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CPA Chronology

Detainee-Related Issues

May 03 - Nov 03

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THE WHITE HOUSE
WASHINGTON

May 9, 2003

The Honorable L. Paul Bremer
Presidential Envoy to Iraq
Department of Defense
Washington, D.C. 20301

Dear Jerry:

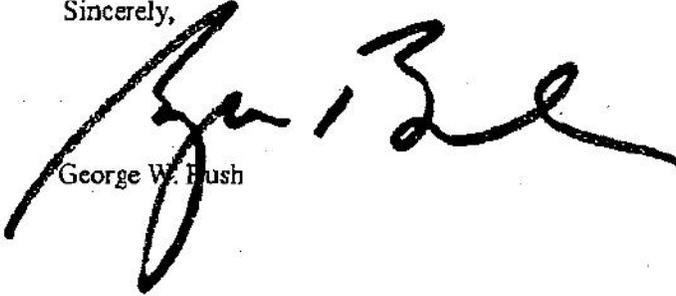
Exercising my constitutional authority as Commander in Chief, and consistent with pertinent statutes, I hereby appoint you to serve as my Presidential Envoy to Iraq, reporting through the Secretary of Defense. Subject to the authority, direction, and control of the Secretary of Defense, you are authorized to oversee, direct, and coordinate all United States Government (USG) programs and activities in Iraq, except those under the command of the Commander, U.S. Central Command. This authority includes the responsibility to oversee the use of USG appropriations in Iraq, as well as Iraqi state- or regime-owned property that is properly under U.S. possession and made available for use in Iraq to assist the Iraqi people and support the recovery of Iraq. You and the Commander, U.S. Central Command, will communicate fully and continually, and cooperate in carrying out your respective responsibilities.

All USG elements in Iraq, other than those under the command of the Commander, U.S. Central Command, will keep you fully informed, at all times, of their current and planned activities. You will regularly review the resources of these elements (other than those under the command of the Commander, U.S. Central Command) and exercise final authority with respect to their personnel composition, staff levels, and funding. Every USG agency under your authority must obtain your approval before changing the composition or mandate of its staff, regardless of the employment category. You have the authority to see all communications to or from all USG elements in Iraq, however transmitted, except as determined by the Secretary of Defense, or as specifically exempted by law or Presidential decision. All USG personnel other than those in Iraq under the command of the Commander, U.S. Central Command, must obtain country clearance before entering Iraq on official business. You may refuse country clearance, or place conditions or restrictions on such personnel, as you deem necessary.

As Presidential Envoy to Iraq, you are not only my personal representative in Iraq, but also that of our country. America remains engaged in the world by history and by choice. We will protect the American people and support freedom throughout the world.

As you begin your work, I know your own sense of patriotism, selflessness, and desire for excellence will serve America well. Please be assured of my warmest regards and the best wishes of a grateful Nation.

Sincerely,

A handwritten signature in black ink, appearing to read "George W. Bush". The signature is written in a cursive, flowing style with a large initial "G" and "W".

George W. Bush



SECRETARY OF DEFENSE
1000 DEFENSE PENTAGON
WASHINGTON, DC 20301-1000

MAY 13 2003

MEMORANDUM FOR PRESIDENTIAL ENVOY TO IRAQ

SUBJECT: Designation as Administrator of the Coalition Provisional Authority

Pursuant to the President's letter of May 9, 2003, appointing you as Presidential Envoy to Iraq, and my authority under applicable law, I hereby designate you as the head of the Coalition Provisional Authority, with the title of Administrator. You shall be responsible for the temporary governance of Iraq, and shall oversee, direct and coordinate all executive, legislative and judicial functions necessary to carry out this responsibility, including humanitarian relief and reconstruction and assisting in the formation of an Iraqi interim authority.

As the Commander of Coalition Forces, the Commander of U.S. Central Command shall directly support the Coalition Provisional Authority by deterring hostilities; maintaining Iraq's territorial integrity and security; searching for, securing and destroying weapons of mass destruction; and assisting in carrying out U.S. policy generally.

A handwritten signature in black ink, appearing to be "D. A. ...".

cc:

Chairman of the Joint Chiefs of Staff
Commander of U.S. Central Command



Ref.: TG AMR 51/50/03

Ambassador L. Paul Bremer III
Presidential Envoy to Iraq
Office of Reconstruction and Humanitarian Assistance for Post-War Iraq
Office of the Secretary of Defense
The Pentagon
Washington DC, 20301-2400
USA

26 May 2003

Dear Ambassador Bremer,

Amnesty International is disturbed by recent press reports regarding the possible use of lethal force by United States (US) security forces in Iraq toward looters or other suspected offenders. While Secretary of Defense Donald Rumsfeld is reported in the New York Times on 15 May as stating that the rules of engagement have not been changed, he is quoted as stating that they permit "the use of whatever force is necessary for self-defense or for other selected purposes". Amnesty International wishes to remind the US authorities that any policy which would permit the intentional use of lethal force by law enforcement officials in circumstances where there is no imminent threat to life would violate international law.

This letter also draws your attention to Amnesty International's concerns regarding several incidents of disputed shootings and a case in which US soldiers are alleged to have ill-treated four suspected looters. We are calling for full inquiries into these incidents.

As an occupying power, the US Government has an obligation to ensure the safety and security of the Iraqi people, and we recognize the challenges involved in restoring and maintaining public safety in areas under US control and preventing acts of violence to people or property. However, the authorities have an equal obligation to ensure that all security and law enforcement measures are in accordance with international humanitarian and human rights law. These require, among other things, that all use of force by law enforcement officials must be both necessary and proportionate to the threat posed and designed to minimize damage or injury. Any use of force in circumstances outside combat, whether by soldiers or police officers, must be consistent with law enforcement standards, including the 1979 UN Code of Conduct for Law Enforcement Officials (Code of Conduct) and the 1990 UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (Basic Principles).

Article 3 of the Code of Conduct reflects the principles of necessity and proportionality, stating that law enforcement officials "may use force only when strictly necessary and to the extent required for the performance of their duty". The Commentary to this article states that: "Every effort should be made to exclude the use of firearms, especially against children. In general, firearms should not be used except when a suspected offender offers armed resistance or otherwise jeopardizes the lives of others and less extreme measures are not sufficient to restrain or apprehend the suspected offender."

The Basic Principles provide that law enforcement officials shall, as far as possible, apply non-violent means before resorting to the use of force and firearms (Principle 4). If firearms are used, they should comply with the standards set out under Principle 9, which states that officers: "shall not use firearms against persons except in self-defence or defence of others against the imminent threat of death or serious injury, to prevent the perpetration of a particularly serious crime involving grave

threat to life, to arrest a person presenting such a danger and resisting their authority, or to prevent his or her escape, and only when less extreme means are insufficient to achieve these objectives. In any event, intentional lethal use of firearms may only be made when strictly unavoidable in order to protect life." Principle 11 provides that rules and regulations on the use of firearms by law enforcement officials should include guidelines that: "Ensure that firearms are used only in appropriate circumstances and in a manner likely to decrease the risk of unnecessary harm."

Amnesty International urges you to ensure that all use of force and firearms by US forces in Iraq conform to the principles cited above, and that any breach of such standards is fully and impartially investigated and appropriate action taken.

In this regard, we also wish to register our concern about several recent incidents involving the shooting of Iraqi civilian demonstrators by US soldiers in disputed circumstances. These include an incident in Mosul on 15 April in which at least seven people were reportedly killed and scores injured after US troops fired at a crowd of protesters; an incident in Fallujah on 29 April in which some 15 people, including several young children, were reportedly shot dead and more than 70 people wounded by US gunfire while demonstrating outside a school occupied by US troops; and the fatal shooting of two more demonstrators in Fallujah by US soldiers on 30 April. Although US military officials are reported in each case to have said that the soldiers opened fire only after being shot at themselves, there are conflicting accounts of the circumstances of these incidents which raise serious questions as to whether excessive force was used. A doctor at a hospital receiving the dead and wounded from the 29 April incident, for example, is reported to have said that medical crews were shot at when they went to retrieve the injured. Amnesty International urges the US authorities to hold a full, impartial investigation into these incidents and to make the results public.

Amnesty International also calls on the US authorities to investigate allegations that four suspected Iraqi looters arrested by US soldiers in the Zawra amusement park in Baghdad were stripped naked at gun point and made to parade in front of crowds with insults scrawled across their chests. Images portrayed in the Norwegian newspaper Dagbladet on 25 April show US soldiers escorting four naked Iraqi men with the words "Ali Baba - Haram (i)" ("Ali Baba - thief") in Arabic on the prisoners' chests. If the reports and pictures are accurate, such degrading treatment would be a clear violation of US responsibilities to ensure that all those in its custody are treated humanely and that no-one is subjected to cruel, inhuman or degrading treatment. Such treatment is prohibited under international law, including under Article 27 of the Fourth Geneva Convention which states that "Protected persons ... shall at all times be humanely treated, and shall be protected especially against all acts of violence or threats thereof and against insults and public curiosity". We should be grateful to know if this incident is under investigation and to be informed of the results.

Amnesty International's delegates in Iraq are monitoring the human rights situation in the country and carrying out research in a number of areas of concern to the organization. Amnesty International will submit its findings to the US Government in due course.

Meanwhile, we consider it of the utmost importance that prompt and impartial investigations be conducted into the incidents cited above and all similar incidents, in keeping with your government's obligations under international law. The results of such investigations should be made public and appropriate action taken, including training and instructions to avoid any incidents involving excessive use of force or other breaches of human rights law or standards. I am sending a copy of this letter to Secretary of Defense Donald Rumsfeld and Secretary of State Colin Powell.

Thank you for your attention to our concerns. We look forward to hearing from you.

Yours sincerely,

Kate Gilmore
For the Secretary General

COALITION PROVISIONAL AUTHORITY ORDER NUMBER 10

MANAGEMENT OF DETENTION AND PRISON FACILITIES

Pursuant to my authority as head 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),

Recognizing the urgent necessity to ensure safe and humane prisons in order to re-establish law and order and provide for the safety of the people of Iraq,

I hereby promulgate the following:

**Section 1
Authority Over Detention and Prison Facilities**

Full authority and control over all detention and prison facilities, currently exercised by the Ministry of Labor and Social Affairs and the Ministry of Interior, is hereby vested in the Ministry of Justice. The Directorate of Adult Prisons and the Directorate of Juvenile Prisons in the Ministry of Labor and Social Affairs, all facilities under their authority, and all employees thereof, are hereby transferred to the Ministry of Justice.

**Section 2
Interagency Cooperation**

The Ministry of Labor and Social Affairs, the Ministry of Interior, and the Ministry of Justice, and all other relevant elements of government, shall cooperate in this effort. The Ministry of Justice, under the authority, direction and control of the Administrator of the CPA, may prescribe any administrative procedures necessary to ensure a properly coordinated transfer of the detention and prison facilities in accordance with this Order.

**Section 3
Prison and Detention Facility Standards**

There shall be promulgated pursuant to this Order an Implementing Memorandum that will set out fundamental standards applicable to the operation of all prison and detention facilities under the authority of the Ministry of Justice.

