

WQZ

Conklin, Maegan L

From: Buchwald, Todd F (L-UNA)
Sent: Friday, December 02, 2005 6:02 PM
To: Bellinger, John B (L Bureau); Dorosin, Joshua L; Harris, Robert K; Witten, Samuel M
Subject: RE: Q's & A's

Attachments: LEGAL-#124221-v2-Sec_Q's_&_A's_-_Black_sites__etca.DOC

RELEASED IN PART
B5



LEGAL-#124221-v2
-Sec_Q's_&_A's...

As requested, see revised Q&A on renditions from US - highlighted in yellow in attachment.

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

From: Bellinger, John B (L Bureau)
Sent: Friday, December 02, 2005 5:27 PM
To: Buchwald, Todd F (L-UNA); Dorosin, Joshua L; Harris, Robert K; Witten, Samuel M
Subject: FW: Q's & A's



B5

The Q&A on renditions from the US is too long; can I ask someone to edit it down to no more than 2-3 short bullets?

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

From: Buchwald, Todd F (L-UNA)
Sent: Friday, December 02, 2005 3:56 PM
To: Bellinger, John B (L Bureau)
Cc: Witten, Samuel M; Dorosin, Joshua L; Harris, Robert K
Subject: Q's & A's

<< File: LEGAL-#124221-v1-Sec_Q's_A's_-_Black_sites__etca__.doc >>
John-- Here are the Q's & A's with clearances from Sam, Josh and Bob. Cleared version of backgrounder to follow in a few minutes.

1025

Conklin, Maegan L

From: Dorosin, Joshua L
Sent: Sunday, December 04, 2005 10:22 AM
To: Zelikow, Philip D(C); McCormack, Sean I(PA FRONT); Wilkinson, James R(S); Bellinger, John B (L Bureau); Bellinger, John X (Geneva)
Cc: Graffy, Colleen P; Volker, Karen E(R/PPR); Buchwald, Todd F (L-UNA); Witten, Samuel M; SES-O
Subject: REVISED Q/As for the Secretary
Attachments: LEGAL-#124221-v2-Sec_Q's_A's_-_Black_sites_etca_.doc

RELEASED IN PART
B5



LEGAL-#124221-v2
-Sec_Q's_A's_...

TO THE OPS CENTER: PLEASE PASS TO PHILIP ZELIKOW, SEAN MCCORMACK AND JAMES WILKINSON AS SOON AS POSSIBLE

All -

Attached are the Q/As as revised to reflect the change John noted below to the CID question. We've also added two additional points.

Thanks. Josh

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

From: Bellinger, John B (L Bureau)
Sent: Friday, December 02, 2005 8:08 PM
To: Bellinger, John B (L Bureau); Zelikow, Phillip D(C); McCormack, Sean I(PA FRONT); Wilkinson, James R(S)
Cc: Graffy, Colleen P; Volker, Karen E(R/PPR); Dorosin, Joshua L; Buchwald, Todd F (L-UNA); Witten, Samuel M
Subject: RE: Q's & A's



B5

Josh et al: Could you pls revise Q&As and resend to Philip? Thanks.

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

From: Bellinger, John B (L Bureau)
Sent: Friday, December 02, 2005 6:17 PM
To: Zelikow, Phillip D(C); McCormack, Sean I(PA FRONT); Wilkinson, James R(S)
Cc: Graffy, Colleen P; Volker, Karen E(R/PPR); Dorosin, Joshua L; Buchwald, Todd F (L-UNA); Witten, Samuel M
Subject: FW: Q's & A's

Philip et al: Attached are draft Q&As for the Secretary's personal use on Monday.

B5

[Redacted] If you want to make changes, Josh Dorosin in my office has the pen. John

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

From: Buchwald, Todd F (L-UNA)
Sent: Friday, December 02, 2005 6:02 PM
To: Bellinger, John B (L Bureau); Dorosin, Joshua L; Harris, Robert K; Witten, Samuel M
Subject: RE: Q's & A's

<< File: LEGAL-#124221-v2-Sec_Q's_A's_-_Black_sites_etca.DOC >> s.

LQ 26

Conklin, Maegan L

From: Allegrone, Kathleen H
Sent: Tuesday, November 29, 2005 8:54 AM
To: Pekala, Mark A; Witten, Samuel M; Bellinger, John B (L Bureau); Faucher, Robert J; Dorosin, Joshua L; Terrill, Damon A; Propp, Kenneth R
Cc: Volker, Kurt D; Graffy, Colleen P
Subject: RE: Tasking List for November 29, 2005

RELEASED IN PART
B5

Have we actually received the formal request from STraw?

[Redacted]

B5

k

From: Pekala, Mark A
Sent: Tuesday, November 29, 2005 8:52 AM
To: Witten, Samuel M; Bellinger, John B (L Bureau); Faucher, Robert J; Dorosin, Joshua L; Allegrone, Kathleen H; Terrill, Damon A; Propp, Kenneth R
Cc: Volker, Kurt D
Subject: RE: Tasking List for November 29, 2005

[Redacted]

B5

From: Witten, Samuel M
Sent: Tuesday, November 29, 2005 8:40 AM
To: Bellinger, John B (L Bureau); Pekala, Mark A; Faucher, Robert J; Dorosin, Joshua L; Allegrone, Kathleen H; Terrill, Damon A; Propp, Kenneth R
Cc: Volker, Kurt D
Subject: FW: Tasking List for November 29, 2005
Importance: High

Friends - what are your thoughts on how best to answer the question posed by PA - "When do we expect an answer to the EU regarding the secret prisons?"

[Redacted]

B5

Do you have other/better formulations to suggest? FYI to all - Damon Terrill is back in the office today.

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

From: Davidson, Terry R
Sent: Tuesday, November 29, 2005 7:55 AM
To: EUR-FO-DL; Faucher, Robert J; Terrill, Damon A; Witten, Samuel M; Dorosin, Joshua L; Propp, Kenneth R
Cc: EUR-PPD-Dirs; EUR-AGS-DL; EUR-PPD-PA
Subject: FW: Tasking List for November 29, 2005
Importance: High

L has the lead on the black sites-EU guidance. Time will be short for AGS readout of FM meeting... please coordinate with Gerry Keener on the guidance, as Linda Hartley is working with PA on press accommodations... last-minute switch back to "walk out" press availability with Steinmeier, so we'll have a huge German press contingent... Terry

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EUROPEAN AFFAIRS

L / EUR / INR / REGION: When do we expect an answer to the EU regarding the secret prisons?

EUR / GERMANY: Read-out of the Secretary's meeting with Foreign Minister Steinmeier

From: Pittman, Susan R

Sent: Tuesday, November 29, 2005 7:42 AM

To: PAPress_TaskingList

Subject: Tasking List for November 29, 2005

Importance: High

Just beginning. Will add more later:

<< File: TASKING LIST TEMPLATE.doc >>

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LQ30

Conklin, Maegan L

From: Graffy, Colleen P
Sent: Friday, January 20, 2006 12:27 AM
To: Bellinger, John B (L-Bureau)
Cc: Dorosin, Joshua L; Volker, Kurt D; Volker, Karen E(R/PPR)
Subject: UK on Renditions

RELEASED IN PART
 B1, 1.4(B)

FYI. Glad Hank got the rendition points before he left. thx

UK: Leaked "Rendition" Memo Raises Questions for PM

(C) According to media reports, the *New Statesman* magazine will publish this week a leaked December 7th FCO memo to Number 10 which advised senior ministers not to get drawn into details about extraordinary rendition. The memo reportedly said "we cannot say that we have received no such requests for the use of UK territory or airspace" and asked "how do we know whether those [prisoners] our Armed Forces have helped to capture in Iraq or Afghanistan have subsequently been sent to interrogation centers?" Number 10 and the FCO had no comment, saying the Government's policy is not to comment on leaked memos. Conservative Party Shadow Minister William Hague asked the government to clarify its position. LibDem foreign affairs spokesman Nick Clegg suggested the memo may be a breach of the Ministerial Code requiring ministers to be as open as possible with Parliament and the public.

