFA 4 & 5	MOJ	109	105	4	4%	0	100
TOTAL RUSSAFA COMPLEX	MOJ	632	650	-18	-3%	0	100
AL SALYIA	MOJ	9	9	0	0%	0	0
RASHAD HOSP	MOJ	25	25	0	0%	0	25
KADAMIYAH	MOJ	158	158	0	0%	0	21
AL KARKH HOSP	MOJ	40	40	0	0%	0	25
ABU GHRAIB #1	MOJ	540	540	0	0%	0	47
ISTKHBARAT BLDG 1	MOJ	120	120	0	0%	0	60
AL KARKH	MOJ	128	128	0	0%	0	20
DAWOODIE	MOJ	10	10	0	0%	0	0
AL HILLAH	MOJ	270	271	-1	0%	0	20
BAGHDAD ACADEMY	MOJ	18	18	0	0%	0	0
COURT/TRANSPORTATION	MOJ	75	75	0	0%	0	18
ICS HEADQUARTERS	MOJ	35	35	0	0%	0	0
BAQUBA	MOJ	30	30	0	0%	0	0
MOSUL	MOJ	742	612	130	18%	0	0
INTERIM DET	MOJ	30	15	15	50%	0	0
IRBIL #A	MOJ	78	78	0	0%	0	0
IRBIL WOMEN/JUV	MOJ	20	16	4	20%	0	0
DIWANIYAH	MOJ	107	75	32	30%	0	0
AL KUT	MOJ	16	16	0	0%	0	0
BASRAH	MOJ	73	52	11	15%	0	0
SAMAWAH	MOI	46	37	9	20%	0	0
AN NAJEF	MOI	67	62	5	7%	0	0
TOTALS		3269	3082	187	6%	0	336

DEPUTY DIRECTORS
WARDENS

ACADEMY COMMANDER
16th MP BDE
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DIRECTOR
SENIOR ADVISOR, MOJ
ICS MANAGEMENT TEAM



COALITION PROVISIONAL AUTHORITY
BAGHDAD

ACTION MEMO

23 May 2004

MEMO FOR: Commanding General, MNF-I
FROM: Paul Bremer *5/23*
SUBJECT: Palestinian Detainees

In accordance with the attached determination from the Commanding General, USCENTCOM in coordination with OSD General Counsel, this memo directs the release of (b)(6) and (b)(6) (b)(6). Please provide for their transportation to Baghdad on Tuesday 25 May and standby for instructions regarding their final disposition.

(b)(6)

From: (b)(6)
Sent: Sunday, May 23, 2004 5:31 PM
To: (b)(6)
Cc: (b)(6)
Subject: RE: Palestinians

(b)(6)

Just spoke with (b)(6) who did a voco coordination with GEN Abizaid who is OK with the release. As I said below, based on the facts you related, CPA has release authority with follow-on notification to SECDEF. This opinion was confirmed by DoD/GC yesterday.

(b)(6)

-----Original Message-----

From: (b)(6)
Sent: Sunday, May 23, 2004 7:51 AM
To: (b)(6)
Cc: (b)(6)
Subject: RE: Palestinians

(b)(6)

Just spoke with (b)(6) and he will run this by GEN Abizaid. I received a response back from DoD/GC lawyers who confirmed that, based on the facts you related, CPA is release authority with follow-on notification to SECDEF.

(b)(6)

-----Original Message-----

From: (b)(6)
Sent: Saturday, May 22, 2004 2:08 PM
To: (b)(6)
Cc: (b)(6)
Subject: RE: Palestinians

(b)(5)

(b)(5)

(b)(5)

[Redacted]

Thx much

Vr (b)(6)

-----Original Message-----

From: (b)(6)
Sent: Saturday, May 22, 2004 8:54 PM
To: (b)(6)
Cc: [Redacted]
Subject: RE: Palestinians

(b)(6)

I have been singularly unsuccessful in getting the DC lawyers to respond to the question --

[Redacted]

I suspect I won't get a response until early next week. In the interim, immediately below, is my office's opinion on this issue as stated by my deputy (b)(6) I hope this helps.

(b)(6)

[Redacted]

(b)(5)

[Redacted]

I have copied JCS-LC on this e-mail in the event they are aware of additional rules in this regard.

(b)(6)

[Redacted]

-----Original Message-----

From: (b)(6)
Sent: Saturday, May 22, 2004 8:49 AM
To: (b)(6)
Cc: [Redacted]
Subject: RE: Palestinians

Thanks a lot (b)(6)
All best
Vr (b)(6)

-----Original Message-----

From: (b)(6)
Sent: Saturday, May 22, 2004 3:54 PM
To: (b)(6)
Cc: (b)(6)
Subject: RE: Palestinians

(b)(6)

I have our lawyer working the issue -- he will get back with us to let us know what the art of the possible is.

Cheers

(b)(6)

-----Original Message-----

From: (b)(6)
Sent: Saturday, May 22, 2004 7:04 AM
To: (b)(6)
Subject: FW: Palestinians
Importance: High

-----Original Message-----

From: (b)(6)
Sent: Saturday, May 22, 2004 1:29 PM
To: (b)(6)
Cc: (b)(6)
Subject: Palestinians
Importance: High

(b)(6)

Here is what we know. I have updated LTC (b)(6) e-mail with current info. Do you need more? v/r (b)(6)

COL (b)(6)
Chief, CJ2X
CJTF-7 Baghdad
DSN (b)(6)
DNV (b)(6)

-----Original Message-----

From: (b)(6)
Sent: Thursday, May 13, 2004 10:30 AM
To: (b)(6)
Cc: (b)(6)
Subject: Palestinians

Sir,

Here is what I am tracking, based on all documents we have seen to date.

WHO: Two men, possibly Palestinians, in detention in IZ: Individuals are not on MI Hold and are located at Camp Bucca.

1. (b)(6)

Charges: Captured during raid
Status: Confined at Camp Bucca, Compound 1
Source: Email, dated April 12, 2004 7:00 AM, (b)(6)

2. (b)(6)

Charges: AK-47 Weapon Possession
Status: Confined at Camp Bucca, Compound 1
Source: Email, dated April 12, 2004 7:00 AM, (b)(6)

WHAT: Does CJTF7 have authority to release?