Section 4
Entry into Force

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


IL Paul Bremer, Administrator
Coalition Provisional Authority

COALITION PROVISIONAL AUTHORITY ORDER NUMBER 7

PENAL CODE

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

Reconfirming the provisions of General Franks' Freedom Message to the Iraqi People of April 16, 2003,

Recognizing that the former regime used certain provisions of the penal code as a tool of repression in violation of internationally recognized human rights standards,

Acting on behalf, and for the benefit, of the Iraqi people,

I hereby promulgate the following:

Section 1

Judges, police and prosecutors

All judges, police and prosecutors shall perform their duties in accordance with CPA Regulation No. 1 (CPA/REG/23 May 2003/01) and in accordance with any other Regulations, Orders, Memoranda or instructions issued by the CPA.

Section 2

Suspension of Certain Provisions of Penal Code

- 1) Without prejudice to the continuing review of Iraqi laws, the Third Edition of the 1969 Iraqi Penal Code with amendments, registered in Baghdad on the fifth day of Jumada I 1389 or the nineteenth day of July 1969, shall apply, with the exception that i) Part Two, Chapter Two, Paragraph 200, and ii) Part Two, Chapter Three, Section One, Paragraph 225 are hereby suspended.
- 2) Legal proceedings may be brought with respect to the following offenses only with the written permission of the Administrator of the CPA:
 - a) Part One, Chapter Four, Paragraphs 81-84, publication offenses.
 - b) Part Two, Chapter One, Paragraphs 156-189, offenses against the external security of the state.

- c) Part Two, Chapter Two, Paragraphs 190-195; 198-199; 201-219, offenses against the internal security of the state.
- d) Part Two, Chapter Three, Section One, Paragraphs 223-224; 226-228, offenses against public authorities.
- e) Part Two, Chapter Three, Section Two, Paragraph 229, offense of insulting a public official.

**Section 3
Penalties**

- 1) Capital punishment is suspended. In each case where the death penalty is the only available penalty prescribed for an offense, the court may substitute the lesser penalty of life imprisonment, or such other lesser penalty as provided for in the Penal Code.
- 2) Torture and cruel, degrading or inhuman treatment or punishment is prohibited.
- 3) No person will be prosecuted for aiding, assisting, associating with, or working for Coalition Forces or the CPA.

**Section 4
Nondiscrimination**

In exercising their official functions, all persons undertaking public duties or holding public office, including all police, prosecutors, and judges, must apply the law impartially. No person will be discriminated against on the basis of sex, race, color, language, religion, political opinion, national, ethnic or social origin, or birth.

**Section 5
Delegation of Authority**

The Administrator of the CPA may delegate his authority under this Order.

Section 6
Entry into Force

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

A handwritten signature in black ink, appearing to read "L. Paul Bremer", followed by the number "61003".

L. Paul Bremer, Administrator
Coalition Provisional Authority

**Speech by Ambassador Bremer to the
Iraqi Judicial College
17 June 2003**

Thank you Judge Matat for your introduction. I am very pleased to be here today to open the new Iraqi Judicial College. This College will play a vital role in helping rebuild and retrain Iraq's judiciary. This is one of the first reconstruction projects completed in the two months since the fall of Saddam Hussein's regime. And this demonstrates the Coalition's commitment to help build a new and truly independent judiciary in Iraq.

I would like to take this opportunity also to announce two important new initiatives: the creation of a Judicial Review Committee and the establishment of a Central Criminal Court.

The Judicial Review Committee will review every judge and prosecutor in Iraq for membership of the Ba'ath Party, complicity in human rights violations, or corruption, to ensure that the Iraqi justice system is run by people of integrity. The Iraqi judiciary has been severely discredited in the eyes of both Iraqi citizens and the world. It was seen both as corrupt, and as lacking adequate independence from the rest of government.

The Review Committee's task is to clean up Iraq's judiciary, by tackling both of these problems, so that the Iraqi people can have trust in their judicial process and in those who administer it. I am keen for this work to be done as soon as possible: my hope is that the Committee will complete its task over the next three or four months.

The Judicial Review Committee, or JRC, will consist of six persons: three Iraqi and three from the Coalition. They will examine personnel files,

testimonies and other evidence to ascertain the background and record of Iraqi judicial personnel. They will be thorough, fair and transparent in their investigations.

If the Committee finds any judge or prosecutor to be in violation of these standards, the Committee will dismiss him or her from office. This decision will be subject to a right of appeal to the Coalition Provisional Authority.

Already, the Iraqi people have made a lot of progress in reforming their judicial system. Working with Iraqi judges, civil servants and academics, we have already made some necessary amendments to Iraq's Penal Code. We are now reviewing the criminal procedure law, in order to ensure that human rights and due process are respected – for the first time – in Iraq. No longer will confessions obtained by torture be admissible. And no longer will the accused stand trial without a defense lawyer.

However, we recognize that this process will take some time. In the meantime, there is an immediate need to deal with the most serious offenders both expeditiously and fairly. The criminals who are undermining Iraq's security and reconstruction, and who are targeting Coalition forces, should and will be brought to justice without delay. The new Central Criminal Court of Iraq will help the Iraqi judiciary to do this.

This Court will not replace any of the courts within the Iraqi judicial system. Nor will it follow a different procedure, or apply a different law. This Court will be an integral part of a unified and transparent Iraqi criminal justice system. The judges and prosecutors of the Central Court will all be Iraqi. And the Court will operate fully within the framework of the Iraqi court system, including a two-stage appeal process, with a final appellate right to Iraqi Court of Cassation.

Naturally, the members of this Court will be first cleared by the Judicial Review Committee.

Both of these two initiatives are important steps in giving the Iraqi judiciary the means it needs to provide a justice system which the Iraqi people can trust and respect. I look forward to continuing to work closely with the Iraqi Judicial College over the coming months, so that we can achieve this important aim together.

Draft as at 14.20, 17 June

Word Count: 580

MEMORANDUM

TO: Judge Donald Campbell

FROM: (b)(6) Department of Prisons

SUBJECT: Alternatives for Maximum Security Prison Facilities

We are continuing to examine potential alternatives for housing maximum security and dangerous detainees/inmates in lieu of using the maximum security compounds located at the Abu Ghraib Prison complex for the shortest possible timeframes.

1. Review of existing assessed prison facilities earmarked for re-activation to support the Iraq criminal justice system currently and in the short term.

a. Al Hakmia (116 maximum security beds)

This prison complex was operated by the Iraq Internal Security Agency, commonly called the Secret Police. This facility housed high security "political" and foreign prisoners. It also obviously served as a major headquarters for the Agency. All buildings are brick/masonry structures with a plaster finish. The four-story main structure is the housing areas for all prisoners as well as a large administrative headquarters. Prisoner housing was on the 3rd and 4th floor levels. The third floor consists of 50 cells. Each cell was 9' x 9'. This cell block can accommodate 100 maximum security prisoners. The fourth floor consists of 8 additional maximum security cells. This facility can provide a total of 116 maximum security beds for high custody or dangerous inmates.

b. Kanban'i Saad Prison.

In the assessment team's initial inspection on May 24th of this new prison that was under construction when the coalition forces began hostilities, there were 20 new cell blocks in two compounds that provided approximately 2,800 secure beds. Following the initial phase of hostilities, 153 Arab families moved into the complex. By June 12th, these Arabs had substantially disassembled the walls and structures rendering the facility unusable. Even though the structures have been mostly destroyed and cannot be refurbished for use in the immediate or short terms, there are foundations, infrastructure and some cell block structures that can be renovated and rebuilt. It would be necessary to relocate the Arab families in order to do a thorough estimate of what is needed to rebuild the cell blocks for permanent use. Although the team has not been able to do a complete assessment of the complex, it is estimate that the previously existing prison beds could be placed back into operation within twelve to eighteen months.

The Kanban'i Saad prison site is also considered an ideal location for future construction of a replacement maximum security prison(s) for the Abu Ghraib Prison complex. The complex is very large and has the potential capability of providing separate prison compounds to support the future Iraq criminal justice system's needs. Construction time for a new secure maximum security prison on this complex is estimated to be approximately thirty to thirty-six months.

(b)(5)

B(5)

c. No other prisons found throughout the country of Iraq are capable of housing maximum security inmates.

2. Other Alternatives.

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(b)(5)

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The prison assessment team will continue to explore other alternatives to the use of Abu Ghraid Prison. At this point in time, we have found no other facilities that can provide up to 4,000 maximum security beds between now and the end of this year. The team supports the use of Abu Grab prison only until new facilities can be constructed. **The estimated time frame would be 30 to 36 months once approval for new construction is received. Once assessed, perhaps the use of the Kanban'i Saad prison site can shorten the estimated time that a new prison could be constructed and in operation.**

(b)(6)

Department of Prisons, 1830 hrs, 10 June 2003)

cc:

(b)(6)

Deputy Senior Advisor, Ministry of Interior

Talking Points: Why Abu Ghraib Was Used Rather Than Razed

- From the beginning, the Coalition was keenly attuned to the grisly symbolism of Abu Ghraib.
- Looting of other prison facilities--some of them worth tens of millions of dollars--literally down to the last nail, left no alternatives. Temporary tent camps with dirt floors and razor wires and other temporary facilities invited escape attempts, many of which led to injuries to inmates and guards alike. This served no one well.
- It was essential to have a place to keep the terrorists and criminals rapidly being scooped off the streets.
- The Coalition walled off the execution chamber at Abu Ghraib in preparation for a museum or monument memorializing those who suffered within its walls. A human-rights trailer has been installed in response to public sensitivities to the abuses it formerly housed.
- The Coalition initially hoped to use Abu Ghraib only as long as operational necessity required, with reconstruction or new construction of two maximum-security prisons, each housing 4,000 inmates.
- The supplemental budget request included \$400M for this purpose. Congress pared the request to \$100M, virtually foreclosing abandonment of Abu Ghraib.
- Iraq faced and still faces a deficit of 10,000 prison beds by the end of 2005 even with Abu Ghraib.
- Ultimate disposition of Abu Ghraib is the choice of the Iraqi people.

AETV-JA

15 June 2003

MEMORANDUM THRU Chief of Staff, V Corps

FOR Commanding General, V Corps

SUBJECT: Abu Gharib Prison

1. **BLUF:** Renovation of Abu Gharib prison is essential to the restoration of security and order in Iraq.

2. **DISCUSSION:**

a. Adequate civilian criminal confinement facilities are at a premium in Iraq. Most facilities have been looted and burned; few comply with minimum United Nations standards for confinement facilities. The situation is particularly acute in Baghdad, where only one small jail and scattered holding cells are available as permanent facilities. No prison is operational in Baghdad. As an emergency measure, two spartan criminal detention facilities have been established, one at Baghdad International Airport (Camp Cropper) and the other at Abu Gharib prison (Camp Vigilant). The Camp Cropper facility is grossly overcrowded, a fact noted by the International Committee of the Red Cross (ICRC). Both facilities, which are simply camps with tents and triple-strand concertina wire, have had riots in which prisoners were killed by guards. Neither Camp Cropper nor Camp Vigilant are appropriate for holding serious criminals or for post-trial confinement; they are barely adequate as short-term, temporary holding areas.

b. Jails throughout Baghdad are being renovated under various programs, including the use of commander's discretionary funds. These facilities will have an approximate capacity of 1500 persons. Smaller prisons in Baghdad, including the 700-person capacity Kadimiyah female prison, are under renovation as CPA projects. None of these facilities have the capacity or security of Abu Gharib. Abu Gharib is a medium-maximum security mix prison that housed 25,000 to 40,000 prisoners before the war. It is within two weeks of completion of a CPA approved \$200,000.00 renovation to enable it to house 400 prisoners. A proposal to spend 1.7 million dollars to enable it to house approximately 3,100 prisoners is pending CPA approval. The approval is at risk because of the history of Abu Gharib as a location holding regime opponents, where capital punishment and torture were commonly employed.

c. Assessments of prison facilities in the Baghdad area have uniformly concluded that there is no existing alternative to Abu Gharib. Further, it is reported to be the only maximum security facility in Iraq that can be readily renovated. The prison at Ken Bensaad, an almost new facility north of Baghdad, has been looted and disassembled to the point that it will require almost total reconstruction. Building an entirely new prison

AETV-JA
SUBJECT: Abu Gharib Prison

will require the Coalition to maintain military criminal detention facilities and support personnel for an unacceptably long time.