B1

[Redacted] (Post/press reporting; EUR/UBI: ACervetti, 7-2456)

UNITED STATES DEPARTMENT OF STATE
 REVIEW AUTHORITY: ARCHIE M BOLSTER
 DATE/CASE ID: 22 JUN 2009 200706444

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3/27/2009

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LQ31

NotesTele.txt
Daniel Fried 11/25/2005 09:00:08 AM From DB/Inbox: Daniel Fried

Cable
Text:

RELEASED IN PART
B1, 1.4(B), 1.4(D)

CONFIDENTIAL
TELEGRAM

November 25, 2005

To: No Action Addressee
Action: EUR
From: AMEMBASSY THE HAGUE (THE HAGUE 3172 - IMMEDIATE)
TAGS: EUN, MARR, MOPS, PGOV, PINR, PREL, AF, NL
Captions: None
Subject: NETHERLANDS/ISAF: FM BOT LINKS REPORTS OF SECRET PRISONS AND ISAF STAGE III PLANS
Ref: None

Classified By: Acting Political Counselor Jason Grubb,
reasons 1.4 (b,d)

1. (C) Summary: During November 24 parliamentary debates on foreign policy, Dutch Foreign Minister Bernard Bot linked news reports of secret USG prisons and CIA-contracted planes to Dutch participation in military missions in Afghanistan. Bot said that the existence of secret CIA prisons in Europe would have consequences for Dutch participation in OEF and plans to participate in ISAF Stage III.

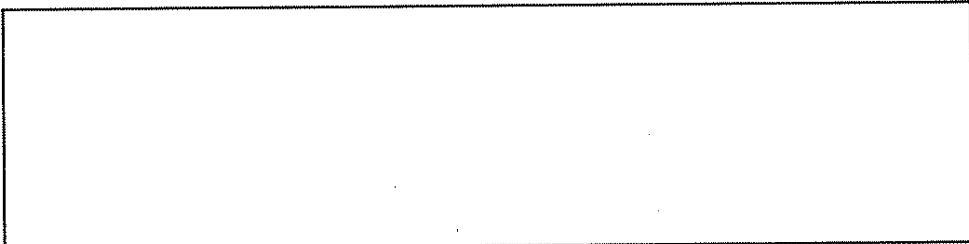
B1

Post requests Department's guidance on how to respond to Bot's comments. End summary.

Bot Speaks Out

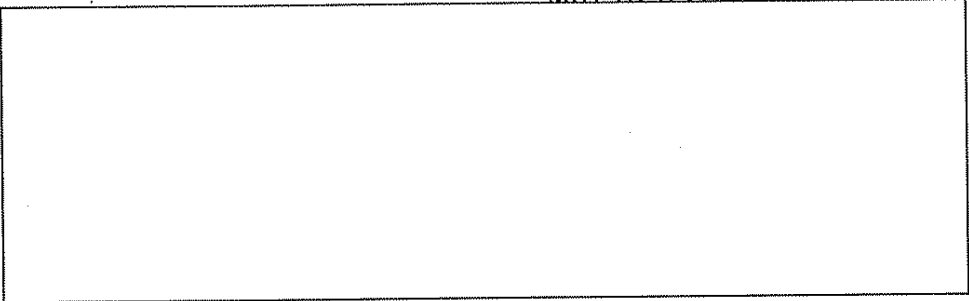
2. (C) Bot said that if the CIA has secret prisons in Europe, then this will affect Dutch participation in OEF and plans to participate in ISAF Stage III. He suggested that the USG is pushing the limits of international law, and said that recent comments by Vice President Cheney on international rules against torture have "aggravated the situation". These comments follow Bot's recent remarks that the U.S. should not "play hide and seek" with regard to the prisons. Media reports suggest that resistance to Dutch participation in military missions in Afghanistan is growing in Parliament.

B1



NotesTele.txt

B1



BLAKEMAN

Additional Addressees:
None

cc:
AMEMBASSY CANBERRA
AMEMBASSY KABUL
SECSTATE WASHDC
CJCS WASHDC
NATO EU COLLECTIVE
NSC WASHDC

Distribution:

TED5877
ACTION EUR-00

INFO	LOG-00	ACQ-00	CIAE-00	DODE-00	VCI-00	TEDE-00	INR-00
	L-00	VCIE-00	NEA-00	NSAE-00	ISN-00	NSCE-00	OMB-00
	PA-00	PM-00	PRS-00	P-00	ISNE-00	SP-00	SS-00
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	SAS-00	/000w					

-----63FE6C 251139Z /34

O 251059Z NOV 05
FM AMEMBASSY THE HAGUE
TO SECSTATE WASHDC IMMEDIATE 4179
INFO NATO EU COLLECTIVE IMMEDIATE
AMEMBASSY CANBERRA IMMEDIATE
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CJCS WASHDC IMMEDIATE
NSC WASHDC IMMEDIATE
SECSTATE WASHDC IMMEDIATE 4180

C O N F I D E N T I A L THE HAGUE 003172

E.O. 12958: DECL: 11/25/2015
TAGS: MARR, PREL, PGOV, PINR, MOPS, EUN, AF, NL
SUBJECT: NETHERLANDS/ISAF: FM BOT LINKS REPORTS OF SECRET
PRISONS AND ISAF STAGE III PLANS

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End Cable Text

Daniel Fried 11/25/2005 09:00:08 AM From DB/Inbox: Daniel Fried

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Joanne E Addison
Michael J Adler
Damola A Akeredolu
Stefanie Altman-winans
Aaron T Alton
Worth S Anderson
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EUR Sp Asst
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John Fox

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Mary M Nash

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Jeffrey D Rathke
Melissa D Ray
Lonni H Reasor
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Gus Recinos
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Lawrence G Richter
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Adele Ruppe
Franciso, D Sainz
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Michael D Sessums
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Eugenia M Sidereas
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Alyssa Waxman
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Matthew S Wells
Arkell D weygandt
Caitlin White
Tamiya Y White
Ernestine Wilson

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NotesTele.txt

Jason R Wisniewski
Kami A Witmer
Nelson Wukitsch
Thomas A Yeager
Marie L Yovanovitch
Alan K Yu
Diane R Zeleny LMDS Profiles/Office Symbols:

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EUR_UBI_A7
EUR_USIS_A1

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Mcdonaldc1
TC
Wukitschn1
oakman1
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McknightA1
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PGI-1
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Smithcm1
sullivan_1
turnbulld
johnsonj1
seeverjp
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AzevedoM
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conlon1
gagem2
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Andersonw
eddy_1
ERA1
EXHEADS1
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manningj12
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NotesTele.txt

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feldman2

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L0901

LQ34

Conklin, Maegan L

From: Dorosin, Joshua L
Sent: Wednesday, November 30, 2005 11:45 AM
To: Bellinger, John B (L Bureau); Witten, Samuel M
Subject: FW: Crosshatch on Bondsteel

RELEASED IN PART
B5

John/Sam -

FYI - the Bondsteel story has been largely deflated by a newer Le Monde story reporting that the former French KFOR Commander has publicly countered Gil Robles allegations.

Josh

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

From: Rathke, Jeffrey D
Sent: Wednesday, November 30, 2005 10:51 AM
To: Dorosin, Joshua L
Subject: FW: Crosshatch on Bondsteel

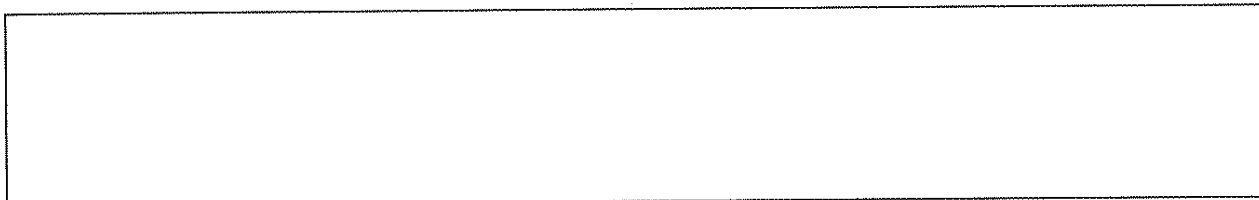
Josh:

FYI.