- CENTCOM JAG, verbal opinion, which I heard third-hand, is that, based on 15 JUL 03 memos only, due to unknown nationality and being found with weapons at an "embassy", may require SECDEF approval

WHEN: (Timeline)

- 28 MAY 2003, captured with weapons, explosives, and assorted literature. (Eleven released)
- 15 July, 2003 COL (b)(6) (at the request of CPA) recommended continued detention.
- 15 July, 2003, CPA / SJA requested TCN release review and approval from USCENTCOM.
- 9 August, 2003, UCCENTCOM J2 and Team Iraq in the JICCEN recommended against release.
- 14 April, 2004, MAJ (b)(6) CJTF7-OIC Detention Operations, wrote that "Both individuals were recommended for release on 12 Feb. I do not know why they weren't released. One of the individuals, (b)(6) is already out for unit comment..." "The other one does not appear to have been published for MSC comment, so it will take 8 days versus 14 for his release." "I will have to start a list for publication tomorrow for 116138." Source: Email, dated April 14, 2004 7:02 PM
- 7 May, 2004, MAJ (b)(6) requested to CENTCOM, via email, status on whether CENTCOM would approve of release of ISN (b)(6)
- 12 May, 2004, MG Fast phone call to COL (b)(6) request for status determination on ISN (b)(6)
- 1 21 May, 2004 CENTCOM Joint Security Directorate sends e-mail to CJ2X that they have received no response from DOS or OSD yet. MAJ (b)(6) says he will "ping them again". Might be a good idea for me to add the Palestinians to the memo (probably going to be a formal message). Haven't

forgotten and will
continue to push. Several nasty detainee issues to navigate around recently.

(b)(5)

According to the 10 AUG 03 CJTF7 memo, (b)(6) was born in Iraq.
Same memo unclear as to where (b)(6) was born.

(b)(5)

Do you have copies of the 12 FEB recommendation for release? **We have a copy for one but not the other. C2X**
Does that have any information related to their legal status?

The CENTCOM Detainee Working Group met yesterday (12 May).
According to the notes,
CENTCOM JSD, with the 15 JUL 03 and 10 JUL 03 memos only, is requesting guidance from JCS.

1. How will we release?
2. Who will we release them to?
3. When will SECSTATE and NSA meet with PA?
4. Who is the release authority? (SECDEF?)

Note: CJTF7 memo 15 JUL 03, detailed a third detainee, (b)(6)
Capture Tag (b)(6)
Is he still in detention? Is he in the same status? **He was already released. C2X**

Laser1:
ACTION: EXDIS

DISSEMINATION: ~~EXDIS /1~~
CHARGE: PROG

16 JUN 2004

APPROVED: LEBREMER
DRAFTED: SCASTLE
CLEARED: (b)(6) JJEFFREY, RJONES

VZCZCBG1347
RR RUEKJCS RUEHC RHEHNSC RUEHLO RUEHBY
DE RUEHGB #0702/01 1672010
ZNY EEEEE ZZH
R 152010Z JUN 04
FM CPA BAGHDAD
TO RUEKJCS/SECDEF WASHINGTON DC
RUEHC/SECSTATE WASHDC 1411
RHEHNSC/WHITE HOUSE NSC WASHDC
INFO RUEHLO/AMEMBASSY LONDON 0041
RUEHBY/AMEMBASSY CANBERRA 0019
BT
UNCLAS E F T O SECTION 01 OF 03 BAGHDAD 000702

~~SENSITIVE~~~~NOFORN~~~~EXDIS~~

FROM THE ADMINISTRATOR

E.O.: 12958: N/A
TAGS: PREL, PGOV, PINS, KJUS, MOFS, IZ
SUBJECT: CPA 1345: Post-Occupation Detention Operations in Iraq

1. ~~(S)~~ Summary. In meetings on June 6 and June 10, 2004, Ambassador Bremer, Ambassador Jeffrey and CPA General Counsel Scott Castle discussed post-occupation detention operations in Iraq with PM Allawi. The talks addressed the authority for, and the practical necessity of continuing these operations after June 30, 2004, until the Iraqi Interim Government (IIG) develops its criminal justice system sufficiently to assume such operations. Prime Minister Allawi acknowledged the IIG's inability to accommodate large numbers of security internees, High Value Detainees (HVDs) and Enemy Prisoners of War (EPWs) immediately following the occupation, and approved of initiatives to increase Iraqi participation in Multi-National Force-Iraq (MNF-I) detention operations while the IIG develops its capabilities and infrastructure. He appreciated that Iraqi involvement in detention operations should take into account the fact that the Transitional Administrative Law (TAL) prohibits detentions not authorized by law and guarantees the right of habeas corpus and

the right to a fair, speedy and open trial. Finally, Prime Minister Allawi confirmed that publicly demonstrating progress toward Iraqi trials of former regime members will be a critical priority of the IIG immediately upon assuming governance authority on June 30, 2004. The meetings clarified the detention operations objectives that CPA should set and highlighted the need to finalize plans to transition responsibility for these operations in a manner that reflects current political, legal and practical considerations. End Summary.

(b)(5)



3. ~~(S)~~ Plan for Transitioning Detainee Operations.