3. RECOMMENDED COURSE OF ACTION:

(b)(5)



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4. This memorandum has been coordinated with the Senior Advisor to the Ministry of Justice, the CPA General Counsel and the CJTF-7 PMO, who concur with its content.

(b)(6)



COL, JA
Staff Judge Advocate

0618

**OFFICE OF THE ADMINISTRATOR
OF THE
COALITION PROVISIONAL AUTHORITY
BAGHDAD, IRAQ**

PUBLIC NOTICE

**REGARDING THE CREATION OF A CENTRAL CRIMINAL COURT OF
IRAQ AND ADJUSTMENTS TO THE CRIMINAL PROCEDURE CODE**

June 18, 2003

The Administrator of the Coalition Provisional Authority (CPA) hereby advises all citizens, residents of, and visitors to Iraq of the following security measure.

The CPA has taken steps to meet the urgent security needs of the people of Iraq and Coalition Forces by creating a Central Criminal Court of Iraq. This court will apply and operate under Iraqi law, as amended to ensure fundamental fairness and due process for accused persons, and will be modeled on the current Iraqi court system. The Central Criminal Court will consist of an Investigative Court, a Trial Court and an Appeal Court, with the right of further appeal to the Iraqi Court of Cassation. The judges and prosecutors will be locally selected Iraqis.

The Court will deal with serious offenses that most directly threaten the security and civil order in Iraq. This interim measure will address the immediate need for a reliable and fair system of justice. The CPA will continue to assist in restoring the capability of the Iraqi court system, as it recovers from years of Iraqi Ba'ath Party abuse and perversion.

In tandem with this measure, the CPA has modified the Criminal Procedure Code to accord the people of Iraq fundamental due process protections and shield them from human rights violations. The CPA has also introduced provisions ensuring that persons detained by Coalition Forces are treated in accordance with international law and receive prompt justice before Iraqi courts.

MOST RECENT CCCI REFERENCE FOR REFERENCE

**COALITION PROVISIONAL AUTHORITY ORDER NUMBER 13 (REVISED)
(AMENDED)**

THE CENTRAL CRIMINAL COURT OF IRAQ

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

Committed to promoting the development of a judicial system in Iraq that warrants the trust, respect and confidence of the Iraqi people,

Noting the continuing need for military support to maintain public order,

Furthering the CPA's duty to restore and maintain order and its right to ensure its security and fundamental standards of due process,

Recognizing the role that Iraqi jurists and legal systems must assume in addressing those serious crimes that most directly threaten public order and safety,

Acting on behalf, and for the benefit of the Iraqi people,

I hereby promulgate the following:

Section 1

Establishment of Central Criminal Court of Iraq

- 1) There shall be established a Central Criminal Court of Iraq (hereinafter "the CCCI"), which shall sit in the city of Baghdad and in such sessions in other locations in Iraq as provided for in this Order. The CCCI shall have national jurisdiction over all matters set forth in Section 18.
- 2) The CCCI shall consist of two chambers:
 - a) an Investigative Court; and
 - b) a Felony Court

Section 2

The Investigative Court

- 1) The Investigative Court shall operate in accordance with the requirements and procedure of Investigative Courts under the Iraqi Law on Criminal Proceedings of 1971, as amended, and as further modified by any CPA Orders, Implementing Memoranda and this Order.

CPA/ORD/X 2004/13

- 2) The Investigative Court shall have jurisdiction over all matters that are set forth in Section 18.
- 3) The Investigative Court shall not have jurisdiction over any civil matter, other than victim compensation claims associated with a criminal matter.

Section 3 Felony Court

- 1) The Felony Court shall operate in accordance with applicable Iraqi Law.
- 2) The Felony Court shall have jurisdiction over matters as set forth in Section 18.

Section 4 Applicable Law

The CCCI shall apply Iraqi law as modified by applicable CPA Orders and this Order.

Section 5 Judges of the Central Court

- 1) Prior to the assumption of the functions of government on 1 July 2004, the judges of the CCCI shall be appointed by the Administrator and shall:
 - a) be an Iraqi national,
 - b) be of high moral character and reputation,
 - c) have a background of either 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 CPA/ORD/16 May 2003/01 and entailed no involvement in Ba'ath Party activity,
 - d) have no criminal record unless the record is a political or false charge made by the Ba'ath Party regime,
 - e) have had no involvement in criminal activities,
 - f) have demonstrated a high level of legal competence; and
 - g) be prepared to sign an oath or solemn declaration of office.

- 2) A judge of the CCCI may only be removed by the Administrator where there is clear evidence of unlawful or unethical conduct, breaches of the requirements of this Order, or incompetence on the part of the member.
- 3) The Administrator may appoint reserve judges of the CCCI in accordance with the criteria set out in this section. Reserve judges may act as judges of the CCCI when a panel member is for any reason unable to perform his or her duties, or otherwise provide additional support as necessary.
- 4) In light of the nationwide jurisdiction of the Court, the Chief Judges of both the Investigative and Trial Court shall automatically be promoted to Level I Judges, if not already at that level, and shall be compensated accordingly. Similarly, all other judges shall be automatically promoted to Level II, if not already at that level, and shall be compensated accordingly and be eligible to advance to Level 1 in accordance with applicable procedures.
- 5) All judges appointed as of the date of this order or thereafter shall be permanent Iraqi judges and shall serve in accordance with Iraqi law.
- 6) After the effective date of the Transitional Administrative Law, the judges of the CCCI will be appointed, and removed from office in accordance with the procedures set forth in Iraqi law.

Section 6
Independence of the Judiciary

- 1) Judges of the CCCI shall perform their duties independently and impartially, and in accordance with the applicable laws in Iraq and the oath or solemn declaration pursuant to this Order.
- 2) Judges of the CCCI shall decide matters before them without discrimination on the grounds of race, nationality, ethnicity or religion and in accordance with their impartial assessment of the facts and their understanding of the law, without improper influence, direct or indirect, from any source.
- 3) Any hierarchical organization of the judges or any difference among judges in grade or rank shall in no way interfere with the duty of the judge, whether exercising jurisdiction individually or acting collectively on a panel, to pronounce judgment in accordance with this Order.
- 4) While in office, judges and prosecutors of the CCCI shall be barred from accepting political or any other public office, or from accepting any employment,

including for teaching law, participating in the drafting of law, or carrying out legal research on a part-time basis, unless for honorary unpaid purposes.

Section 7
Refusal of Justice

No judge of the CCCI may refuse to hear, try or decide a case that is brought before the court in accordance with the relevant procedural provisions.

Section 8
Disqualification of Judges

- 1) The Administrator may, at the request of a judge or a party to a proceeding, excuse that judge from the exercise of a function in any case in which the impartiality of the judge might reasonably be doubted on any ground.
- 2) A judge of the CCCI shall be disqualified from a case in accordance with this Order if that judge has previously been involved in any capacity in that case before the court.
- 3) A judge of the Central Court shall be obliged to request that the Administrator excuse him or her from the exercise of a function in any case in which a party to the proceedings is a spouse, relative of second degree or other close relationship of that judge.
- 4) Prior to the assumption of the functions of government by Iraq, any question as to the disqualification of a judge shall be decided by the Administrator. After the assumption of the functions of government, the disqualification of a judge shall be decided in accordance with the applicable law.

Section 9
Obligations of Local Courts

- 1) All local courts in Iraq shall comply with an order by the CCCI to:
 - a) question witnesses who are registered or permanently accommodated in the area of the requested court's jurisdiction,
 - b) carry out at-the-scene examinations or re-enactments of crimes in the area of the requested court's jurisdiction,

- c) serve summonses of the CCCI on witnesses in the requested court's jurisdiction,
 - d) serve decisions of the CCCI on individuals in the requested court's jurisdiction,
 - e) execute the decisions of the CCCI if the subject of dispute is located in the requested court's jurisdiction,
 - f) provide files of the requested court for information purposes or decision,
 - g) refer cases to the CCCI.
- 2) All local criminal courts of first instance shall be required to follow the directives and orders of the CCCI. The CCCI shall at all times be subject to the jurisdiction of the Court of Cassation in accordance with the applicable law.
- 3) The failure of any local judge to follow the orders of the CCCI may be punished in accordance with Iraqi law.

Section 10 Hearings

- 1) Hearings of the CCCI and deliberations shall take place at the seat of the court in Baghdad and in such other locations in any other part of Iraq as the court determines is required.
- 2) The panel of judges or, where applicable, the individual judge may decide to hold hearings of the court in places other than at the seat of the court if the interests of justice require. In making the decision, the panel of judges or the individual judge shall be guided by the particular circumstances of the case and their responsibility to facilitate equal access to justice.
- 3) Radio and television broadcasting within the courtroom shall be governed by the applicable law.
- 4) The testimony before the Felony Court shall be public, unless otherwise determined by the judge or judges in accordance with Iraqi law.
- 5) Verdicts of the Felony Court shall without exception be delivered in public.
- 6) The CCCI may receive testimony from witnesses who are not present in Iraq by Video Telephone Conference or similar communications technology.

- 7) The deliberations of a judge or judges shall remain confidential.

**Section 11
Record of Proceedings**

- 1) In each hearing conducted by the Felony Court, there shall be a record of the proceedings in accordance with Iraqi law. The record will be made available, on request, to all parties to the proceedings, including their legal counsel.
- 2) In the case of the Investigative Court the judge shall take, as appropriate, notes of the proceedings and submit them to the files in accordance with Iraqi law.
- 3) Upon request, the record or notes shall be made available to the public, unless a determination has been made under this Order that the hearing shall not be public.

**Section 12
Translation Service**

The CCCI shall provide translation and interpretation services in every case where a party to the proceedings, or a judge, or a witness, or expert witness does not sufficiently speak or understand the language spoken in that court.

**Section 13
Penalties**

- 1) The penalties imposed by the CCCI shall be as prescribed for their equivalent courts under Iraqi law, as modified by CPA orders.
- 2) Sentences may be reduced at the discretion of the CCCI where the accused has cooperated with investigative authorities. This discretion extends to the reduction of mandatory minimum sentences. The CCCI shall have the power to reduce sentences at any time, even after the defendant has been sentenced, if a defendant agrees to provide truthful testimony about criminal activity.

**Section 14
Prosecution Service**

The Prosecutors shall act in accordance with Iraqi law.

Section 15
Court Registry

- 1) There shall be a Registry for the CCCI. The Registry shall have responsibility for the receipt of documents to be filed in the court, for organizing court documents and ensuring security of court documents, and for such other functions as are permitted by Iraqi law and by CPA Orders or Memoranda.
- 2) The staff of the Registry shall have legal and administrative skills, and shall be appointed by the Judiciary in accordance with applicable procedures.

Section 16
Court Staff

- 1) Each chamber of the CCCI shall have such qualified staff as may be required for the proper functioning of the chambers and the discharge of the responsibilities of its judges.
- 2) Each panel of judges or each individual judge shall be assisted during the trial sessions by a member of the court staff.
- 3) The court staff shall be selected in accordance with Iraqi law.