JR

From: Rathke, Jeffrey D
Sent: Wednesday, November 30, 2005 10:51 AM
To: Volker, Kurt D; Warlick, James B (EUR); Robbins, Gary D; Bame, David J(P); English, Charles L
Subject: RE: Crosshatch on Bondsteel

Just talked to Mark Schwendler, who reported the following:



B5

JR

From: Schwendler, Mark H. [mailto:schwendm@nsc.sgov.gov]
Sent: Wednesday, November 30, 2005 10:46 AM
To: Ansley, Judith A. (Europe-NSC); Braun, Bertram D.
Cc: Rathke, Jeffrey D
Subject: Former KFOR Commander Valentin: No Secret Prison at NATO Base in Kosovo [UNCLASSIFIED, Record]

Source-Date: 11/29/2005
EUP20051129029009 Paris Le Monde (Internet Version-WWW) in French 29 Nov 05

UNITED STATES DEPARTMENT OF STATE
REVIEW AUTHORITY: ARCHIE M BOLSTER
DATE/CASE ID: 22 JUN 2009 200706444

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3/27/2009

[Report by Laurent Zecchini: "Kosovo: 'KFOR Denials of 'Secret Prison'"]

[FBIS Translated Text]

France's General Valentin, who commanded NATO's multinational force in Kosovo (KFOR) from October 2001 through October and 2002, countered the charges leveled by Alvaro Gil Robles, the Council of Europe's commissioner for human rights, who gave to understand that the United States' Camp Bondsteel[0] in Kosovo could be a replica of Guantanamo. In a 27 November interview with *Le Monde*, General Valentin was forthright: "I was never shocked by conditions of detention. It was a military prison like many others. Amnesty International and the Red Cross had no complaint about conditions of detention. Of course people were imprisoned there under emergency conditions, and I had emergency powers: in Kosovo there was no judiciary, no police, and no prison service. So prisoners had no attorneys. They were under extended arrest without charge."

General Valentin explained that he met with Mr Gil Robles 7 September 2002. He took the latter to the camp, but did not accompany him inside. On his return, Mr Gil Robles "told me that he was very happy with what he had seen and praised the professionalism displayed by the Americans in managing the detention center," the general recalled. At that time the center held, among others, five Algerian nationals. "They were members of an Algerian NGO accused of photographing NATO facilities. I had them arrested at the end of July, and they were released in September, for lack of evidence."

The former commander of NATO's forces in Kosovo explained that, though the detention center was under his responsibility, its management was entrusted to KFOR's US forces. "Unless I was deaf and blind, this detention center only ever held persons that KFOR was tasked with arresting and detaining, in accordance with UN Resolution 1244," he said. On his arrival, General Valentin found 75 prisoners at the detention center, and they had all left it by the time of his departure.

General Valentin nevertheless admitted that he could not say anything about the rest of this 300-hectare military camp. "All aircraft landing in Pristina were extraterritorial; they were NATO aircraft and nobody checked what they were carrying," he specified. Mr Gil Robles' point that prisoners wore "orange fatigues like those of the prisoners at Guantanamo" made General Valentin smile: "Prisoners in all US prisons wear orange fatigues. As for distinguishing a bearded Albanian from a Taliban... I think that Mr Gil Robles was misled by drawing a certain parallel," he said.

In Pristina, KFOR said that it had never been notified of any use of the Bondsteel[0] detention center beyond that relating to KFOR's mission, and the spokesman for the US troops denied that there is a "secret prison" at Bondsteel[0].

However, the controversy over secret CIA prisons in Europe is not abating: Switzerland has demanded explanations from Washington concerning the overflight of its territory by US aircraft, while German Foreign Minister Frank-Walter Steinmeier has declared himself "concerned" about reports that aircraft carrying arrested Islamists stopped over in Germany.

[Description of Source: Paris Le Monde (Internet Version-WWW) in French -- leading left-of-center daily]

From: Nuland, Victoria
Sent: Wednesday, November 30, 2005 2:06 AM
To: Volker, Kurt D; Warlick, James B (EUR); Robbins, Gary D; Bame, David J(P); Rathke, Jeffrey D
Cc: Koenig, John M
Subject: RE: Crosshatch on Bondsteel

Not surprised. Tx for efforts. Euro-papers today full of S's "promise" to get a good answer soon on "secret

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3/27/2009

detention" given during her Steinmeier mtg.

From: Volker, Kurt D [mailto:VolkerKD@state.sgov.gov]
Sent: Wednesday, November 30, 2005 3:17 AM
To: Nuland, Victoria; Warlick, James B (EUR); Robbins, Gary D; Bame, David J(P); Rathke, Jeffrey D
Cc: Koenig, John M
Subject: Crosshatch on Bondsteel

Toria - Despite best efforts by OSD and RPM, you will regrettably not get guidance on Bondsteel in time for the NAC.

[REDACTED] We hope to get the crosshatch cleared asap after that, but cannot guarantee at this point. - Kurt

B5

LQ40

Conklin, Maegan L

From: Terrill, Damon A
Sent: Wednesday, December 14, 2005 11:15 AM
To: Bellinger, John B (L Bureau)
Cc: Jacobson, Linda; Harris, Robert K; Witten, Samuel M; Olson, Peter M; Dorosin, Joshua L
Subject: RE: Press Tasking to L - CoE Statements on Detainees

Importance: High
Attachments: FW: COE Inquiries

RELEASED IN PART
 B5

John -

I've just spoken at length with Susan Ball (EUR/WE), who notes that you were to receive the attached momentarily via Dan Fried.

In sum - no, there has been no contact, as far as we're aware, between Dick Marty and the Department, post, or anyone else in the USG, since the delivery by Mr. Marty of his report to the COE's PACE yesterday afternoon.

At Sam's suggestion, I'm now drafting place-holder "we have nothing further at this time" guidance in response to this morning's tasking, which I'll circulate to this list momentarily.

I hope this helps.

Damon



FW: COE Inquiries

Damon A. Terrill
 Attorney Adviser & Press Officer
 United States Department of State
 Office of the Legal Adviser
 European & Eurasian Affairs (L/EUR)
 2201 C Street NW
 Washington, DC 20520
 (202) 647-1270

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

From: Bellinger, John B (L Bureau)
Sent: Wednesday, December 14, 2005 11:01 AM
To: Terrill, Damon A; Jacobson, Linda; Harris, Robert K; Witten, Samuel M; Olson, Peter M; Dorosin, Joshua L
Subject: RE: Press Tasking to L - CoE Statements on Detainees

Damon: Do we know if he is talking to anyone in Embassy Paris or in the USG? JBB

B5

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

From: Terrill, Damon A
Sent: Wednesday, December 14, 2005 9:54 AM
To: Bellinger, John B (L Bureau); Jacobson, Linda; Harris, Robert K; Witten, Samuel M; Olson, Peter M; Dorosin, Joshua L
Subject: Press Tasking to L - CoE Statements on Detainees
Importance: High

Please note the below press tasking, on which L has the lead. I have attached a copy of the COE's statement, to
 UNITED STATES DEPARTMENT OF STATE
 REVIEW AUTHORITY: ARCHIE M BOLSTER
 DATE/CASE ID: 22 JUN 2009 200706444

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which the tasking refers, as well as a template for use in creating the guidance.

L / SWCI / EUR: Comment on the Council of Europe's Committee on Legal Affairs and Human Rights report on inquiry into reports of secret prisons and rendition flights.