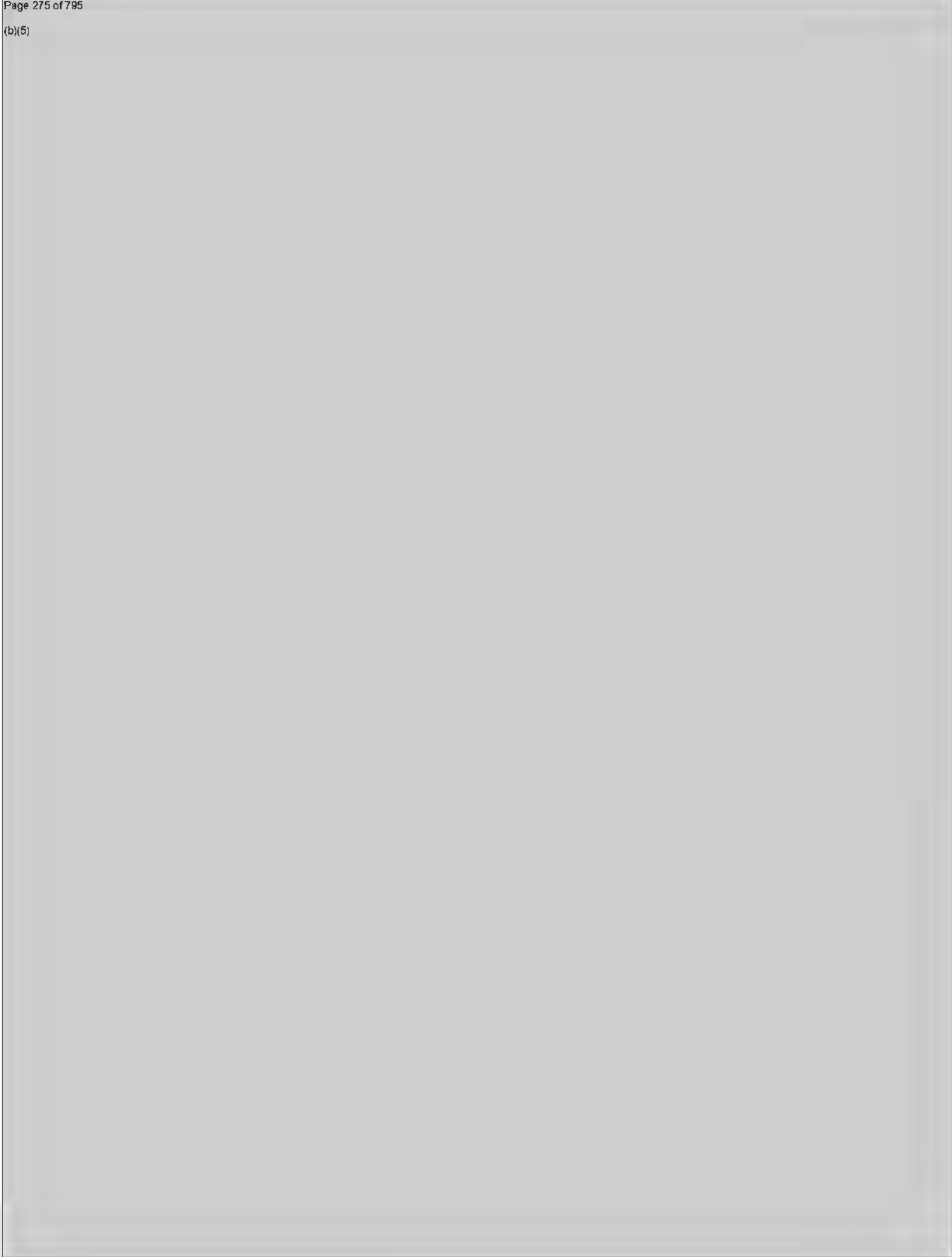
a. Immediate Transfer of Selected HVDS/EPWs.

Applicable law allows the MNF-I either to continue detention operations in Iraq after June 30, 2004, or transfer security internees, HVDS and EPWs to the IIG after the IIG reasserts full sovereignty (subject to the IIG's issuance of appropriate court orders and, with respect to EPWs, assurances that they will be treated humanely and in accordance with Iraqi law). Thus, the management of detention operations through the transition of governance authority and thereafter should be based upon a policy decision as to how the IIG's political interest in releasing or transferring security internees, HVDS and EPWs can best be balanced against the limitations of its authority and capacity to accommodate them.

(b)(5)



(b)(5)



(b)(5)

-- Ambassador Bremer discussed the creation of a Joint Detainee Commission with PM Allawi on June 10, 2004. The PM supports the idea and will be formally requesting that CPA create such a body. In turn, following coordination with Coalition capitals, CPA will issue an Order creating the Commission. CPA will coordinate both Orders through the interagency process and other Coalition capitals, with the Iraqis as appropriate.

-- The MNF-I Deputy Commander for Detention Operations has initiated efforts to recruit Iraqis to serve as advisors on operating detention facilities, referring detainees into the criminal system, and conducting interrogations. He is also seeking to add an Iraqi member to the Standing Review Board. We will continue to work on appropriate instruments to promulgate these initiatives.

(b)(5)

(b)(5)

c. Revision of Detention Standards and Practices.

-- Current detention operations are authorized under the law of occupation and the Geneva Conventions. After 30 June 2004, detention operations will be carried out under the authority in UNSCR 1546 (2004) to take "all necessary measures" to maintain security in Iraq. The standards for such operations in Iraq must therefore evolve from those appropriate during an occupation to standards and practices that comport with an operation conducted under the authority of a resolution under Chapter VII of the UN Charter. Current detention standards are set forth in CPA Memorandum Number 3, section 7, which was promulgated under the law of war and the Geneva Conventions. This memorandum will should be revised to accommodate the changed legal basis for post-occupation detention operations. The UK has specifically requested that this action be taken.

(b)(5)

4. ~~(S)~~ Conclusion: Consistent with the full partnership between the IIG and MNF-I as described in the letters from Prime Minister Allawi and Secretary Powell to the President of the U.N. Security Council and annexed to UNSCR 1546 (2004), CPA will continue close consultation with the IIG on detention operations in carrying out the above-described program for transitioning these operations to the IIG. MNF-I will continue that process after 30 June.

(b)(5)

Finally, in response to a request made in the Deputies' Committee Meeting of June 3, 2004 for single CPA and MNF-I points of contact on detainee matters, please direct future communications on this issue to Mr. Scott Castle, CPA's General Counsel (or Ms. (b)(6) as Legal Adviser, U.S. Embassy, following June 30th), and (b)(6), Deputy Commander for Detention Operations.