Section 17
Investigative Support

- 1) The CCCI shall be able to request the support from the international community, any authorized foreign military forces in Iraq or diplomatic posts in Iraq for the investigation or trial of cases.
- 2) CCCI shall not compel the production of foreign military forces present in Iraq in support of operations sanctioned by a UN Security Council resolution or at the request of the Iraqi government, or diplomatic personnel or any documents under their control.
- 3) The Investigative Court and the Felony Court have the authority to direct any and all Iraqi government law enforcement and security agencies to assist the court in the performance of its duties.

Section 18
Jurisdiction

- 1) The CCCI shall have nationwide discretionary investigative and trial jurisdiction over any and all criminal violations, regardless of where those offenses occurred. Its jurisdiction shall extend to all matters that could be heard by any local felony, or misdemeanor court.
- 2) In exercising its discretionary jurisdiction, the CCCI should concentrate its resources on cases related to:
 - a) terrorism,
 - b) organized crime,
 - c) governmental corruption,
 - d) acts intended to destabilize democratic institutions or processes,
 - e) violence based on race, nationality, ethnicity or religion; and
 - f) instances in which a criminal defendant may not be able to obtain a fair trial in a local court.
- 3) Any criminal defendant may request the CCCI to review his or her case if the defendant asserts that his case will not be fairly heard by a local criminal court.
- 4) Any felony, misdemeanor or investigative court in Iraq may refer a case to the court.
- 5) If the investigation of a case has been completed by a local investigative court, the CCCI may, if it chooses, conduct the trial of the case without conducting a further investigation. However, the court may order a new investigation, or supplement the prior investigation, if it believes it necessary in the interests of justice to do so.
- 6) The decision of the CCCI to take jurisdiction of a case will end any local courts jurisdiction over such case, and all local courts shall be required to immediately furnish all files to the CCCI and fully cooperate with the court as outlined in Section 9 above.

Section 19
Method of Selecting Cases

- 1) Prior to 1 July, 2004, the Administrator retains the authority to refer cases to the CCCI. The Court may also accept cases on its own authority, without the need for a referral from the Administrator, as of the date of this order, in accordance with provisions set forth herein. Cases referred by the Administrator will have priority.
- 2) Cases shall be selected by the Chief Investigative Judge, or in his absence the next most senior Investigative Judge. If a case is selected at the investigative stage, the court shall retain jurisdiction through both the investigation and the trial of the case, without the need to reconsider jurisdiction after the completion of the investigation.
- 3) The above method of selection includes those cases that may go directly to the Felony Court for trial in accordance with Section 18(5).
- 4) From 1 July 2004 the Court will receive matters in accordance with the provisions of this Order which do not relate to the authority of the Administrator.
- 5) After 1 July 2004, Diplomatic representatives may bring potential cases to the CCCI's attention so that it can determine whether to select them in accordance with this Section and Section 19. The CCCI, however, after 1 July 2004, is not required to hear cases brought to its attention in this matter.

Section 20
Issuing of Warrants and Ancillary Orders

- 1) Any judge on the court has the authority to issue an arrest warrant, a search warrant or order other investigative measures allowed under Iraqi law whether or not the case has been selected under Section 19 above.
- 2) A warrant or other order issued under this Section shall be valid in any proceedings notwithstanding any decision made under Section 19 above.

Section 21
Appeals

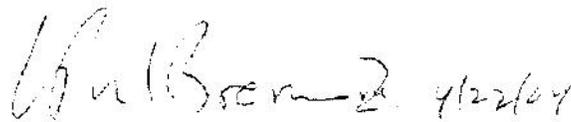
All appeals arising from CCCI proceedings shall be heard in accordance with applicable Iraqi law as modified by CPA orders but the Court of Cassation shall hear all appeals from the Felony Court.

Section 22
Representation of the Accused

All accused persons appearing before the CCCI, shall have the right to representation by an attorney of their choice. Where an accused person is unable to afford the services of an attorney the CCCI will provide them with a suitably qualified attorney free of charge.

Section 23
Entry into Force

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



L. Paul Bremer, Administrator
Coalition Provisional Authority

19 June 2003

MEMO TO: Secretary Rumsfeld

FROM: Paul Bremer *6/19*

SUBJECT: Abu Ghraib Prison

Mr. Secretary

We have an acute requirement for a maximum security prison facility. After of a review of alternatives, I have decided to reopen Abu Ghraib Prison. Saddam tortured and executed inmates in this prison, so some political fallout is possible. But we must remember he did this virtually everywhere in Iraq.

I have insisted that the prison will not be reopened until we can announce the simultaneous establishment of a museum in the section of the prison which was host to the most heinous crimes. We are identifying an Iraqi NGO to run the museum, the start-up cash for which we will provide from Iraqi monies.

We will make a model facility of the refurbished structure, and that is my answer to the political question, what does this facility symbolize? -- the rule of law and humane treatment for even the most heinous offenders of it.

*E-mailed for attachment
PIS - 001200*



AMNESTY INTERNATIONAL PRESS RELEASE

AI Index: MDE 14/142/2003 (Public)
News Service No: 156
30 June 2003

Embargo Date: 30 June 2003 07:00 GMT

Iraq: The US must ensure humane treatment and access to justice for Iraqi detainees

(Baghdad) Amnesty International called on the United States today to give hundreds of Iraqis detained since the beginning of the occupation the right to meet families and lawyers and to have a judicial review of their detention. The organization also called on the US to ensure that detainees are treated humanely and that excessive use of force is investigated.

"The conditions of detention Iraqis are held under at the Camp Cropper Center at Baghdad International Airport - now a US base - and at Abu Ghraib Prison may amount to cruel, inhuman or degrading treatment or punishment, banned by international law," Amnesty International said.

Detainees arrested by US forces after the conflict have included both criminal and political suspects. Detainees held in Baghdad have invariably reported that they suffered cruel, inhuman or degrading treatment immediately after arrest, being tightly bound with plastic handcuffs and sometimes denied water and access to a toilet in the first night of arrest. Delegates saw numerous ex-detainees with wrists still scarred by the cuffs a month later.

"Uday and Rafed Adel, 31-year-old twins, were arrested on 16 May by US forces who were chasing looters. Both denied involvement to US forces but were handcuffed tightly and taken to various transfer centres, and then to Camp Cropper.

"They did not interrogate us and they treated us like animals. In the first week we were not allowed to wash and didn't have sufficient water," Rafed said.

After 20 days of detention the two brothers were told they would be released but instead were taken to Abu Ghraib prison. Each day, some were released, but others remained; detainees grew increasingly despairing. On Thursday 12 June all detainees demonstrated against their detention conditions. The Captain promised to inform them individually about their detention period the next day. Only six were released the next day while no news were given for the others causing the detainees to stage another demonstration. The guards opened fire above their heads. One detainee, Ala' Jassem Sa'ad, was shot dead in his tent. Seven detainees were wounded, including others in the tent.

"The USA as an occupying power must uphold international humanitarian law and human rights standards in dealing with issues of law and order in Iraq, in the arrest, detention and interrogation of

detainees and in ensuring that firearms are only used if lives are in imminent danger," Amnesty International said.

The organization raised these concerns in a letter addressed to US Administrator in Iraq Paul Bremer, head of the Office of the Coalition Provisional Authority (OCPA) on 26 June, 2003. It also asked the OCPA to publicly declare the measures it intends to take to investigate allegations of abuses during house searches, to announce preventive measures to avoid the recurrence of such abuses and to ensure compensation of the victims.

Amnesty International delegates however welcomed statements by lawyers from the US military and the OCPA that they intended to rapidly improve conditions and would eventually ensure that every detainee had access to lawyers within 72 hours.

US military lawyers who met Amnesty International delegates last week acknowledged that the failure to give information about the detainees' whereabouts was regrettable but claimed that it had been impossible until recently to set up logistics to do this.

The lack of clarity concerning procedures and law has brought about a dual system in Baghdad: some detainees are taken to US-run detention centers; their family has no news of them and they are only entitled to a review of their detention within three weeks by a US military lawyer. Others arrested for similar offences receive the protection of the procedures in the 1971 Criminal Procedure Code: their files are brought before an Iraqi examining magistrate within 24 hours. They are entitled to release if there is insufficient evidence against them.

"Many of those detained at the airport were mistakenly arrested and were released, after being detained for several weeks in inhumane conditions, with bitterness, frustration and a lack of confidence in US justice. As the net of arrests widens, so does the injustice," Amnesty International said.

Amnesty International is also concerned about a number of allegations of stealing of money from houses which were being searched by UK or US soldiers.

Four brothers, As'ad, 'Ali, 'Uday and Lu'ay Ibrahim Mahdi 'Abeidi, were arrested from their house on 29 April 2002 after a shooting in a street in Baghdad. They were hooded and tightly handcuffed.

"We spent our first night in custody lying on the ground in a school. We had no access to a toilet and were given no food or water," one of the brothers said. The next day they were taken to Camp Cropper where they were held in the open in the burning heat of the sun until tents were brought on the third day. There was not enough water for washing. All had been released by 11 May.

The brothers said that some \$20,000 in their savings and other goods was taken from the house. The Iraqi interpreter involved in the search operation said he handed over the family money to the US second lieutenant. But the money has not been returned.

"If a new future where human rights are respected is to be ensured, it is of fundamental importance that the present authorities ensure transparency and accountability for all human rights violations not only of the past but also of the present," the organization added.

Background

Detainees held in the Airport and at Abu Ghraib have no access to the outside world except the international Committee of the Red Cross (ICRC). Family members are not allowed to visit them. In dozens of interviews, families of detainees complained that US forces had been unable to provide any information when they sought to discover where their relatives had been detained.

Widespread looting and insecurity in Baghdad have prevailed since the beginning of US occupation of the city on 10 April. Amnesty International has documented many cases of revenge killings in Iraq, as well as armed robberies, encouraged by the proliferation of weapons.

For more information, please contact Amnesty International's delegates in Baghdad:

Elizabeth Hodgkin: +88 216 5210 0001

Ozlem Dalkiran: +88 216 2115 9713

Joanna Oyediran: +88 216 5210 0179

Public Document

For more information please call Amnesty International's press office in London, UK, on +44 20 7413 5566

Amnesty International, 1 Easton St., London WC1X 0DW. web: <http://www.amnesty.org>

M O J TALKING POINTS
REF. AMNESTY RELEASE

0625

SUMMARY OF PRINCIPLE RESPONSES TO AMNESTY PRESS RELEASE

- We welcome the interest by Amnesty in the human rights situation in Iraq and we look forward to working with such organizations to steadily improve the human rights situation here.
- However the Amnesty comments need to be seen in context.
- Saddam Hussein had a regime of massive human rights violations involving systemic torture and arbitrary execution.
- Since the arrival of Coalition Forces 25 million Iraqis are breathing easier having been liberated from this terror.
- As a parting gift the regime released approximately 120,000 prisoners into the streets. About 60,000 of these were political prisoners while the remainder were criminals including many extremely dangerous people.
- At the same time there was widespread destruction of prison facilities across the country to varying degrees including the only maximum security facility in Iraq.
- This massive logistic and law and order problem has necessitated the talking of short term emergency measures.
- These measures have been taken in accordance with the law that governs the CPA, the Fourth Geneva Convention of 1949.
- This law takes precedence over all other human rights instruments and provides a framework for dealing with exactly these circumstances.
- The CPA is conducting operations completely within this law in terms of the process applied to detention action.
- As part of these requirements the ICRC has been provided unlimited and unrestricted access to all detainees.
- The ICRC has indicated to us concerns over the conditions at Camp Cropper and Camp Vigilant. These concerns relate principally to the increase in temperature with the summer months which makes the tented accommodation unsuitable.
- We have taken note of these concerns and our intention is to close Camp Cropper shortly with the introduction of a more suitable pre-fabricated facility.
- Once Camp Cropper is closed then access for family members will be possible at the new facility. Till now the priority has been to act on public security and all these

issues are relative. We must balance the need to prevent murder and rape against the temporary inability to provide family access to criminal detainees which in any event is not a requirement under the Fourth Geneva Convention.