Best,

Damon (7-1270)

<< File: COE Statemet Secret Detention Centres in Europe.doc >> << File:
121405LPressGuidanceCoEStatement.doc >>

Damon A. Terrill
Attorney Adviser & Press Officer
United States Department of State
Office of the Legal Adviser
European & Eurasian Affairs (L/EUR)
2201 C Street NW
Washington, DC 20520
(202) 647-1270

UNCLASSIFIED

LQ40A

Conklin, Maegan L

From: Ball, Susan M (EUR)
Sent: Wednesday, December 14, 2005 11:09 AM
To: Terrill, Damon A
Subject: FW: COE Inquiries

RELEASED IN PART
B5, B1, 1.4(B), 1.4(D)

Attachments: COE Amb Marty letter.doc; COE Amb van der Linden letter.doc; Marty letter.DOC; Van der Linden letter to S.tif

fyi

From: Allegrone, Kathleen H
Sent: Wednesday, December 14, 2005 10:59 AM
To: Sterling, Adam H; Chase, Peter H (EUR); Volker, Kurt D
Cc: EUR-WE-France-DL
Subject: COE Inquiries

For L, P and PA

COE has approached us at various levels on four separate tracks during the past month. We have responded to three of the four requests, including the initial one by Dick Marty, by politely pointing them toward, and attaching, the Secretary's December 5 statement. A draft response from S to the COE Parliamentary Assembly President is in clearance.



B5

Details:

- COE member (Dick Marty) charged with investigating detainee etc allegations in Europe. He wrote to Amb Stapleton November 14, asking for information; Ambassador responded on December 7, forwarding to Marty the Secretary's statement.
- On December 2, President of the COE Parliamentary Assembly (Van der Linden) requested a meeting with S in Brussels. On December 7, Embassy Paris responded with a negative, based on consultations with S staff, and attached a copy of the Secretary's statement.
- On December 6, Van der Linden wrote directly to S, urging cooperation with the COE investigation, led by Marty. A draft response is in the clearance process.



B1



COE Amb Marty letter.doc (24 K...



COE Amb van der Linden letter....



Marty letter.DOC (28 KB)



Van der Linden letter to S.tif...

UNITED STATES DEPARTMENT OF STATE
CLASSIFIED BY DEPT. OF STATE, L. HEDGBETH, DAS, A/ISS
REVIEW AUTHORITY: ARCHIE M BOLSTER
CLASSIFICATION: CONFIDENTIAL REASON: 1.4(B), 1.4(D)
DECLASSIFY AFTER: 14 DEC 2015
DATE/CASE ID: 01 JUL 2009 200706444

¹UNCLASSIFIED

LQ45

Conklin, Maegan L

From: Terrill, Damon A
Sent: Tuesday, November 29, 2005 4:30 PM
To: Bellinger, John B (L Bureau)
Cc: Hata, Marianne J; Olson, Peter M; Witten, Samuel M
Subject: FW: US acknowledges Europe concern on 'secret prisons'

RELEASED IN PART
B5

John -

In anticipation of your meeting with Saul tomorrow, please note the below.

Best,

Damon (7-1270)

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

From: Allegrone, Kathleen H
Sent: Tuesday, November 29, 2005 3:52 PM
To: Witten, Samuel M; Propp, Kenneth R; Terrill, Damon A
Cc: Graffy, Colleen P
Subject: FW: US acknowledges Europe concern on 'secret prisons'



B5

From: OS Duty
Sent: Tuesday, November 29, 2005 3:33 PM
To: LW-EUR; LW-Mahogany; SES-O_Shift-II; LW-L; SES-O_Shift-II
Subject: US acknowledges Europe concern on 'secret prisons'

^BC-GERMANY-USA

^US acknowledges Europe concern on 'secret prisons'

By Saul Hudson

WASHINGTON, Nov 29 (Reuters) - Under German pressure, the United States acknowledged for the first time on Tuesday that allegations of secret CIA prisons in Europe have raised widespread concern in the region.

On the first visit by a German official from a coalition that took power last week, Foreign Minister Frank-Walter Steinmeier also won a personal pledge from U.S. Secretary of State Condoleezza Rice that Washington would respond to the accusations.

"The United States realizes that these are topics that are generating interest among European publics as well as parliaments and that these questions need to be responded to," State Department spokesman Sean McCormack told reporters after the diplomats' meeting.

Rice maintained the U.S. position of avoiding denying or confirming a newspaper report that secret centers to interrogate terrorism suspects were located in Eastern Europe, but Steinmeier said he was reassured Washington would be more forthcoming.

Steinmeier said that Rice, who will visit Germany on a trip to Europe next week, pledged to "provide a prompt and detailed response" to an EU request for clarification of the report.

The U.S. acknowledgment of European concerns was a departure from the Bush administration's response to the nearly four-weeks-old scandal, in which it downplayed the controversy by saying it was not a major issue with governments.

Until the eve of the meeting, U.S. officials had also given little sign they would answer growing calls in Europe for an explanation. On Monday, however, McCormack said the United States would try to respond to an EU inquiry into the charges.

The controversy has fueled public and government concern in Europe about America's tactics in its war on terrorism and U.S. handling of detainees in general.

Governments, including Germany as a vocal critic, have already complained of U.S. detainee abuse in Iraq and the detention of prisoners for years in Guantanamo Bay, Cuba.

Human rights groups, who say the United States has used legal technicalities to justify abusive policies in its war on terrorism, say incommunicado detention is illegal and often leads to torture.

Rice sought to allay such fears in her meeting with Steinmeier. McCormack said she told him U.S. actions complied

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DATE/CASE ID: 06 AUG 2009 200706444

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with the laws and Constitution of the United States and with international obligations.

U.S. President George W. Bush brushed off reporters' questions on whether the allegations would be investigated. "The United States of America does not torture. And that's important for people around the world to understand," Bush said in Texas.

QUIET DIPLOMACY

Under domestic pressure to make the United States give more information about the secret-prison allegations reported by the Washington Post, Steinmeier told reporters he raised the issue.

But he also sought to stop the controversy from clouding an expected new drive to improve ties after the Bush administration clashed with its key ally over the Iraq war.

Steinmeier agreed to the unusual move of not holding a joint news conference with Rice, where questions on the scandal could have eclipsed a sense of cooperation the governments want to show on such issues as Iran and Afghanistan.

Choosing to pressure in a private meeting was in keeping with what political analysts have predicted will be a change in style from the previous German government's practice of airing its differences in public.

McCormack said the meeting was not dominated by "secret prisons" and lamented that the report had distracted from the countries' diplomacy, which will intensify with Rice's trip, as well as visit this week to Germany by her deputy, Robert Zoellick.

"Certainly I think that in the public discourse it is a topic that is taking up quite a bit of time," McCormack said. (Additional reporting by Markus Kraus in Washington and Patsy Wilson in El Paso, Texas)

^REUTERS

LQ58

Conklin, Maegan L

From: Pelofsky, Eric J
Sent: Thursday, March 09, 2006 7:33 PM
To: Bellinger, John B (L Bureau)
Cc: Dorosin, Joshua L
Subject: (C/NODIS) [redacted]

RELEASED IN PART
B1, 1.4(B), 1.4(D)

Attachments: [redacted]

B1
B1

John,

Attached please find a draft note to the Secretary regarding [redacted]

B1

thanks,
Eric



B1

LQ59

Conklin, Maegan L

From: Hata, Marianne J
Sent: Thursday, March 02, 2006 12:17 PM
To: Bellinger, John B (L Bureau)
Subject: ICRC report - 15 minutes

RELEASED IN PART
B1, 1.4(D)

Josh and Eric would like to see you shortly at 12:45PM to discuss ICRC report related issues

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

From: Bellinger, John B (L Bureau)
Sent: Thursday, March 02, 2006 8:07 AM
To: Pelofsky, Eric J
Cc: Dorosin, Joshua L
Subject: RE: ICRC report

Let's set up a mtg.

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

From: Pelofsky, Eric J
Sent: Wednesday, March 01, 2006 8:55 PM
To: Bellinger, John B (L Bureau)
Cc: Dorosin, Joshua L
Subject: ICRC report

John,

[Redacted] We were interested in discussing the report with you
- in part, to determine what next steps, if any, we might want to take (including a note to the Secretary).