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COALITION PROVISIONAL AUTHORITY ORDER NUMBER 99**JOINT DETAINEE COMMITTEE**

Pursuant to my authority as Administrator of the Coalition Provisional Authority (CPA) and under the laws and usages of war, and consistent with relevant U.N. Security Council resolutions, including Resolutions 1483 (2003), 1511 (2003) and 1546 (2004),

Noting that prison facilities across Iraq were largely destroyed as a result of the acts of the former regime and are not currently capable of providing a safe and secure environment for the pre-trial confinement of many detainees,

Noting further that, as an interim measure, the Multinational Force maintains safe and secure facilities for the custody of certain numbers of security internees and criminal detainees,

Affirming the importance of properly implementing the authority of the Multinational Force under U.N. Security Council Resolution 1546 (2004) to take all necessary measures to contribute to the maintenance of security and stability in Iraq in accordance with the letters annexed to that resolution,

Acting in accordance with the consultations between the Coalition Provisional Authority and the Iraqi Interim Government.

I hereby promulgate the following:

**Section 1
Purpose**

This Order provides a mechanism for facilitating the partnership between the Multinational Force-Iraq (MNF-I) and the Iraqi Interim Government (IIG) on all matters relating to the management of, and the formulation of policy regarding, security internees and criminal detainees in the custody of the MNF-I. It is designed to ensure that detention operations comport with applicable law and human rights standards.

**Section 2
Joint Detainee Committee**

- 1) There shall hereby be established a Joint Detainee Committee ("Committee"), which shall be composed of representatives of the MNF, the IIG and the States exercising

custody over detainees. The Committee shall be co-chaired by the Prime Minister and the MNF-I Commander or their authorized delegates.

- 2) There shall be up to twenty-one official members of the Committee, representing the following entities in the manner indicated:
 - a) The IIG shall be represented by the Prime Minister, the Ministers of Defence, Interior, Justice, Finance, and the Director General of the Iraqi National Intelligence Service.
 - b) The MNF shall be represented by the Commander MNF-I, his Chief of Staff, the Deputy Chiefs of Staff for Operations, Intelligence and Logistics, the Staff Judge Advocate and the senior Theatre Commanders for the Military Police and the United States Corps of Engineers.
 - c) The United States as a detaining State shall be represented by the Chief of Mission.
 - d) The United Kingdom as a detaining State shall be represented by its Ambassador to Iraq.
- 3) Other official members of the Committee may be agreed by the co-chairs.
- 4) From time to time, and at the discretion of the co-chairs, other persons may be permitted to attend as observers, to present reports to the Committee, or for other purposes determined by the co-chairs. Such persons may include representatives of the Iraqi Ombudsman on Detention and Penal Matters and delegates of the International Committee of the Red Cross (ICRC).

Section 3 Functions

The Committee shall be responsible for:

- 1) Establishing criteria for the detention of individuals, including the basis for release or transfer to Iraqi jurisdiction or custody.
- 2) Monitoring and if necessary proposing standards and safeguards for the conditions and rights of detainees, including processes for determining initial detention decisions and reviewing such decisions.
- 3) Considering issues relating to the prosecution of criminal detainees and proposing investigative, evidentiary or other measures that will enhance successful prosecution.

- 4) Evaluating infrastructure imperatives, deficiencies or maintenance requirements and proposing project or budgetary action to address these.
- 5) Making recommendations concerning improvements to the command, control and liaison aspects of detainee management; the effective recording of information for individual detainees; the tracking of the location, movement or transfer of detainees and the proper communication of detainee information to their families; and any other matter related to detention operations and policies.
- 6) Advise on legal issues associated with the status and management of persons held in detention or otherwise constrained by the MNF, and propose remedial legislation as appropriate.

Section 4 Evaluation Standards

In making its deliberations and recommendations, the Committee shall have due regard to the provisions of Iraqi law as supplemented by CPA Memoranda Nos. 2 and 3, the Memorandum of Understanding between the MNF and the IIG concerning the handling of High Value Detainees, reports of the Iraqi Ombudsman on Detention and Penal Matters and reports of the ICRC.

Section 5 Reporting Requirements

- 1) The Committee shall issue reports of its deliberations and recommendations not later than two months after its initial meeting, and thereafter on a bi-monthly basis. The reports shall be delivered to the Prime Minister of the IIG, the Commander, MNF-I, and the U.S. and UK Ambassadors to Iraq.
- 2) With the agreement of the report recipients identified in subsection 5(1) above, reports of the Committee may be made public, with the exception of:
 - a) Confidential reports of the ICRC.
 - b) Material that is related to or part of criminal proceedings before an Iraqi Court or MNF tribunal, until the conclusion of those proceedings.
 - c) Material that is protected by confidentiality or privacy provisions of the law governing the Iraqi Ombudsman on Detention and Penal Matters.

- d) Material that is the property of or has been generated by one of the Committee members, and that is not available for release to the public under law or policy.

**Section 6
Entry into Force**

This Order shall enter into force on the date of signature.

 6/27/04

L. Paul Bremer, Administrator
Coalition Provisional Authority

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ACTION: EXEC
INFO: IPC COS

DISSEMINATION: EXEC /1
CHARGE: PROG

APPROVED: RJONES
DRAFTED: (b)(6)
CLEARED: SCASLE, JJEFFREY, (b)(6)

27 JUN 2004

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TO RUEKJCS/SECDEF WASHINGTON DC
RUEHC/SECSTATE WASHDC 1566
RHEHNSC/WHITE HOUSE NSC WASHDC
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UNCLAS SECTION 01 OF 04 BAGHDAD 000773

FROM THE ADMINISTRATOR

E.O.: 12958: N/A
TAGS: PREL, PGOV, IZ
SUBJECT: CPA 1423: Assumption of Legal Authority over Selected High Value Detainees by the Iraqi Interim Government