- We have in place a system of release for minor offenders and we are also now bussing serious criminal offenders to the functioning Iraqi courts in Baghdad. The new Central Criminal Court of Iraq will also help to ease the burden while we work towards standing back up Iraqi courts across the country.
- The CPA has made many alterations to the provisions of Iraqi law that were offensive to human rights standards and permitted the regime to torture, murder and terrorize. It has issued standards that will apply to all facilities for detention or imprisonment. It has ensured all Iraqis will receive representation at every stage of the criminal process and this will be accompanied by the introduction of a fully funded public defender scheme.
- With regard to actions of Coalition forces no information has yet been provided to us upon which an investigation could be based. If such information comes to light Coalition Force members are subject to their military discipline codes under which they will be investigated and if necessary court martialled.
- We are confident that the troops have to date applied the appropriate levels of force in arresting offenders. It must be remembered that the troops are not enforcing minor laws but are seeking to restrain only those engaged in violent activity, usually while heavily armed. They have used the levels of force necessary to subdue such persons.

MEMORANDUM

TO: All Coalition Provisional Authority officials with responsibility for matters relating to the Ministry of Justice

FROM: Judge Donald F. Campbell
CPA Senior Advisor to the Ministry of Justice

DATE: 26 June 2003

SUBJECT: Ministry of Justice National Policy Guidance

This memorandum sets forth national policy and guidance regarding matters in the purview of the Ministry of Justice. It is intended to guide all levels of the Coalition Provisional Authority (CPA) and Coalition military commanders, with whose assistance it will be implemented. Some of the policies contained herein are new. Others have already been promulgated, but inadequately communicated. Due to difficulties with communication and coordination, consistency has heretofore been impossible to achieve; due to different circumstances, it has not necessarily been appropriate. As communications and infrastructure improve, however, and as Iraq progresses back to civilian rule, a uniform nationwide approach to justice is desirable.

This memorandum seeks to move the Ministry of Justice in that direction. In addition to providing guidance as to how Ministry of Justice activities should currently be operating, it seeks to open channels for information to flow in as well as out. It summarizes what we know so far, and requests you to correct errors and fill in gaps.

The policies and practices of the past regime left much to be desired, but also much with which we can work. We have made strides undoing the bad and identifying the good, and will continue to do so.

Please note that a synopsis of all information requested by this memorandum is attached as appendix 1. Please provide this information as best you are able within 10 days.

1. Mission Statement

The principal mission of the CPA Ministry of Justice office is to institute the rule of law in Iraq to the maximum possible extent. All CPA Ministry of Justice activities aim towards that end.

The rudiments of a rule of law include:

- equal protection of the laws without regard to race, creed, ethnicity, or gender

- judicial independence
- objective, impartial enforcement and application of laws
- general right to notice and hearing before deprivation of liberty or property
- likes are treated alike
- decisions based on law, not on nepotism, cronyism, bribery, or personal characteristics
- public trials
- the right to court-appointed counsel in criminal cases, and the right to be informed of this right
- the right against self-incrimination, and the right to be informed of this right
- the right to compulsory process
- the right to cross-examine adverse witnesses
- no *ex post facto* laws
- swift and certain punishment of the guilty and acquittal of the innocent
- public confidence that the above conditions prevail

The CPA Ministry of Justice office will attempt to realize these elements through funding, supervision, training, and operational involvement in the judicial system. Ultimately, however, any changes are provisional and subject to eventual reversal or adoption by the duly constituted Iraqi sovereign.

The Ministry of Justice also now is responsible for all prisons throughout Iraq. Our primary goals in that department are to establish or reconstruct facilities adequately to hold humanely the criminals that are being apprehended, and to operate those facilities up to the standards established by CPA Memorandum No. 2, attached as appendix 2. A corollary goal is successful coordination between prisons and courts, as well as police.

The Ministry of Justice also has responsibility for notaries public, deeds and records, and judicial training. The CPA will attempt to restore these functions.

2. Communication and chain-of-command

Communication is indispensable to consistency and coordination. The lack of information coming into this office from areas outside Baghdad, and our inability to communicate effectively to the governorates, has delayed issuance of this nationwide guidance directive. With the information provided recently by the justice assessment teams and the reports coming in through military channels (pursuant to FRAGO 154), we are now in a position to provide some informed guidance. In order to build on this, however, and to craft a more comprehensive policy, we must establish regular lines of communication for upward and downward information flow.

There are a variety of ways in which to contact the central CPA Ministry of Justice office:

- E-mail one of the Ministry's Executive Assistants:

CPT	(b)(6)
ILT	

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- Telephone: (b)(6)
- DSN: (b)(6)
- Commercial: (b)(6)
- MCI cellular: (b)(6)

(b)(6)

Clarity as to who is responsible for Ministry of Justice affairs in each governorate is important to establish. Accordingly, each local Coalition official, whether military or civilian, with responsibility for Ministry of Justice affairs should please e-mail all staff names, area of responsibility and all available methods of communication, to ILT (b)(6) (b)(6)

Judge Donald F. Campbell is currently the Senior Advisor to the Ministry of Justice.* Judge Campbell succeeded Clint Williamson on 21 June. The Senior Advisor, or his delegate, acting under the authority of the Administrator, CPA, is responsible for Ministry of Justice policy.

Local CPA and military officials may take decisions or actions that they deem necessary and proper to implement the national Ministry of Justice policy, subject to the review and approval of the Senior Advisor or his delegate. Local CPA and military officials should keep the central Ministry apprised of all activities in their areas of responsibility, in greater or lesser detail as the significance of the matter and common sense dictate.

In addition to case-by-case reporting, we may develop regular weekly, monthly, or other reporting forms. We also welcome your comments, questions, or suggestions. This information will enable us to develop policies to address these issues.

Within the Ministry itself, a Management Committee has been appointed, with responsibility for Ministry operations, subject to the direction and control of the Administrator, CPA. The Committee comprises all Directors General, and is to be chaired by (b)(6) (b)(6) who will serve in this capacity on appointment by the CPA Administrator, is also the President of the State Advisory Council, has been a justice on the Court of Cassation (Supreme Court) since 1997, and was never a member of the Ba'ath party.

In addition to the Senior Advisor and his staff, we have formulated a plan for involvement of other Coalition personnel in operating and reforming the Ministry of Justice,

* Judge Campbell, a judge on the Superior Court of New Jersey, is also a Major General in the United States Army Reserves. He has been mobilized for Operation Iraqi Freedom.

attached as appendix 3. While plan has not been formally approved by the Administrator, it reflects our current direction.

3. Court operations

All courts should be operating to the maximum extent permitted by the available facilities and personnel. The Senior Advisor has issued an instruction to that effect, attached as appendix 4. With certain exceptions, Coalition authorities should take all steps necessary to reestablish regular court proceedings, including transporting suspects or defendants between detention center or prison and court. Crimes against Coalition forces will be addressed in accordance with existing arrangements that preserve the jurisdiction of Coalition Forces. Persons suspected of crimes that are particularly disruptive to public safety or of crimes with potentially national ramifications, and prominent defendants, will be considered for trial by the Central Criminal Court of Iraq described below.

In some cases, court personnel have been reluctant to return to work without a direct order. Local commanders may direct such employees to return to work. Employees who continue to refuse to return to work should be replaced. Otherwise, judges, prosecutors, and other court personnel who were employed prior to the war should resume their duties.

If local commanders or CPA officials believe that circumstances warrant the removal of any judicial official, these matters should be referred to the Judicial Review Committee (JRC) which is described in more detail below. Likewise, if local officials have already removed judges or prosecutors or have appointed replacements, these cases should also be referred to the JRC. It should be clear that all such dismissals and appointments are considered provisional until ratified by the JRC.

Where court facilities have been so badly damaged as to foreclose current use, it may be prudent to move or consolidate cases into other facilities nearby. In Baghdad, for example, the Senior Advisor issued an instruction consolidating all criminal trials into two courthouses. Local authorities wishing to issue a similar order in the future should first submit the order to the Senior Advisor for review and approval. Local authorities who have already implemented a similar order or arrangement may continue the order in effect, but should report to the Senior Advisor. Alternative facilities need not be other courts. Funding may be available to lease or construct facilities, as well.

One of the greatest difficulties encountered in Baghdad has been transportation of prisoners to and from court. This requires close logistical coordination between Coalition forces, the Iraqi police, and court personnel. For a variety of reasons, however, this coordination has been lacking and transports of prisoners to Iraqi courts have been inconsistent. The Administrator, CPA has stressed that resolution of this issue is a high priority as re-establishment of the courts is a key component of the CPA's strategy to create a secure and stable environment. To address this problem in Baghdad, a comprehensive plan has been drawn up by V Corps SJA and is currently being implemented. If logistical problems in your area of responsibility hinder processing prisoners into the Iraqi court system, please notify this office immediately.

4. Facilities repair, rehabilitation, construction, and security

Many courthouses and other Ministry facilities nationwide have been looted, damaged, or destroyed. Our judicial assessment teams have reported regarding several such facilities, but we lack a comprehensive list. We have access to funds, public and private, for refurbishing and refurnishing courthouses, and possibly for acquiring or constructing new buildings, if needs be. Only with a comprehensive list can we prioritize and allocate funding for these projects.

Security, without which repair and refurbishment are pointless, is a natural concomitant of renovation.

Accordingly, we must compile data on nationwide facilities and security needs. A spreadsheet of all Ministry facilities of which we are aware, organized by governorate, is attached as appendix 5. We request that the local Coalition or military authority with responsibility for Ministry of Justice affairs in each governorate identify the needs, if any, for the facilities in its area of responsibility by completing, editing, or adding to the spreadsheet. At your request, we can also e-mail the spreadsheet to be filled in electronically. The spreadsheet will enable you to tell us whether we have an accurate assessment of the state of facilities in your area, an estimate of repair and refurbishment expenses, and to prioritize your area's needs. We will then work to form a funding plan in coordination with the CPA Program Review Board. The Program Review Board was established by CPA Regulation No. 3 to identify, integrate and prioritize funding requirements.

A facilities protection force has been established by the Coalition to secure important government locations. The force comprises mainly former members of the Iraqi armed forces. If Ministry facilities in your area of responsibility require security, you may forward a prioritized list including facility name and type, location, and an explanation of the need for security. We will then try to accommodate that need through the CPA and the Program Review Board.

5. Court structure

By now, local officials are likely familiar with the structure of the Iraqi court system. Still, the organizational charts attached as appendix 6 may be helpful. The law is generally secular, except for the law of family relations, in which Sharia (Islamic) law is applied as to Muslims. Several special security courts, designed to punish enemies of the previous regime without due process, have been eliminated by CPA Order No. 2, attached as appendix 7.