B1

[Redacted] We have also
shared this report with S/WCI (Hodgkinson) and PRM (Santos).

B1

thanks,
Eric

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REVIEW AUTHORITY: ARCHIE M BOLSTER
CLASSIFICATION: CONFIDENTIAL REASON: 1.4(D)
DECLASSIFY AFTER: 2 MAR 2016
DATE/CASE ID: 01 JUL 2009 200706444

1 UNCLASSIFIED

LQ69

SECRET//NOFORN//MR

RELEASED IN PART
B5, B1, 1.4(D)

DTG: 041342Z DEC 08
FROM: AMEMBASSY MADRID
SERIAL: MADRID 001280
CLASS: C O N F I D E N T I A L SECTION 01 OF 03 MADRID 001280

SUBJECT: SPAIN: ALLEGED DETAINEE FLIGHTS ISSUE BLOWS UP IN MEDIA.

REF:

- A. 07 MADRID 173.
- B. MADRID 1021 Classified By: Deputy Chief of Mission Arnold
- A. Chacon for reasons 1.4 (b) and (d).
i. (SBU)

TEXT: SUMMARY: A hot issue in the Spanish press since 2005, the detainee transfer flights that allegedly transited Spain from 2002 until 2006 have once again hit the headlines. The most recent flurry of reporting began November 30 when El Pais, Spain's leading newspaper, printed several stories based on internal GOS documents purporting to relate U.S. requests in 2002 for permission to use Spanish airports should an emergency arise on flights transporting terrorism detainees to Guantanamo.

[Redacted]

END SUMMARY. The Story that Will Not Die

2. (SBU) The Guantanamo detainee flight story has long since become a press staple in Spain. The story appears on front pages (starting in El Pais) and disappears every two or three months. An investigation is underway in a Spanish court, brought by an NGO which claims illegally detained persons were transported via Spain.

[Redacted]

[Redacted]

Leaks.

3. (SBU) [Redacted]

It began November 30 when El Pais reported a document recounting a 2002 meeting between the then-Spanish MFA Director General for North America and the Embassy's Political-Military Counselor (NFI) in which the U.S. asked to use Spain as an emergency landing destination for flights moving detainees from Afghanistan to Guantanamo. The newspaper also described a second document from the same MFA official, addressed to the MOD Secretary General for Defense Policy, expressing the MFA's willingness to grant the U.S. request and suggesting use of a "discreet" military airport such as Moron. In a related article December 3, El Pais published a February 2007 letter from the Spanish President of the joint Permanent Committee which manages implementation of the ADC, asking the U.S. section to confirm that the U.S. was in compliance with Article 25.2 of the ADC with respect to U.S. military flights to and from Guantanamo (that article exempts from blanket flight clearances any plane carrying persons or cargo that would be controversial for Spain). The newspaper also published the U.S. section response, which was in the affirmative. (Note: In March 2007, the MOD decided that all flights to and from Guantanamo would require individual clearances; that is the procedure in use today).

4. (SBU) [Redacted]
FM Moratinos announced December 1 the formation of an independent investigative team including the Chiefs

B5

B5

B5

B5

B5

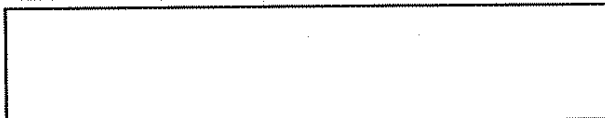
B5

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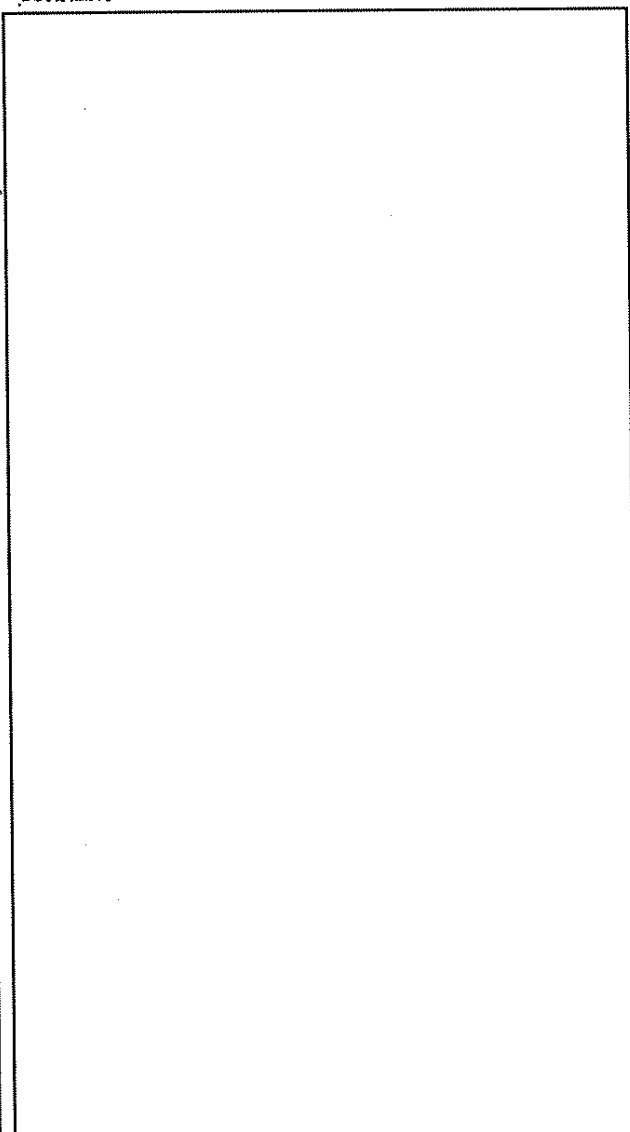
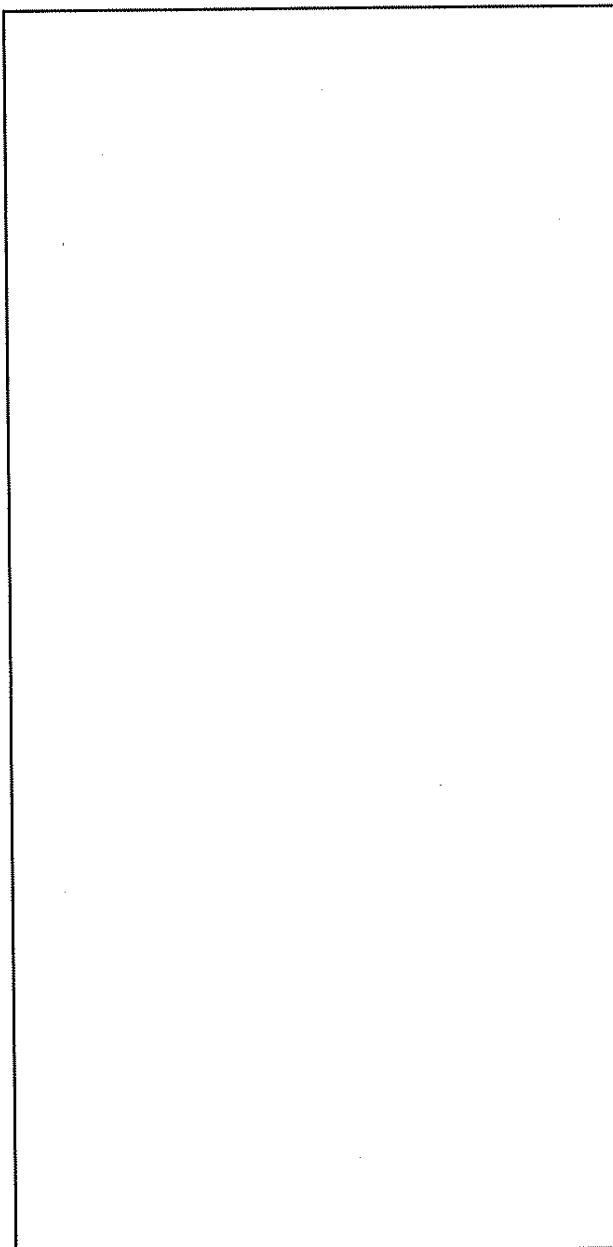
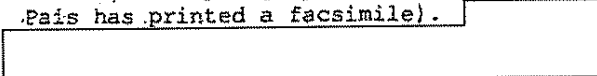
UNITED STATES DEPARTMENT OF STATE¹³
REVIEW AUTHORITY: ARCHIE M BOLSTER
DATE/CASE ID: 22 JUN 2009 200706444

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of Staff to the FM, the Secretary of State for Foreign Affairs, and the Undersecretary of State for Foreign Affairs as well as the FM's parliamentary advisor. On December 2, Moratinos confirmed press reports the investigative team has not been able to locate the original of the 2002 document described in paragraph 1 (although El Pais has printed a facsimile).