1. Summary. On June 20, 2004, CPA Administrator L. Paul Bremer, Ambassador Jeffrey and CPA General Counsel Scott Castle discussed with Prime Minister Allawi a proposal for the Iraqi Interim Government (IIG) to assume legal authority over certain high value detainees (HVDs), including a Memorandum of Understanding (MOU) to be entered into between the Iraqi Minister of Justice and MNF-I wherein MNF-I agrees to provide custodial support for the pre-trial criminal detainees on behalf of the IIG. The proposal calls for an Iraqi court of competent jurisdiction to issue arrest warrants for 12 named HVDs shortly before June 30. The assumption of authority over 10 of these HVDs is subject to final approval by the Secretary of Defense. The United Kingdom is the Detaining Power for the remaining two HVDs (Ali Hassan Al-Majid and Abid Hamid Mahmud Al-Tikriti), and has expressed its intention to release and repatriate these two prisoners to Iraq on July 1, understanding that they will continue to be held in U.S. custody on behalf of the IIG, pending the development of IIGs development of secure facilities. PM Allawi approved the transition plan as well as the list of HVDs. An MOU has been drafted, coordinated with MNF-I and the Departments of State and Defense. The Ministry of Justice has proposed additional modifications which appear to be acceptable. It is anticipated that the parties will sign the MOU on June 27, 2004. The PM is expected to announce this arrangement publicly on June 28, 2004. (NOTE: In a June 25 Deputies Committee meeting, some questions were raised about HVD

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releases. Procedures for HVD releases have been in place for a year. The Secretary of Defense must approve release of HVDs 55 and below. Ambassador Bremer has authority to release HVDs 56 and above provided they meet certain criteria. He delegated this authority to the Iraqi Survey Group (ISG) in accordance with Deputy Secretary of Defense Wolfowitz memo dated August 25, 2003, on this subject. Ambassador Bremer has coordinated with the ISG and other government agency section chiefs on 41 HVD releases since CPA was established. Two HVDs (#65 and #84) have completed this approval process but are still awaiting actual release. Their releases are not scheduled to take place until sometime in July, well after the transfers of legal authority for the HVDs discussed in this message have occurred.) End Summary.

2. In meetings on June 6 and June 10, 2004, Ambassador Bremer, Ambassador Jeffrey and CPA General Counsel Scott Castle discussed with PM Allawi post-occupation detention operations. The participants acknowledged that the Iraqi interest in assuming control of HVDs had to be balanced against the current inability of the Iraqi Special Tribunal to try them and the lack of Interim Iraqi Government (IIG) capacity to hold them securely. On June 23, 2004, the same CPA officials proposed to PM Allawi that an Iraqi court of competent jurisdiction issue arrest warrants for a limited number of HVDs, who would be transferred to Iraqi legal custody shortly after the transfer of remaining governmental authorities on June 30. The MNF-I would provide pre-trial detention support for these HVDs. The CPA officials proposed a tentative list of 10 HVDs. PM Allawi approved the list, understanding that it was subject to SECDEF final approval. PM Allawi subsequently approved the addition of two HVDs for which the UK is currently responsible, upon receiving notice of the UKs intention to transfer legal authority over these prisoners on July 1, 2004.

3. On June 24, 2004, Ambassador Jones and a representative of MNF-I met with the Minister of Justice and offered a draft MOU for pre-trial detainee support. The Minister of Justice is requesting minor modifications which appear to be acceptable. The Minister is now expected to sign the MOU on the morning of June 27, 2004. Prime Minister Allawi is scheduled to announce publicly June 28, 2004, the plan to assume legal authority over certain HVDs while requesting MNF-I to provide continuing custodial support.

4. Current draft of MOU text follows:

MEMORANDUM OF UNDERSTANDING BETWEEN THE UNITED STATES CONTINGENT OF MULTINATIONAL FORCES-IRAQ AND THE MINISTRY OF JUSTICE OF IRAQ REGARDING CUSTODIAL SUPPORT FOR CRIMINAL SUSPECTS

Whereas the U.S. national contingent of Multinational Force-Iraq (U.S.-MNF-I) is currently detaining individuals suspected of committing atrocities and war crimes under its mandate as set forth in United Nations Security Council Resolution 1546 (2004);

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Whereas it is anticipated that Iraqi criminal courts will issue arrest warrants and commitment orders under Iraqi law for many of the individuals suspected of committing atrocities and war crimes and are currently detained by the U.S.-MNF-I;

Whereas the institutions of Iraq's criminal justice system, including many prison facilities, were looted or destroyed and are not currently capable of providing a safe and secure environment for the pre-trial confinement of individuals suspected of committing atrocities and war crimes;

Whereas the U.S.-MNF-I maintains safe and secure facilities for the custody of such suspects;

Whereas the UN Security Council, in Resolution 1483 (2003) affirmed the need for accountability for crimes and atrocities committed by the former regime and appealed to member States to support actions to bring the individuals responsible to justice; and

Whereas the UN Security Council, in Resolution 1546 (2004) affirmed the importance of the rule of law and national reconciliation,

Now, therefore the undersigned parties hereby agree as follows:

Section 1
References

- 1) UN Security Council Resolutions 1483 (2003), 1511 (2003) and 1546 (2004);
- 2) CPA Order Number 10, Management of Detention and Prison Facilities (8 June 2003);
- 3) CPA Order Number 13 (revised) (Amended), Central Criminal Court of Iraq (22 April 2004);
- 4) CPA Number 40, Delegation of Authority Regarding an Iraqi Special Tribunal (10 December 2004);
- 5) CPA Memorandum Number 2, Management of Detention and Prison Facilities (8 June 2003);
- 6) CPA Memorandum Number 3, Criminal Procedures (18 June 03);
- 7) Geneva Convention III Relative to the Treatment of Prisoners of War (12 August 1949);
- 8) Geneva Convention IV Relative to the Protection of Civilians in Time of War (12 August 1949).

Section 2
Purpose

The Interim Iraqi Government (and any successor) has legal authority over all detainees awaiting trial who are placed under the physical custody of the U.S./MNF-I according to the terms of this Memorandum of Understanding (MOU). The U.S./MNF-I will provide assistance for keeping these detainees under its physical control while the Ministry of Justice develops its capacity to house them securely. This MOU sets forth the terms and conditions under which the U.S./MNF-I will provide assistance to the Ministry of Justice for maintaining physical custody of individuals whom an Iraqi court of competent jurisdiction has ordered be detained pending trial (referred to hereafter in this MOU as criminal detainees awaiting trial).