In addition to the courts depicted in appendix 6, a new Central Criminal Court of Iraq (CCCI) is being established as a model of procedural fairness and judicial integrity and to hear especially serious cases. CPA Order No. 13, establishing the CCCI, is attached as appendix 8, along with a public notice regarding the same, and is discussed below.

The CPA Administrator has identified the CCCI as a top justice priority. It will commence hearing cases as soon as possible, hopefully by 15 July.

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Also as noted above, the military retains the right to try any person accused of crimes against Coalition forces, including war crimes.

6. Applicable substantive and procedural law

The applicable criminal law in Iraq is the Iraqi Penal Code of 1969, as modified by CPA Order No. 7, attached as appendix 9. Local Coalition authorities should ensure that judges are applying this law and that the bench and bar are aware of Order No. 7.

The applicable criminal procedure is that of the Iraqi Criminal Procedure Code of 1971, as modified by CPA Memorandum No. 3, attached as appendix 10 together with a public notice regarding the same. Memorandum No. 3 implements certain fundamental legal rights, including:

- in criminal cases, the defendant will enjoy a right to appointed counsel beginning with the first appearance before a magistrate, rather than at trial only, and must be informed of this right
- confessions extracted by torture will be inadmissible as inculpatory evidence under any circumstances; before, such confessions were admissible if corroborated by other evidence, even if that other evidence was obtained through torture
- no person shall be forced to testify against himself, and he must be advised of this right before custodial questioning

Memorandum No. 3 also requires that Coalition forces afford to criminal detainees the following:

- upon arrival in a detention center, immediate notice of the right to remain silent and to consult an attorney
- in felony cases only, the right to consult with an attorney after 72 hours have elapsed since such arrival (persons held for offenses not rising to the level of a felony enjoy no right to counsel)
- a prompt written explanation of the charges
- appearance before a judicial officer "as rapidly as possible" and no later than 90 days after detention
- access to the International Committee of the Red Cross, unless contrary to imperative military necessity

Requirements for persons detained to protect security are also imposed by Memorandum No. 3.

Local Coalition authorities should carefully read and ensure that Iraqi judges and police, as well as Coalition forces, rigorously obey and enforce these new rules.

Other changes to the law, and all Coalition Orders, Regulations, and Proclamations, will be reflected in the official Iraqi Legal Gazette. The Legal Gazette has been the official publication for Iraqi laws since the 1920s. Publication was recently resumed after a halt during the war. The first post-war edition, attached as appendix 11, should have been distributed to the

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chief Court of Appeals judge and all law libraries in each governorate. Please inform us whether such distribution occurred in your governorate or area of responsibility. Coalition authorities should read each edition of the Gazette to apprise themselves of all recent orders and to ensure that Coalition directives are being carried out properly.

In the future, other laws of Iraq will be reviewed, and changes are possible. Any such changes will appear in the Gazette.

We can provide the Iraqi Penal Code and the Iraqi Penal Procedure Code by e-mail, at your request. If you are in possession of English translations of any other Iraqi laws, please provide them to us. We are aware of and are trying to fill the deficiency of English-language Iraqi codes.

7. Reforms

A number of legal reform initiatives are underway, and more may follow:

New criminal suspect rights

Significant new legal rights have been established for criminal defendants, as described in the preceding section and CPA Memorandum No. 3 and the accompanying public notice, attached as appendix 10.

Judicial Review Committee

The Judicial Review Committee (JRC) has been formed to review each of the roughly 850 judges and prosecutors in the country for significant Ba'ath party links, complicity in crimes of the former regime, malfeasance and corruption. CPA Order No. 15, establishing the JRC, is attached as appendix 12. It is designed quickly to establish a measure of public trust in the legal system by removing bad actors whom the public distrusts and endowing the others with a measure of enhanced credibility. The JRC will depend heavily on local Coalition authorities to provide information and evidence.

In many cases, public outcry has compelled local Coalition authorities to remove and replace judges or prosecutors. Each removed and replacement judge or prosecutor must be reviewed by the JRC. The JRC will have the option of reinstating removed judges or of rejecting a replacement judge. It will, of course, strongly consider the commander's reasons for removal and replacement in the first place. Please provide us with a list of every removed or replacement judge or prosecutor.

The JRC is scheduled to begin its work in the next week, and should finish within three or four months. Especially because the JRC will lack the resources to conduct an extensive background check of every judge and prosecutor, all Coalition authorities are requested to provide the JRC with relevant information regarding judges and prosecutors, including actively collecting such information if possible. This would include protests or accusations from the bar or from the public about particular lawyers or prosecutors, documentation of past bad acts or

~~SENSITIVE~~

significant Ba'ath party involvement, or otherwise. Evidence of good reputation or character would also be helpful. Please forward all such information to the central CPA Ministry office as soon as possible, using G-2 channels for classified information.

The decisions of the JRC will be supplemental to, and not a replacement for, determinations by the Iraqi De-Ba'athification Council, described below. That Council may override a JRC decision based on Ba'ath party ties.

Judicial Inspection Unit

A Judicial Inspection Unit (JIU) is to be established as a follow-on to the JRC and as a more permanent oversight mechanism. The JIU will investigate malfeasance based on accusations or on its own initiative, and will recommend disciplinary action (reprimand, suspension, or removal from office) in cases where wrongdoing is proven. The JIU will likely not begin its work until after the work of the JRC is complete.

Central Criminal Court of Iraq

As described in appendix 8, the CCCI is designed to be a model of procedural fairness and judicial integrity that will hear charges of especially serious crimes that may have national ramifications (i.e., crimes of inter-ethnic or religious violence, mass crimes), crimes with security implications (i.e., crimes committed in retaliation for cooperation with Coalition authorities), and other serious crimes with the potential to undermine public confidence in overall safety. The judges and prosecutors participating in the CCCI will be drawn from the most highly regarded in the country.

Cases will be recommended for CCCI hearing by the Senior Advisor, who will consider cases brought to his attention by judges, prosecutors, defense counsel, or Coalition authorities. The Administrator, CPA will then decide whether to transfer the case. We anticipate that the CCCI will hear dozens, but not hundreds, of cases.

The judges and prosecutors of the CCCI will be the first vetted by the JRC. The CCCI should begin work by 15 July.

Iraqi De-Ba'athification Council

Accreditation Review Committees and an Iraqi De-Ba'athification Council have been established to vet all Iraqi government employees for Ba'ath party involvement pursuant to the de-Ba'athification policy set forth in CPA Order No. 1, attached as appendix 13. The Accreditation Review Committees were established by CPA Memorandum No. 1, attached as appendix 14, and the Council was established by CPA Order No. 5, attached as appendix 15. The Council will vet all personnel as required by Order No. 5. Local Coalition authorities may be called upon to assist or cooperate with the Council.

8. Property claims

Property claims may arise against the Coalition, between Iraqis, or between Iraqis and the government of Iraq.

Claims against the Coalition for maneuver damage, post-conflict damage, expropriation, or seized property should, at least for now, be processed through regular military channels.

Claims between Iraqis or between Iraqis and the Iraqi government may arise in a variety of circumstances: expropriation without compensation, ethnic cleansing or "Arabization," unjust enrichment of Ba'athist henchmen, or otherwise. Coalition policy on how to resolve these disputes is still in development, including which claims will be recognized, who may bring them, statute of limitations, whether a special facility will be established to adjudicate the claims, rules for resolution, and establishing effective repositories for claims. A special Coalition office is being established to deal with these issues, headed by (b)(6). His MCI cellular phone number is (b)(6) and his e-mail address is (b)(6).

9. Transitional justice: crimes against humanity, war crimes, and mass graves

Coalition policy on how most efficaciously to redress crimes against humanity and war crimes, and how to handle mass graves, is still being formulated by a special office. Points of contact are (b)(6) MCI cellular phone number (b)(6) and (b)(6) or MCI cellular phone number (b)(6). You should direct all questions and information in this regard to them.

10. Prisons and detention centers

Under the previous regime, responsibility for prisons and detention centers fell under the Ministry of Labor and Social Affairs and the Ministry of Interior, respectively. Generally, prisoners were held at police detention centers from the time of arrest until they completed their initial court proceedings. Thereafter, they were transferred to prisons. By CPA Order No. 10, attached as appendix 16, responsibility for prisons and detention centers was transferred to the Ministry of Justice.

CPA Memorandum No. 2, attached as appendix 2, establishes the standards with which every prison and detention facility nationwide must comply. Local authorities should commence immediate action to bring all facilities up to the standard of Memorandum No. 2.

Where Coalition forces are operating prisons or detention centers--either in the form of pre-existing or temporary facilities--it is a high priority to facilitate the re-opening of civilian-controlled facilities as soon as possible. In many cases this is currently impossible due to the damage or total destruction of such facilities. It is important, though, that all information on pre-existing prisons and detention centers be communicated to the CPA Ministry of Justice office. This information is vital as a comprehensive prison reconstruction plan is developed for the entire country.

~~SENSITIVE~~

(b)(6) is the head of the new Prisons Department in the Ministry of Justice, and all queries and information regarding prisons should be directed to him. Mr. (b)(6) may be reached by MCI cell phone at (b)(6) or by e-mail at (b)(6).

11. Other programs and the road ahead

A number of additional special programs have been or will be established:

Pro bono program

The recent hostilities effectively shut down the legal system, leaving lawyers unemployed. To induce them to apply their skills for the public good, we introduced a pro bono program, under which lawyers perform legal services to needy clients and receive \$2 per hour, up to 125 hours. We have secured \$100,000 in funding, and have disbursed about 150 payments.

Thus far, the pro bono program has been implemented primarily in and around Baghdad, where it has been so popular that we have been obliged to stop enrolling new participants, lest the fund be depleted. If we are able to secure additional funding, we will re-open participation, in which case we will ask local authorities to inform attorneys through announcements or postings. In the meantime, queries about the program should be answered by saying that enrollment is closed.

Most attorneys in Baghdad recorded implausibly high quantities of hours worked, i.e., the maximum permitted 16 hours per day, every day of every week. To stanch cheating, we required the attorneys to sign a form certifying the veracity of hours claimed. If the program is re-opened, each attorney submitting a claim will be required to sign the same or a similar form. Payment for work so certified will be arranged through the central CPA Ministry office.

Criminal defense program

The new right to defense counsel at all stages of criminal proceedings will require an expanded criminal defense program. Details are still being sorted out, but all investigative judges must now appoint defense counsel to serve beginning at the investigative stage for all criminal investigations. For the present, the investigative judges should use the same procedure that was formerly used for appointment of counsel in felony trials. The appointed lawyer has a right to fair compensation. The method of providing that compensation is one of the undecided details under active and urgent consideration. We have requested \$5 million for this program, based on an estimated \$400 for a felony investigation and trial, \$100 for a misdemeanor.

Salary payment system

The current system for paying salaries to the regions and governorates should have been transmitted through other channels. We understand that local Coalition authorities have proceeded in a variety of ways to disburse the \$20 and \$30 emergency payments, and regular salaries. A new plan for salary payment is being evolved, and the CPA four-tier salary structure will likely be refined. For the time being, attempt to pay salaries according to the extant system,

and coordinate with the central CPA Ministry office. (b)(6)
(b)(6) or MCI cellular phone (b)(6) is the salaries point-of-contact.

National assessment

A comprehensive national assessment of the entire Iraqi legal system has been prepared by judicial assessment teams sent by the United States Department of Justice. It contains much useful information and benchmarks against which to measure our performance. It is too long to include with this memorandum, but we will provide it electronically at your request.

12. Other functions

The Ministry of Justice, in addition to operating the legal system, has a number of directorates dedicated to related areas, including deeds and records, notaries public, and judicial training.