6. (SBU) THE PROSECUTOR HANDLING THE RELATED COURT CASE INDICATED LAST YEAR THAT THERE WAS NO PLAN TO REQUEST INFORMATION FROM THE USG (REF A). HOWEVER, THE LATEST ROUND OF STORIES HAS INCLUDED SPECULATION THAT THE COURT MIGHT SEEK TESTIMONY FROM AZNAR AND MEMBERS OF HIS ADMINISTRATION AS WELL AS FROM U.S. EMBASSY OFFICIALS. WE HAVE RECEIVED NO OFFICIAL NOTIFICATION OF ANY SUCH REQUESTS, COMMENT



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B5

B1

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RELEASED IN PART *1074*

Conklin, Maegan L

B5

From: Dolan, JoAnn
Sent: Thursday, October 21, 2004 6:08 PM
To: Dorosin, Joshua L; Deeks, Ashley S; Thessin, James H
Subject: FW: Friday 10:30 meeting/UN WG on Disappearances/ inquiry on ghost detainees - guidance needed

[Redacted]

B5

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

From: Witten, Samuel M
Sent: Thursday, October 21, 2004 5:19 PM
To: Brancato, Gilda M (Main State); Cummings, Edward R (Main State); Dolan, JoAnn
Cc: Harris, Robert K; Dorosin, Joshua L; Hata, Marianne J; Wright, Elizabeth B
Subject: RE: Friday 10:30 meeting/UN WG on Disappearances/ inquiry on ghost detainees - guidance needed

10:30 is fine with me.

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

From: Brancato, Gilda M (Main State)
Sent: Thursday, October 21, 2004 5:10 PM
To: Witten, Samuel M; Cummings, Edward R (Main State); Dolan, JoAnn
Cc: Harris, Robert K; Dorosin, Joshua L; Hata, Marianne J
Subject: FW: Friday 10:30 meeting/UN WG on Disappearances/ inquiry on ghost detainees - guidance needed

Could Sam, Ed, and JoAnn kindly meet with Will Taft, Bob and myself tomorrow morning (Friday) between 10:30 and 12:30, with 10:30 the best time for Will, on possible approaches to a UNCHR inquiry from the Working Group on Forced Disappearances about ghost detainees (reproduced below).

[Redacted]

B5

Please confirm that 10:30 Friday works for you. Otherwise we will meet later in the morning (afternoon will not work). Thank you all, Gilda

ANNEX

WORKING GROUP ON ENFORCED OR INVOLUNTARY DISAPPEARANCES

General allegations

United States of America

The Working Group received information from non-governmental organizations concerning the reported non-compliance by the Government of the United States of America with provisions of the Declaration on the Protection of All persons from Enforced Disappearance.

Reports were received by the Working Group regarding secret detention centers under United States' authority in various parts of the world, in which an unknown number of persons are detained. Reports assert that there was inadequate provision of notice to families about the capture of detainees and

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their conditions, legal status and rights. It is also reported that it is unclear in many circumstances which U.S. agency is ultimately responsible for the arrest or the conditions of confinement of the detainees in these facilities.

Reports further specify that the most sensitive and high-profile detainees are not being held in Guantanamo because it is believed that detainees there will eventually be monitored by the U.S. courts. It is stated that terrorism suspects are detained by the United States in "undisclosed locations," presumably outside the United States, with no access to the ICRC, no notification to families, no oversight of any sort of their treatment, and in most cases no acknowledgment that they are even being held. Information was provided on 13 specific alleged detainees, apprehended in places such as Pakistan, Indonesia, Thailand, Morocco, and the United Arab Emirates, who have reportedly disappeared in U.S. custody.

American authorities have also apparently refused to disclose the names of men secretly detained during the past few years within the United States. Families have not been informed on the arrested persons' locations. Reports state that some of these detainees have now been released or deported.

End text.

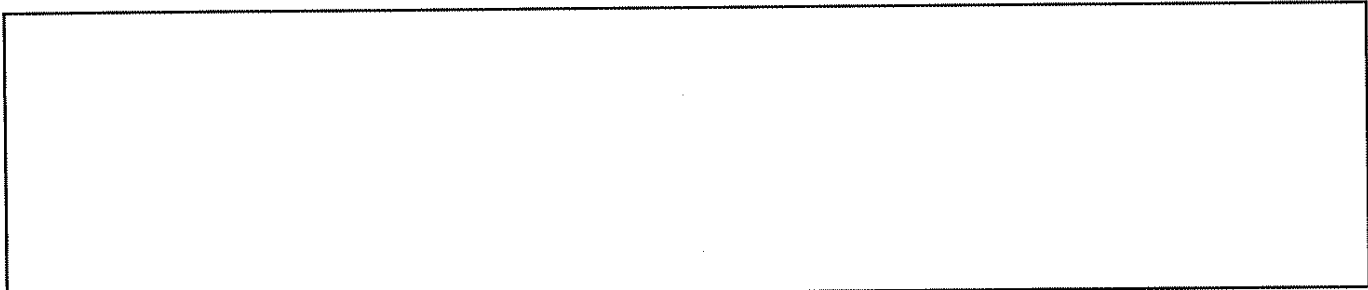
<< File: LEGAL-#119484-v1-WG_FD_ghost_detainees_with_L_PM_changes.DOC >>

B5

LQ75

Conklin, Maegan L

From: Brancato, Gilda M (Main State)
Sent: Friday, October 22, 2004 10:47 AM
To: Brancato, Gilda M (Main State); Witten, Samuel M; Cummings, Edward R (Main State); Dolan, JoAnn
Cc: Harris, Robert K; Dorosin, Joshua L; Hata, Marianne J; Wright, Elizabeth B; Thessin, James H; Gorove, Katherine M
Subject: RE: Friday 11:00 meeting/UN WG on Disappearances/possible options for a reply
Attachments: LEGAL-#119490-v1-Disappearances_with_DOD_insert_SR_reponse.DOC; LEGAL-#119484-v1-WG_FD_ghost_detainees_with_L_PM_changes.DOC



B5

We remain open to other options.
 See you shortly.
 Thank you, Gilda

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

From: Brancato, Gilda M (Main State)
Sent: Friday, October 22, 2004 10:23 AM
To: Witten, Samuel M; Cummings, Edward R (Main State); Dolan, JoAnn
Cc: Harris, Robert K; Dorosin, Joshua L; Hata, Marianne J; Wright, Elizabeth B
Subject: RE: Friday 11:00 meeting/UN WG on Disappearances/ inquiry on ghost detainees - guidance needed