Section 3 Responsibilities

1) The MOJ will:

- (a) provide MNF-I written requests for custodial support for pre-trial criminal detainees at least 5 days before the date on which the support is to commence;
- (b) ensure that all documents requested by MNF-I in connection with maintaining physical custody of pre-trial criminal detainees, such as a valid warrant by a competent judicial authority, are provided prior to assumption of custody by MNF-I;
- (c) advise MNF-I of any court orders related to pre-trial criminal detainees issued after MNF-I assumes physical custody;
- (d) provide MNF-I prompt notice of any change in the status of any pre-trial criminal detainee in the custody of MNF-I;
- (e) inform MNF-I of any support requirements that it believes are appropriate for MNF-I to provide;
- (f) provide guards, escorts, security and transportation that MNF-I requests, within its means and capabilities;
- (g) provide a liaison officer to MNF-I to ensure continuous coordination on any issues involving the pre-trial criminal detainees;
- (h) make every effort to develop its custodial capacity and work towards the physical transfer of all these pre-trial criminal detainees to Iraqi facilities;
- (i) inform MNF-I before releasing any individual, custody of whom was transferred to MOJ by MNF-I, and will comply with any request by MNF-I to reassume custody of an individual if MNF-I notifies MOJ that (a) the individual is wanted for prosecution by any state that has contributed forces to the MNF for breaches of the laws and customs of war, or (b) the internment of the individual is necessary for imperative reasons of security, in which case MNF-I will assume custody of that individual.

2) The MNF-I will:

(a) have exclusive discretion regarding all matters of security (including for force protection) with respect to persons being detained under this MOU;

(b) provide humane treatment and custodial support for the pre-trial criminal detainees it agrees to accept, including but not limited to housing, feeding, clothing, guarding and healthcare;

(c) take appropriate steps to ensure the conditions of this custody meet the standards set out in CPA Memorandum No 2 and CPA Memorandum No. 3;

(d) make every effort to segregate pre-trial criminal detainees from other detainees within its means and capabilities;

(e) take appropriate steps to ensure that pre-trial criminal detainees who have invoked their right to counsel will not be questioned without their counsel being present;

(f) take appropriate steps to ensure that pre-trial criminal detainees meet with their counsel, court investigators, and the investigative judge as needed, subject to the notice requirements of Section 3, Paragraph 1)(a), and within its means and capabilities;

(g) respect and accommodate the rulings of a court of competent jurisdiction within its means and capabilities; and

(h) provide access and cooperation to the International Committee of the Red Cross and the Iraqi Prisons Ombudsman.

Section 4 Effect of Transfer

Both parties hereby acknowledge that the transfer to Iraqi criminal jurisdiction of a detainee who had previously been held in prisoner of war captivity by MNF-I, shall constitute release from prisoner of war captivity and termination of prisoner of war status, notwithstanding the fact that MNF-I maintains custody of the detainee at the request of the MOJ in accordance with this MOU.

Section 5 Effective Period and Amendments

This MOU will be effective upon the signatures of both MNF-I and MOJ and will remain in effect until either MNF-I or MOJ withdraws from this MOU by providing five days written notice to the other. This MOU may be amended if the MNF-I and MOJ so decide in writing.

For the MNF-I:

MG Geoff Miller

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Deputy Commanding General
Detention Operations

For the MOJ:

Dr. (b)(6)
Minister of Justice

End draft MOU text.

5. The following is the list of detainees approved by PM
Allawi:

(b)(6)



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(b)(6)



6. Conclusion. We anticipate that the process adopted here will be used in the future to deal with detainees as their case files are developed by Iraqi authorities.

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Mentions of Prisons, Prisoners and detainees relevant to abuse scandal

Congressional Testimony- September (said several times)

“When I arrived in Baghdad in early May all 151 prisons had been destroyed. Not a single court was open anywhere in Iraq. Not a single policeman was on duty.”

* * *

*L. Paul Bremer
Coalition Provisional Authority Administrator
Address to the Iraqi People
On Justice
For Broadcast 14 November 2003*

“And in a country such as Iraq, where there has been much injustice, the quest for justice takes on a special importance and urgency.

Today in Iraq justice is being done.”

* * *

*L. Paul Bremer, III
Weekly Address to the Iraqi People
As prepared for delivery
for Broadcast on Iraqi Media Network
at 2000 (Baghdad Time) 8 August 2003*

“...Here too there is progress. Although many of the Iraq’s 151 prisons were badly damaged, many are now open and operating, often with funds made available by local Coalition commanders. We are also rebuilding prisons to humane standards.

“While many prisons are not yet open, there is one kind of prison Iraq should never see again—the secret prison.

“We know that secret prisons existed under Saddam. The very fact that they were secret makes it hard for us to be certain how many there were and where they were. We think most of them were underground and in rural areas, though some were in the cities.

“No matter how many secret prisons we find, whatever atrocities were committed there, you may be sure of one thing:

“Imprisonment without cause, imprisonment in secret places, ended with Saddam and his Baathist thugs.

“In a few cases, we are keeping unusually dangerous prisoners, mostly Saddam’s henchmen, in separate detention facilities. But these places are very different from Saddam’s secret torture chambers. The International Committee of the Red Cross is permitted access to any prisoner anywhere in Iraq at any time. We encourage their visits so that an independent organization can verify that all prisoners are humanely treated. Additionally, we are developing a tracking system which will permit family members and friends to obtain information about prisoners...”

* * *

*L. Paul Bremer
Address to the Iraqi People
For Broadcast at 1730 19 September 2003*

“..In the new Iraq anyone who tortures a prisoner is a criminal and subject to prosecution.

“In the new Iraq the police and the Coalition arrest people suspected of crimes. As evidence is examined, they are either set free or held for trial...”

* * *

*L. Paul Bremer
Administrator
Coalition Provisional Authority
Conditional Release Announcement
7 January 2004*

“Let me underscore an important point. This is not a program for those with blood-stained hands. No person involved in the death of or serious bodily harm to any human being, an Iraqi, a citizen of the Coalition or anyone else will be released. Nor will we release anyone accused of torture or crimes against humanity.