Regarding judicial training, CPA Administrator Bremer re-opened the Iraqi Judicial College (formerly called the Judicial Training Institute) in Baghdad on 17 June, marking completion of the first major rebuilding project since the fall of Saddam Hussein. The curriculum of the College is now under review, to eliminate vestiges of the former regime and to emphasize the importance of a rule of law. Admission standards are also being examined.

Our goal with respect to the other directorates is to ensure that they resume operations with maximum possible efficiency and efficacy. Guidance regarding these areas may follow as we acquire the resources necessary to enable us to turn our attention to them. Any information you have relating to their facilities and operations would be appreciated. Further guidance may follow.

13. Conclusion

This document contains directions aimed at facilitating national consistency and implementation of CPA policy in instituting the rule of law in Iraq and restoring Ministry of Justice functions. The Iraqi judicial system was assumed to be corrupt, complicit in Saddam's bidding, and inefficient--and also possessed of some very capable and courageous individuals. We have been and will continue to work to eradicate the undesirable vestiges of the former regime and enable the people of rectitude to improve the legal system for the people of Iraq. Improving communications and coordination should facilitate that task. Feel free to contact us anytime about anything relating to the Ministry of Justice.

A summary of all information requested herein can be found in appendix 1. Please provide us with this information as best you are able within 10 days.

0627

**COALITION PROVISIONAL AUTHORITY
BAGHDAD, IRAQ**

27 June 2003

Action Memorandum

TO: Administrator, CPA
FROM: Office of General Counsel *gsc*
SUBJECT: Response to Letters from Amnesty International

The attached letter responds to letters forwarded to you from Amnesty International officials on 26 May and 26 June 2003, concerning certain CPA law enforcement and detention practices.

- As noted in the proposed response, officials from this office, the Senior Advisor to the Ministry of Justice, and the Staff Judge Advocate, CJTF-7, held a 2-hour meeting with three Amnesty International officials (Elizabeth Hodgkin, Joanna Oyediran and Elizabeth Mottershaw) on Wednesday of this week. Most of the concerns raised in the Amnesty International letters to the CPA were thoroughly discussed at that meeting.
- In a related matter, we are meeting with International Committee of the Red Cross (ICRC) officials tomorrow to discuss concerns that ICRC has raised regarding the treatment of detainees and internees at Camp Cropper.
- We will continue to work closely with the Staff Judge Advocate, CJTF-7, to ensure that our detention practices comport with applicable international law.

ACTION REQUESTED: That the Administrator sign the attached response to Amnesty International.

COORDINATION: Senior Advisor to Ministry of Justice; Staff Judge Advocate, CJTF-7

**COALITION PROVISIONAL AUTHORITY
BAGHDAD, IRAQ**

27 June 2003

Ms. Elizabeth Hodgkin
Amnesty International
Peter Benenson House
1 Easton Street
London WC1X 0DW

Dear Ms. Hodgkin:

Thank you for your recent letters concerning some of the issues facing the Coalition Provisional Authority in its interim governance of Iraq. As you appreciate, the liberation of Iraq has ended massive crimes against humanity committed by the previous regime. We are now addressing major law and order and related logistical challenges as we assist the Iraqi people and further the recovery of Iraq.

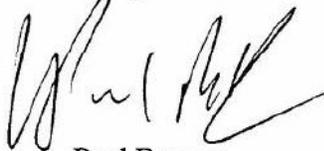
I understand that your meeting with representatives of the Justice Ministry, General Counsel's Office and Office of the Staff Judge Advocate, Combined Joint Task Force 7 on June 25, 2003, featured full discussion of your questions regarding the legal framework applicable to arrest and detention of suspects, and that you are being provided copies of all CPA Regulations, Orders and Implementing Memoranda. In Implementing Memorandum Number 2, you will note that the CPA has prescribed standards that all detention facilities and prisons in Iraq must strive to meet. We are expending the necessary resources to meet that objective.

As you were advised at the meeting with CPA officials, the only relevant standard applicable to the Coalition's detention practices is the Fourth Geneva Convention of 1949. This Convention takes precedence, as a matter of law, over other human rights conventions. Under the Fourth Geneva Convention, the International Committee of the Red Cross (ICRC) has a specific mandate for access to detainees and detention facilities. We have worked closely with the ICRC on these matters, and they have regular access to all detainees and detention facilities of the Coalition. They have expressed their concerns to us and we are acting upon those concerns.

With respect to the actions and accountability of Coalition Forces, these personnel remain subject to military disciplinary law. Specific allegations regarding Coalition Force personnel will be treated seriously, investigated and addressed in accordance with these laws.

Please do not hesitate to contact Colonel (b)(6) of the CPA Office of General Counsel (mobile: (b)(6) email: (b)(6) if you have further questions regarding these matters.

Sincerely,

A handwritten signature in black ink, appearing to read "L. Paul Bremer". The signature is stylized and cursive.

L. Paul Bremer
Administrator

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

26 June 2003

Dear Ambassador Bremer,

I am writing to you to draw your attention to a number of concerns about the administration of justice and detention procedures in the areas under United States (US) occupation in Iraq. Our research into this is still continuing and relates mostly to Baghdad, but we feel that our concerns, especially about detention procedures which appear to facilitate cruel, inhuman or degrading treatment or punishment, are sufficiently serious to warrant our sending them to you immediately.

Over the past weeks, Amnesty International delegates, including international lawyers, have visited police stations, the police college, and law courts. They have interviewed lawyers, former detainees, and a large number of families of detainees seeking, and failing, to gain access to or information about the fate of their relatives. We are grateful to Major General Don Campbell for the time he has given to our delegates and hope to be able to meet the Provost Marshall shortly. But notwithstanding two weeks' persistent attempts we regret that we have not been able to learn the name of the officer in charge of the Holding Centre at Baghdad Airport or of other centres, or to speak with any official about the detention procedures applied by US forces in Iraq.

The specific concerns we have in this context are the following:

1. **Applicable Iraqi Law**

In talking to members of the Ministry of Justice of the Coalition Provisional Authority as well as to Iraqi police officers and lawyers, we have learned that the relevant law now applicable in Iraq is the 1971 Criminal Procedure Code. Relevant procedures in this law are that, unless caught in the act, a detainee should be arrested only by a warrant from an investigating judge; after arrest the case documents should be sent to the judge (Examining Magistrate) within 24 hours, who should then decide whether to order release or proceed with the case; if the case is pursued the detainee may be released on bail; in any case, according to normal practice, detainees should have frequent and regular access to their families.

During our research into actual practice, we have documented many cases indicating a confusing dichotomy. A number of Iraqis arrested in Baghdad are held in police stations regulated by the Iraqi Criminal Procedure Code of 1971, with its safeguards of prompt referral to a judge and access to family. However, hundreds more are arrested and, instead of being held under Iraqi law, they are taken to the Holding Centre at Baghdad Airport where they appear to be held indefinitely without access to family or lawyers and without any form of judicial review of their detention.

2. Allegations of abuses during house searches

House searches are reported to have been frequently roughly handled. We have received allegations of unlocked doors having been smashed, contents of cupboards thrown on the ground and money and valuables stolen. While such allegations are difficult to verify, the numerous allegations of what may amount to looting by members of the US forces or those accompanying them, give cause for concern.

Under Iraqi law the local Mukhtar (mayor) has to be present during house-searches; if such practices are obviously difficult at the present time, some attempt to have an independent witness or a member of the household present during searches would give much needed confidence to the population and minimise the risk of abuses.

3. Treatment during arrest and detention

Treatment during arrest and the first 24 hours of detention appears to frequently constitute cruel inhuman or degrading treatment. The use of plastic handcuffs by the US troops is reported to cause unnecessary pain; several detainees have described this and shown the marks of tight handcuffs remaining even a month after arrest. Some former detainees stated that they were forced to lie face down on the ground. Some former detainees said that during the first night after arrest they were held handcuffed, hooded or blindfolded, and not given water or food or allowed to go to the toilet.

Detainees arrested at the end of April describe being held at the Holding Centre at Baghdad Airport for up to three days under the sun, until tents were carried to the airport. Toilet facilities were reported to be a single hole in the ground shared by scores of men without any curtain for privacy. Detainees have alleged that, despite high temperatures, they were allowed only four litres of water a day without any opportunity to take showers. Washing was allowed apparently after some detainees suffered from skin diseases. Detainees, including one held without charge for more than one month said that they were given no change of clothes, nor allowed any shaving facilities. They also said that they were allowed no books, newspapers, pen or pencil and had no access to the outside world. Relatives who came to the Holding Centre at Baghdad Airport seeking access or information invariably describe being turned back without information and told to go to the International Committee of the Red Cross (ICRC); which often was not able to provide information to verify the detainee's whereabouts, presumably because they had not visited the detainee.

The following are a few examples of the cases we have investigated:

3.1

(b)(6)

These four brothers run a vegetable stall in a market near their house in Baghdad. According to their testimony they were arrested at 9pm on 29 April by members of the 101st Airborne Division, after a shooting incident they were not involved in. They allege that the contents of cupboards, food and clothes, were thrown out, and doors were kicked in, the washing machine broken and a large sum of money, a tape recorder and two watches taken. They have complained to the Civil and Military Operations Centre (CMOC) which, apparently after they produced the visiting card of one of our delegates, gave them an appointment for 13 June. They stated that they were tightly handcuffed behind their back all night (marks were still visible over a month later), taken to various holding centres, including schools, given no water or food during the night and allowed to go to the toilet – only while still handcuffed with hands behind their back. One detainee had to open the trousers of the other. They said that they were held hooded. One brother (b)(6) fell sick and had to be taken to hospital. They were taken to the Holding Centre at Baghdad Airport on 29 April and left in the open surrounded by barbed wire under the sun until tents were brought on the third day. Two brothers were released on 5 May from the Holding Centre at Baghdad Airport and two were taken to the Umm Qasr detention centre. (b)(6) was released on 11 May; on 2 June (b)(6) remained in detention. According to three of the detainees, at no stage were the detainees brought before a judicial authority during their detention at the Holding Centre at Baghdad Airport.

(b)(6)

3.2

(b)(6)

(b)(6) aged 54, is a business man with Danish citizenship who had spent the past 27 years outside Iraq and returned to Iraq 10 days before his arrest. According to his testimony he was arrested at noon on 6 May on Abu Nuwas Street, after his car was stopped by shots from the US army. He states that he saw no army checkpoint there. He alleges that the US soldiers made him lie face down on the road and then put him in a car; when journalists came, he said that he was forced to lie again face down on the road so that they could photograph and film the incident. He was taken directly to the Holding Centre at Baghdad Airport. He states that he was apparently held on suspicion of murder, but was interrogated only twice on the first two days; he, like those above, described conditions as given in point (3). He was held for 33 days without contact with the outside world until he was released on 8 June 2003. According to (b)(6) he was not brought before a judicial authority during his detention at the Holding Centre at Baghdad Airport.

3.3

A merchant who asked not to be named and who has businesses in Falluja and Baghdad said that he was arrested on 2 June and released on 6 June. He described being held handcuffed for one night sitting on a chair placed over a small Turkish toilet in Saddamiya al-Falluja holding station. He stated that a Thoraya satellite phone with his business numbers was stolen, he thinks by the interpreter who drove his car to the base after his arrest.

3.4

Relatives of those arrested at al-Falluja, who are apparently mostly held in a hangar at Habbaniya Airport, say they no longer bother to enquire about the whereabouts of arrested relatives as no one has ever been given any answer.