Reminder to all that our meeting is at eleven today. Thank you

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

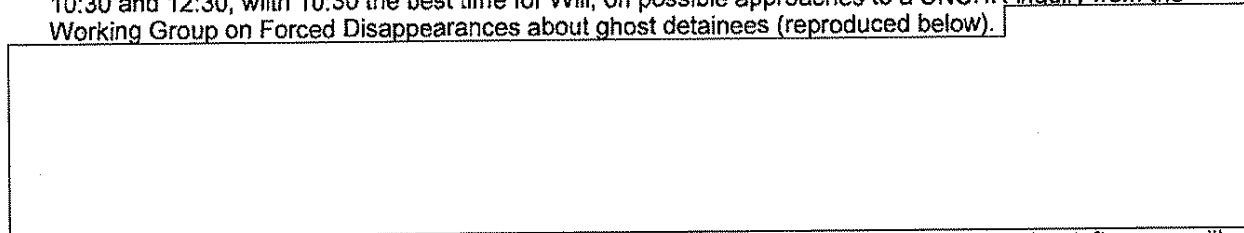
From: Witten, Samuel M
Sent: Thursday, October 21, 2004 5:19 PM
To: Brancato, Gilda M (Main State); Cummings, Edward R (Main State); Dolan, JoAnn
Cc: Harris, Robert K; Dorosin, Joshua L; Hata, Marianne J; Wright, Elizabeth B
Subject: RE: Friday 10:30 meeting/UN WG on Disappearances/ inquiry on ghost detainees - guidance needed

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

From: Brancato, Gilda M (Main State)
Sent: Thursday, October 21, 2004 5:10 PM
To: Witten, Samuel M; Cummings, Edward R (Main State); Dolan, JoAnn
Cc: Harris, Robert K; Dorosin, Joshua L; Hata, Marianne J
Subject: FW: Friday 10:30 meeting/UN WG on Disappearances/ inquiry on ghost detainees - guidance needed

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B5



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Thank you all, Gilda

ANNEX

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Reports were received by the Working Group regarding secret detention centers under United States' authority in various parts of the world, in which an unknown number of persons are detained. Reports assert that there was inadequate provision of notice to families about the capture of detainees and

their conditions, legal status and rights. It is also reported that it is unclear in many circumstances which U.S. agency is ultimately responsible for the arrest or the conditions of confinement of the detainees in these facilities.

Reports further specify that the most sensitive and high-profile detainees are not being held in Guantanamo because it is believed that detainees there will eventually be monitored by the U.S. courts. It is stated that terrorism suspects are detained by the United States in "undisclosed locations," presumably outside the United States, with no access to the ICRC, no notification to families, no oversight of any sort of their treatment, and in most cases no acknowledgment that they are even being held. Information was provided on 13 specific alleged detainees, apprehended in places such as Pakistan, Indonesia, Thailand, Morocco, and the United Arab Emirates, who have reportedly disappeared in U.S. custody.

American authorities have also apparently refused to disclose the names of men secretly detained during the past few years within the United States. Families have not been informed on the arrested persons' locations. Reports state that some of these detainees have now been released or deported.

End text.



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-Disappearance...

<< File: LEGAL-#119484-v1-WG_FD_ghost_detainees_with_L_PM_changes.DOC.>>

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LEGAL-#119484-v1
-WG_FD_ghost_d...

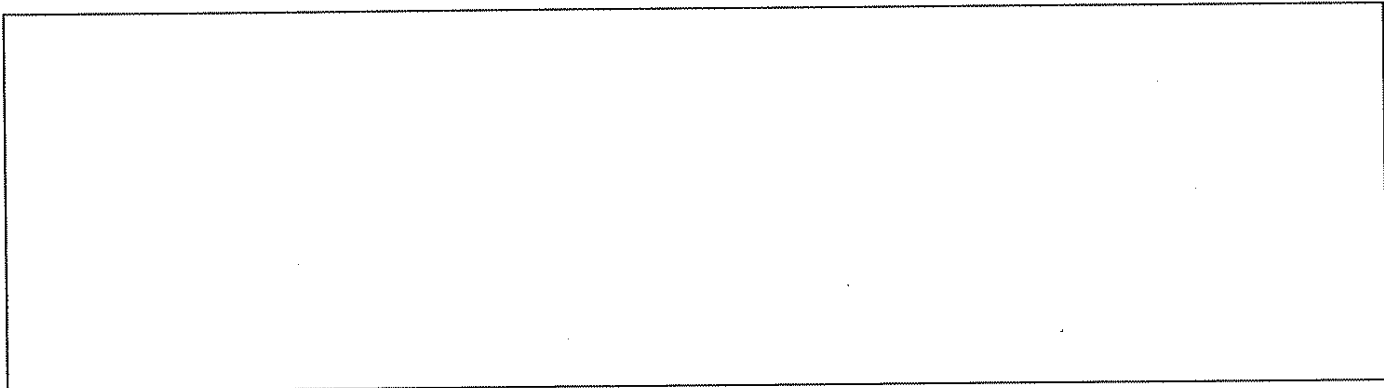
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LQ78

Conklin, Maegan L

From: Dolan, JoAnn
Sent: Friday, July 16, 2004 6:56 PM
To: Taft IV, William H; Thessin, James H; Cummings, Edward R (Main State)
Cc: Solomon, Steven A; Cummings, Edward X - Geneva; Dorosin, Joshua L
Subject: RE: ICRC

Will/Jim/Ed: Rich Greene called to report visit this afternoon by ICRC Washington Delegation (Geoffrey Loane and Finn Ruda) to PRM. They indicated that they would be coming around to see L again soon, basically to report developments in their first month.



B1

I saw a press transcript on this new office earlier today which I will forward to addressees as well. The Secretary signed an order today creating the office to serve as a single point of focus for detainee affairs within DOD, including dealings with ICRC.

B5

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

From: Dolan, JoAnn
Sent: Thursday, July 15, 2004 7:20 PM
To: Taft IV, William H
Subject: FW: ICRC



B5

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

From: Malioneck, Tom V
Sent: Thursday, July 15, 2004 1:28 PM
To: Allder, Lois L; Blanck Jr, John I; Cook, Daphne W; Dalton, Robert E; Dennis, Michael J; Dolan, JoAnn; Haines, Avril D; Ingber, Rebecca M; Legal-L-HRR-dl; Peay, T Michael
Subject: ICRC

UNCLASSIFIED per E.O. 12958

Baltimore Sun, July 15, 2004

Pentagon Says It's Hiding No One From Red Cross

WASHINGTON - The Pentagon denied yesterday that it is hiding any imprisoned terrorism suspects from the International Committee of the Red Cross. A Defense Department spokesman would not comment on whether other U.S. agencies might be doing so.

"I can say that ICRC has access to all detainee operations under our control," said Larry Di Rita, chief spokesman for Defense Secretary Donald H. Rumsfeld. "Beyond that, I'm just not prepared to discuss it."

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REVIEW AUTHORITY: ARCHIE M BOLSTER
The CIA has declined to comment on whether it might be holding terrorism suspects at foreign locations. On
CLASSIFICATION: CONFIDENTIAL REASON: 1.4(D)

DECLASSIFY AFTER: 16 JUL 2014
DATE/CASE ID: 06 AUG 2009 200706444

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Tuesday, Antonella Notari, spokeswoman for the Switzerland-based ICRC, said terrorism suspects reported by the FBI as captured have never turned up in detention centers known to the Red Cross, and the United States has failed to reply to Red Cross demands for a list of all detainees.

Tom Malionek

ANALYST FOR Boundaries - Boundary Waters - Conservation - Environment - Fisheries - Human Rights - Maritime Matters
OFFICE OF THE ASSISTANT LEGAL ADVISER FOR TREATY AFFAIRS (L/T)

5420 HST

PHONE . 202-647-1336 (direct)

FAX 202-736-7541

[Redacted box]

Q Detainees

LQ104

Memo Lets CIA Take Detainees Out of Iraq

Practice Is Called Serious Breach of Geneva Conventions

By Dana Priest
Washington Post Staff Writer
Sunday, October 24, 2004; Page A01

RELEASED IN PART
B5

At the request of the CIA, the Justice Department drafted a confidential memo that authorizes the agency to transfer detainees out of Iraq for interrogation -- a practice that international legal specialists say contravenes the Geneva Conventions.