“Hundreds more detainees will be freed in this way in the coming weeks. We are also exploring ways to provide greater family access to those detainees not released...”

* * *

April 23, 2004

Televised "Turning the Page" address to the Iraqi people

"...I have looked into the faces of the survivors in Halabja. I have seen the torture chambers and rape rooms in Saddam's prisons. I have seen these things and I think about the horror of them. I think about them, but you have lived them...."

"Earlier this week, a group of professors told me their concerns about those detained by the Coalition. It is a familiar complaint. During the war and since, Coalition forces have detained thousands of Iraqis, and hundreds of foreigners. But we have already released over 75 percent of those detained.

"I understand your concerns and want to tell you what we are doing. We have simplified the processing of detainees. All cases are reviewed within 72 hours by an attorney. In many cases, the person detained is released immediately. Two months ago, we established a special board to expedite the review of all detainees. Since then we have released over 2,500 detainees. We give highest priority to reviewing the records of female detainees. Right now fewer than 10 females are detained. Of course we will not release any detainee guilty of serious crimes, as Saddam did when he flooded the streets with criminals in 2002.

"Many of you have told us that you are frustrated by the lack of information about individual detainees. So we now publish a complete list in Arabic daily on the Coalition website. This list is available at Coalition Information centers

across the country and we are going to post it regularly at the country's police stations and courthouses starting on May 10....”

* * *

(Human Rights Day declaration released to Iraqi media 10 December)

No nation in the world, including my country, the United States, has continuously lived up to every one of the rights incorporated in the Universal Declaration of Human Rights. But it is the duty of all to strive continuously through education, through the force of law and through example, to assure the rights and dignity of every person. If the dignity of one person is taken away, the dignity of all is at peril.

* * *

Address to the Iraqi people

7 November 2003

“... there is the indignity of occupation.

“But you need not fear the future for your future is full of hope and dignity.”

**LEGAL POSITION OF THE ADMINISTRATOR IN RELATION TO THE
MANAGEMENT OF DETENTION ISSUES IN IRAQ FROM 16 MAY 2003 – 30
JUNE 2004**

- The CPA was established to manage the responsibilities and authorities of the occupying power under the law of armed conflict (Hague Regulations 1907 and the Fourth Geneva Convention of 1949). The Fourth Convention regulates the handling of civilian security internees and criminal detainees. The Third Geneva Convention of 1949 is the primary Convention in relation to the handling of prisoners of war (PW). Both categories of persons have from time to time been in the custody or under the responsibility of Coalition Forces.
- Under international law, an occupation exists if the military forces of a State are exercising effective control over foreign territory, having displaced the sovereign. Under the law there is no provision for "Coalition" responsibility, as this rests exclusively with the occupying States that are party to the Fourth and Third Geneva Conventions.
- The occupying powers lawfully established the CPA as the mechanism by which the occupation would be administered. In performing its role, the CPA is authorized to exercise executive and legislative authority, as recognized in UN Security Council Resolutions 1483 and 1511.
- Article 29 is the key provision of the Fourth Convention regarding responsibility for detainees. It states:

The Party to the conflict in whose hands protected persons may be, is responsible for the treatment accorded them by its agents, irrespective of any individual responsibility which may be incurred.
- Article 12 is the key provision of the Third Convention regarding responsibility for prisoners of war. It states:

Prisoners of war are in the hands of the enemy Power, but not of the individuals or military units who have captured them. Irrespective of the individual responsibilities that may exist, the Detaining Power is responsible for the treatment given them.
- The President made clear in his appointment of the CPA Administrator as his Presidential Envoy (letter dated May 9, 2003) that the Administrator's authority does not include programs and activities under the command of the combatant commander. The US and UK military forces retained legal responsibility for PW and detainees in Coalition custody.

- Thus, the ICRC has never regarded the CPA as the legally responsible authority with which the ICRC is required to interact concerning detainee and PW matters. ICRC delegates, on instruction from Headquarters in Geneva, always insisted on dealing directly with the responsible State military forces exercising actual control over these persons. The US military authorities exercised control over most detainees and PWs in Iraq, although UK forces in the south also controlled some detainees and PWs and interacted directly with the ICRC.
- The CPA participated in meetings with the ICRC as an interested but not legally responsible party. The CPA role was confined to the following:
 - a) facilitating contact with relevant identities;
 - b) making representations to CJTF 7;
 - c) seeking budgetary and personnel support for the rehabilitation of the Iraqi justice administration;
 - d) pursuing the physical improvement of the civil prison facilities;
 - e) promulgating legislative measures to reform and promote appropriate standards in the Iraqi system, including the standards to be maintained by CJTF 7 in coordinating its actions with Iraqi criminal process, even though the CPA could not prosecute or command CJTF 7 personnel.
- At no point did the CPA exercise command, physical, or financial control over military detention facilities such as Camps Bucca, Ganci and Cropper, unit holding facilities or military intelligence interrogation facilities in Iraq.
- When the CPA assumed its responsibilities, the prison system in Iraq had effectively been destroyed and the total criminal population of 120,000 inmates had been released onto the streets. Most courts were not functioning, and most court facilities were destroyed or damaged. The judiciary included corrupt individuals, human rights violators and technically incompetent Ba'ath Party functionaries. The practices of a police state that had been responsible for mass killings and systematic, State-sanctioned torture supported by an extensive policing and intelligence apparatus had to be substantially remodeled. No post conflict administration has had to face a greater public security and reform challenge.
- The CPA's legislative response to this situation included revising the Criminal Code to excise draconian political crimes and liberalize restrictions on the freedom of the media and the right to demonstrate. The Criminal procedure Code was amended to prevent torture, to ensure accused persons were advised of their rights, to provide defense counsel at every level of proceedings and to ensure representation to the indigent. The CPA removed prison management responsibilities from repressive agencies and inappropriate organizations, consolidated that responsibility in the Ministry of Justice, and enacted a comprehensive reform of penal administration laws and regulations that

closely follow UN standards. A new Central Criminal Court was established as a court capable of dealing with the most serious national crimes under reformed criminal procedures. The CPA also ensured the independence of the judiciary, freeing it from the politicization of the Ba'ath regime.

- The CPA has promulgated several laws directly related to prison management. These include CPA Order No. 10, Management of Detention and Prison Facilities (5 June 2003); CPA Memorandum No. 2, Management of Detention and Prison Facilities (8 June 2003); and CPA Memorandum No. 3, Criminal Procedures (18 June 2003). Section 7 of CPA Memorandum No. 3 prescribes specific standards applicable to the treatment of all persons who are detained by Coalition Forces as security internees. Subsection 7(1)(c) states that the "operation, condition and standards of any internment facility established by Coalition Forces shall be in accordance with Section IV of the Fourth Geneva Convention."
- These legal reforms have been coupled with substantial improvements of physical facilities, including court houses, prisons, training facilities for prison guards and police, and the Judicial College.
- This record clearly demonstrates that the CPA has met its responsibilities under the Fourth Geneva Convention

RIGHT TO COUNSEL FOR IRAQI CRIMINAL DETAINEES

- The Iraqi Criminal Procedure Code provides at Paragraph 126 that an accused has the right to remain silent and at Paragraph 179 that a refusal to answer questions will not be considered as evidence against the defendant.
- Criminal detainees must be advised of their right to remain silent and right to counsel **upon induction into a detention facility** and must be accorded access to counsel after 72 hours of detention. Only Iraqi police are required to advise persons of their rights immediately upon arrest. There is no such requirement if the apprehended person is not inducted into the detention center. There is no time limit for which an apprehended person may be held before they must be inducted into a detention center. Even after a person is inducted and subsequent intelligence interrogations are conducted, there is no requirement for advice of rights in relation to such interrogations. The right is triggered only by interrogations designed to elicit evidence of criminal activity.
- The Iraqi Criminal Procedure Code does not prohibit the admission of evidence obtained without rights advisement, and CPA modifications of the Code have not changed this result. It is still completely within the discretion of the trial or investigative judges to admit such evidence. This includes the Central Criminal Court of Iraq (CCCI).
- In the case of HVDs, after screening or the conduct of a tribunal under the provisions of Article 5 of the Third Geneva Convention regarding Prisoners of War, they will be classified either as security internees or EPWs. In either event, interrogations for intelligence purposes occur without any advisement of the right to remain silent. Subject to the protection of classified information, sources and methods, information derived from intelligence interrogations may form the basis for subsequent law enforcement investigations. The rights advisement is not and will not be provided to EPW, HVDs or security internees.
- We are aware on no instance in which the CPA's amendments to the Criminal Procedure Code or CCCI Order have affected Coalition Force intelligence gathering activity.

Talking Points: Human Rights Issues

- The policy of the Coalition is to comply with the Geneva Conventions of 1949 and Hague Regulations of 1907, as well as other applicable provisions of the law of war and international humanitarian law.
- The Rules of Engagement (ROE) applicable to military operations in Iraq incorporate the concept of proportionality and necessity, and impose control measures intended to minimize unintended damage. However, Coalition Forces are conducting combat, not peacekeeping or stability, operations, and the use of force is not limited to self-defense of military forces. Deadly force is not used to disperse demonstrations. Combat security operations are ongoing and that force determined necessary and proportionate to such operations is utilized consistent with the ROE and international law. Treatment of suspects is conducted in compliance with international conventions and law of war standards and obligations.
- Coalition Forces are directed to treat all civilians with respect and dignity, and conduct themselves with dignity and honor. This statement is contained on the unclassified ROE extract cards carried by every soldier. Specific procedures on the treatment of civilians are specified in the classified ROE. In general, these procedures are in place to minimize unintended damage to civilian persons and property.
- Where there is reason to believe that ROE have been violated, a commander's inquiry or investigation is conducted to ascertain the facts and circumstances of the incident. An officer appointed by a commander conducts the investigation or inquiry.
- Civilians are detained for the suspected commission of criminal offenses against other civilians or are interned as threats to security and order. The detention of criminals is an obligation of the occupying power in the absence of an effective local police and confinement capability; the internment of persons who threaten security and order is an authority specifically granted by the Fourth Geneva Convention.
- Criminal detainees are informed of the basis of their detention as part of their in-processing at the detention facility. They are also informed of their right to remain silent and their right to counsel.
- There is a process for review of all detentions that requires a probable cause determination by a military attorney within 21 days of every detention. Efforts are underway to conduct this review within 72 hours of detention. Criminal detainees will have their cases heard by Iraqi criminal courts. The review process and detention procedures in general are detailed in the attached order.

- Lawyers are made available to all criminal detainees at the time of their first appearance in Iraqi court. If a person accused of a felony cannot afford an attorney, a civilian attorney will be provided by the Coalition at no cost to the accused. Lawyers and families are allowed to visit detainees at all jails and prisons, but security considerations currently preclude visits at temporary detention facilities. The Coalition recognizes that this situation is unsatisfactory and is striving to move to other facilities that can support visits. In the interim, and as an emergency measure, the Coalition will make a team of civilian attorneys available to consult with detainees at temporary detention facilities.
- The ICRC, as the designated representative with oversight responsibilities under the Geneva Conventions, has full and complete access to all Coalition detention facilities. Visitation by other organizations is not permitted at this time.
- Complaints of mistreatment may be presented to the camp commanders of all detention facilities. Complaints may also be presented to any humanitarian assistance center or police station at which Coalition Forces are present. Depending on the severity of the allegation, the complaint may be investigated by military law enforcement authorities or by officers appointed by the command for that purpose.
- Soldiers who mistreat civilians will be held accountable for their transgressions according to the terms of their national military justice code.
- Civilians who allege mistreatment resulting in personal injury or property damage may file a monetary claim for their loss. Claims are adjudicated under national claims procedures of the responsible Coalition member.
- The Coalition is committed to the rehabilitation of the Iraqi court system and is committed to the restoration of the rule of law, including respect for human rights, in Iraq. Offers to assist in these efforts should be made to the Ministry of Justice.