One intelligence official familiar with the operation said the CIA has used the March draft memo as legal support for secretly transporting as many as a dozen detainees out of Iraq in the last six months. The agency has concealed the detainees from the International Committee of the Red Cross and other authorities, the official said.

The draft opinion, written by the Justice Department's Office of Legal Counsel and dated March 19, 2004, refers to both Iraqi citizens and foreigners in Iraq, who the memo says are protected by the treaty. It permits the CIA to take Iraqis out of the country to be interrogated for a "brief but not indefinite period." It also says the CIA can permanently remove persons deemed to be "illegal aliens" under "local immigration law."

Some specialists in international law say the opinion amounts to a reinterpretation of one of the most basic rights of Article 49 of the Fourth Geneva Convention, which protects civilians during wartime and occupation, including insurgents who were not part of Iraq's military.

The treaty prohibits the "[i]ndividual or mass forcible transfers, as well as deportations of protected persons from occupied territory . . . regardless of their motive."

The 1949 treaty notes that a violation of this particular provision constitutes a "grave breach" of the accord, and thus a "war crime" under U.S. federal law, according to a footnote in the Justice Department draft. "For these reasons," the footnote reads, "we recommend that any contemplated relocations of 'protected persons' from Iraq to facilitate interrogation be carefully evaluated for compliance with Article 49 on a case by case basis." It says that even persons removed from Iraq retain the treaty's protections, which would include humane treatment and access to international monitors.

During the war in Afghanistan, the administration ruled that al Qaeda fighters were not considered "protected persons" under the convention. Many of them were transferred out of the country to the naval base in Guantanamo Bay, Cuba, and elsewhere for interrogations. By contrast, the U.S. government deems former members of Saddam Hussein's Baath Party and military, as well as insurgents and other civilians in Iraq, to be protected by the Geneva Conventions.

International law experts contacted for this article described the legal reasoning contained in the Justice Department memo as unconventional and disturbing.

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REVIEW AUTHORITY: ARCHIE M BOLSTER
DATE/CASE ID: 22 JUN 2009 200706444

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"The overall thrust of the Convention is to keep from moving people out of the country and out of the protection of the Convention," said former senior military attorney Scott Silliman, executive director of Duke University's Center on Law, Ethics and National Security. "The memorandum seeks to create a legal regime justifying conduct that the international community clearly considers in violation of international law and the Convention." Silliman reviewed the document at The Post's request.

The CIA, Justice Department and the author of the draft opinion, Jack L. Goldsmith, former director of the Office of Legal Counsel, declined to comment for this article.

CIA officials have not disclosed the identities or locations of its Iraq detainees to congressional oversight committees, the Defense Department or CIA investigators who are reviewing detention policy, according to two informed U.S. government officials and a confidential e-mail on the subject shown to The Washington Post.

White House officials disputed the notion that Goldsmith's interpretation of the treaty was unusual, although they did not explain why. "The Geneva Conventions are applicable to the conflict in Iraq, and our policy is to comply with the Geneva Conventions," White House spokesman Sean McCormick said.

The Office of Legal Counsel also wrote the Aug. 1, 2002, memo on torture that advised the CIA and White House that torturing al Qaeda terrorists in captivity abroad "may be justified," and that international laws against torture "may be unconstitutional if applied to interrogations" conducted in the war on terrorism. President Bush's aides repudiated that memo once it became public this June.

The Office of Legal Counsel writes legal opinions considered binding on federal agencies and departments. The March 19 document obtained by The Post is stamped "draft" and was not finalized, said one U.S. official involved in the legal deliberations. However, the memo was sent to the general counsels at the National Security Council, the CIA and the departments of State and Defense.

"The memo was a green light," an intelligence official said. "The CIA used the memo to remove other people from Iraq."

Since the Sept. 11, 2001, attacks, the CIA has used broad authority granted in a series of legal opinions and guidance from the Office of Legal Counsel and its own general counsel's office to transfer, interrogate and detain individuals suspected of terrorist activities at a series of undisclosed locations around the world.

According to current and former agency officials, the CIA has a rendition policy that has permitted the agency to transfer an unknown number of suspected terrorists captured in one country into the hands of security services in other countries whose record of human rights abuse is well documented. These individuals, as well as those at CIA detention facilities, have no access to any recognized legal process or rights.

The scandal at Abu Ghraib, and the investigations and congressional hearings that followed, forced the disclosure of the Pentagon's behind-closed-doors debate and classified rules for detentions and interrogations at Guantanamo Bay and in Afghanistan and Iraq. Senior defense leaders have repeatedly been called to explain and defend their policies before Congress. But the CIA's policies and practices remain shrouded in secrecy.

The only public account of CIA detainee treatment comes from soldier testimony and Defense Department investigations of military conduct. For instance, Army Maj. Gen. Antonio M. Taguba's

report on Abu Ghraib criticized the CIA practice of maintaining "ghost detainees" -- prisoners who were not officially registered and were moved around inside the prison to hide them from Red Cross teams. Taguba called the practice "deceptive, contrary to Army doctrine and in violation of international law."

Gen. Paul J. Kern, who oversaw another Army inquiry, told Congress that the number of CIA ghost detainees "is in the dozens, to perhaps up to 100."

The March 19, 2004, Justice Department memo by Goldsmith deals with a previously unknown class of people -- those removed from Iraq.

It is not clear why the CIA would feel the need to remove detainees from Iraq for interrogation. A U.S. government official who has been briefed on the CIA's detention practices said some detainees are probably taken to other countries because "that's where the agency has the people, expertise and interrogation facilities, where their people and programs are in place."

The origin of the Justice Department memo is directly related to the only publicly acknowledged ghost detainee, Hiwa Abdul Rahman Rashul, nicknamed "Triple X" by CIA and military officials.

Rashul, a suspected member of the Iraqi Al-Ansar terrorist group, was captured by Kurdish soldiers in June or July of 2003 and turned over to the CIA, which whisked him to Afghanistan for interrogation.

In October, White House counsel Alberto R. Gonzales asked the Office of Legal Counsel to write an opinion on "protected persons" in Iraq and rule on the status of Rashul, according to another U.S. government official involved in the deliberations.

Goldsmith, then head of the office, ruled that Rashul was a "protected person" under the Fourth Geneva Convention and therefore had to be brought back to Iraq, several intelligence and defense officials said.

The CIA was not happy with the decision, according to two intelligence officials. It promptly brought Rashul back and suspended any other transfers out of the country.

At the same time, when transferring Rashul back to Iraq, then-CIA Director George J. Tenet asked Defense Secretary Donald H. Rumsfeld not to give Rashul a prisoner number and to hide him from International Red Cross officials, according to an account provided by Rumsfeld during a June 17 Pentagon news conference. Rumsfeld complied.

As a "ghost detainee," Rashul became lost in the prison system for seven months.

Rumsfeld did not fully explain the reason he had complied with Tenet's request or under what legal authority he could have kept Rashul hidden for so long. "We know from our knowledge that [Tenet] has the authority to do this," he said.

Rashul, defense and intelligence officials noted, had not once been interrogated since he was returned to Iraq. His current status is unknown.

In the one-page October 2003 interim ruling that directed Rashul's return, Goldsmith also created a new category of persons in Iraq whom he said did not qualify for protection under the Geneva Conventions. They are non-Iraqis who are not members of the former Baath Party and who went to Iraq after the invasion.

After Goldsmith's ruling, the CIA and Gonzales asked the Office of Legal Counsel for a more complete legal opinion on "protected persons" in Iraq and on the legality of transferring people out of Iraq for interrogation. "That case started the CIA yammering to Justice to get a better memo," said one intelligence officer familiar with the interagency discussion.

Michael Byers, a professor and international law expert at the University of British Columbia, said that creating a legal justification for removing protected persons from Iraq "is extraordinarily disturbing."

"What they are doing is interpreting an exception into an all-encompassing right, in one of the most fundamental treaties in history," Byers said. The Geneva Convention "is as close as you get to protecting human rights in times of chaos. There's no ambiguity here."

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