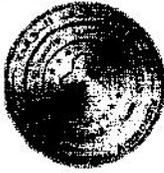
Amnesty International believes that the USA as an occupying power must uphold international human rights standards in dealing with issues of law and order in Iraq, in particular in the arrest, detention and interrogation of detainees. In this context, we would be grateful to receive at your earliest convenience a response to the following questions:

1. What is, at present, the legal framework applicable to arrest and detention of suspects? If the information we were given by members of the Ministry of Justice is correct, how do you explain the detention regime at the Holding Centre at Baghdad Airport and other similar holding centres?
2. What measures are you intending to take to investigate allegations of abuses during house searches and what preventive measures will you be taking in order to avoid the repetition of such abuses and to ensure compensation of the victims?
3. Concerning the specific serious cases we describe above, we request an urgent investigation into the allegations and to be informed about the results.

We look forward to your response to the concerns outlined in this letter and in our previous letter dated 26 May 2003, a copy of which you will find attached.

Yours sincerely,

For Irene Khan, Secretary General



COALITION PROVISIONAL AUTHORITY
BAGHDAD

010589-13

LPB HAS SEEN

INFO MEMO

May 9, 2004

FOR: THE ADMINISTRATOR
FROM: Hon. Edward C. Schmults, Senior Advisor to the Ministry of Justice
SUBJECT: Abu Ghraib

You have asked me for background information regarding why the Coalition used Abu Ghraib Prison rather than closing it because of its grisly symbolism. Essentially, there was no alternative. Abu Ghraib was initially contemplated for use only as long as required by operational necessity, as reflected in the attached action memo from then-Senior Advisor to the Ministry of Justice Judge Campbell to you dated July 1, 2003. (You approved the memo with modification: "No moving prisoners until we can do simultaneous museum announcement.") War often mandates choosing between the lesser of two evils, not the better of two goods. Such was the case with Abu Ghraib.

The Coalition did not overlook popular Iraqi antipathy towards Abu Ghraib, as a reminder of the atrocities it hosted, as the attached action memo shows. But with other prison facilities having been looted and destroyed down to the last nail, including a facility that had cost many millions of dollars at Kanban'i Saad, Abu Ghraib was the only facility that could be made humane and serviceable on short order. Tent camps with sand floors surrounded by razor wire, and other temporary locations, had precipitated riots, escapes, escape attempts, and injuries to guards and prisoners alike, with some of the latter shot. As criminals, terrorists, and security detainees rapidly accumulated in the crime-ridden aftermath of the war, only Abu Ghraib could house them. The concept was to begin reconstruction at Kan Ban'i Saad as soon as possible, along with another maximum-security facility, and to phase out Abu Ghraib and replace it with a monument to those who suffered within its walls. (With that in mind, the execution chamber was walled off last summer and left intact).

Accordingly, our supplemental budget request included \$400M for two maximum-security facilities, each to hold 4,000 inmates. Despite our importunacy as to the urgency of adequate facilities to lock away terrorists and serious criminals, Congress appropriated only \$100M. (This was in addition to \$109M for reconstruction and modernization of 26 detention facilities).

The dearth of alternatives had already prompted us to reconsider abandoning Abu Ghraib; this lower appropriation virtually foreclosed abandonment. By our best estimates, Iraq's prison population may eventually run as high as 38,000. Under present plans, including construction of a 4,000-bed facility in Nasiriyah, Iraq will still be 10,000 beds short at the end of 2005 even with Abu Ghraib. It would have been irresponsible under the circumstances not to use Abu Ghraib. The alternative was more tents, and razor wire, which suited neither the prisoners nor their guards.

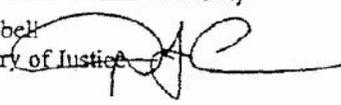
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030702-18

ACTION MEMORANDUM

1 July 2003

TO: Presidential Envoy L. Paul Bremer
 Administrator, Coalition Provisional Authority

FROM: Judge Donald F. Campbell
 Senior Advisor, Ministry of Justice 

SUBJECT: Maximum-security prison

SUMMARY AND PURPOSE

A maximum-security prison is urgently needed. Only Abu Ghraib prison could safely house an appreciable number of high-security detainees within three years. I therefore recommend that you approve reconstruction of temporary maximum-security cell blocks at Abu Ghraib, despite its grim reputation, pending construction of a new maximum-security facility at Kanban'i Saad. A memorial should be located at Abu Ghraib as soon as possible, with appropriate notice to the public.

DISCUSSION

As we discussed last week, the Coalition lacks a maximum-security prison for high-security detainees. Currently such detainees can only be confined at temporary facilities using tents and razor wire barriers. As you are aware, the deficiencies in such facilities have occasioned a number of demonstrations, riots and breakout attempts, resulting in two prisoners killed and over thirteen injured. Although to my knowledge no Coalition soldiers have been seriously injured, they are at grave risk.

Several alternatives for providing a maximum-security prison were investigated by (b)(6) and (b)(6) of the CPA Prisons Department-- whose combined experience working in and operating prison systems exceeds a half-century --and myself. Those alternatives are outlined in the attached memorandum from

- (b)(6) _____ (b)(6) the Senior Prisons Consultant, has been in the prison Service of Northern Ireland for a total of 31 years and has been prison Governor for the Maze, Belfast and Maghabery high security prison facilities. He has also served as the Director of the Penal Management Division of the UN Operation in Kosovo for the past four years.
- (b)(6) _____ holds a Master's Degree in Crime and Corrections and has served as the head of the Fort Leavenworth Prison Facility. He also was in charge of the Prison systems in Texas (four years), New Mexico (four years) and Utah (six and one half years).
- (b)(6) _____ has an MBA and has completed his course work for a PhD in Public

Mr. (b)(6) LTG Sanchez and I visited the Abu Ghraib and severely looted Kanban'i Saad prison sites on 28 June. We concluded that the only expeditious way to realize a safe maximum-security facility is to rehabilitate Abu Ghraib cell blocks, which could contain four thousand maximum-security prisoners within twelve months. No already begun the first phase of reconstruction at Abu Ghraib.

All agree that Abu Ghraib's deservedly horrid reputation counsels against perpetuation of its use as a prison any longer than operational necessity demands. But the only alternatives we have available are even less palatable. Immediate reconstruction can and should therefore begin for a maximum-security facility at Kanban'i Saad, the next fastest alternative, for completion in three years or less. This would signal to Iraqis the phasing-out of Abu Ghraib, part or all of which should be turned into a memorial for those who suffered there. Ex-prisoner groups have expressed an interest in helping to establish such a memorial.

RECOMMENDED ACTION

That you approve the rehabilitation construction of a maximum-security prison facility already underway at Abu Ghraib and immediate ground-breaking for a replacement facility at Kanban'i Saad.

APPROVE

(Attachment)

Coordinated with: LTG Sanchez
AMB Slocombe
Bernard Kerik

(b)(6)

Senior Prisons Consultant

12/7/2

DISAPPROVE

APPROVE WITH MODIFICATION

no moving prisoners
until we can
do simultaneous
museum announcement

NO MOVING PRISONERS
UNTIL WE CAN
DO SIMULTANEOUS
MUSEUM ANNOUNCEMENT

(b)(6) Administration. (b)(6) was employed in the prison system of Arizona for a total of eighteen years and served as its head for the last seven.

MOJ NOTES

0763

Prison Summit Notes (3 JUL 03)

Facilities:

Abu Ghraib: Use of Abu Ghraib has been approved subject to media and memorial plans. Refurbishment of Abu Ghraib will continue with expected opening of 400 beds in first two cell blocks in two weeks. An additional major project has been approved by the CPA Program Review Board to refurbish an additional 2700 beds and other areas. **MOJ (MG Campbell), Prisons (b)(6)** **Humanitarian Assistance and the Office of Transitional Justice** are working with others to move the project along as well as the longer term confinement facility at Kan Ban Saad and the relocation of over 1,000 Marsh Arabs that now reside there.

Camp Ganci: With the approval of Abu Ghraib, **800th MP BDE** has been authorized to commence construction of new Internment Facility (IF) at Abu Ghraib. **800th MP BDE** will coordinate with engineering assets to begin construction of the IF with needed capacity (up to 4,000). The IF shall be called Camp Ganci (Ganci). Once the **800th MP BDE** determines that there enough capacity is established at Ganci and the refurbished cell blocks at Abu Ghraib, then Camp Cropper will be closed and central booking will be conducted at Ganci. In addition, family and counsel visitation will be available at the Ganci in due course.

Juveniles: Juveniles prisoners will be segregated from the adult prisoners and transported from Central Booking at Camp Cropper directly to Al Salya (sic) prison no later than 24 hours after intake. A juvenile court judge has agreed to come there on Saturday to review files and make determinations on the present files, hopefully releasing many juveniles. **Prisons and COI (b)(6)** are considering a dedicated juvenile facility to accommodate recreation and other needs and will address these issues.

Women: Women will continue to be segregated at intake from male prisoners. They are currently taken to Al Salyq (sic) but have not been appropriately cycled into the court system and need better release mechanisms. Women will be take to the courthouse on weekly runs. They will eventually be moved to the female prison at Kadimiyah which is being refurbished and will be complete within two weeks.

List of Detainees: One of the primary needs is to implement a notification system that ICRC can use to respond to inquiries of family members. IAD SJA has implemented a Police Station inquiry system in which a family member can complete an inquiry form and get a response within 48 hours. IAD SJA will provide a copy of the inquiry form to consider for nationwide use. We have promised ICRC with a list of detainees in Arabic and English with full name, mother's name, place and date of birth, date of arrest and location of detention by 7 July. This list should be electronically available either by daily email or by password accessible web page. **800th MP BDE** will coordinate and interface with ICRC on such data base. Also, the list will be made available to HAAC and CMOCs for use. ICRC has also suggested use of "capture cards" which can be adapted for intake/tracking of criminal detainees.

Intake: All prisoners will be provided notice of their rights and the reason or basis of their arrest and detention along with the maximum days of detention if a minor crime. A translator will assist in the intake which is currently conducted at Camp Cropper until it can be transferred to Camp Ganci. The **800th MP BDE** shall insure that no person shall be accepted without fully completed arrest cards and witness statements. The detention forms, identification bracelets and custody of evidence and personal items as well as ICRC custody cards will be prepared/completed at intake. The prisoner and data will be placed on the list of detainees managed by the **800th MP BDE**. The prisoners files along with evidence and personal items will be taken with the prisoner to the jail (Tasferat or Camp Vigilent/Camp Ganci). Prisoners with intelligence value (CI Hold) and those prisoners committing violence against the coalition will be segregated and not inserted into the Iraqi prison system unless requested by the **Division SJA**. It is recommended that an **MI** asset be available at intake processing. **CJTF-7 SJA** will initiate an RFI to determine if MI assets are appropriate or available. **CJTF-7 OSJA** (MAJ (b)(6)) is preparing a FRAGO of additional instructions for the handling and processing of detainees. [See FRAGO]

Release: Criminal Detainees, except CI hold and those who have committed offenses against the Coalition, shall be released by three mechanisms. They may be released upon official order (Arabic/English with court stamp) by an Iraqi judge, by a military magistrate upon early review of the file or, if a minor offense, upon reaching a set maximum number of days without adjudication. All CI or Intelligence holds, security detainees and prisoners who have committed crimes against the Coalition shall only be released by the signed authorization of the **Division G2 and SJA**. SecDef has retained release authority for HVDs. **800th MP BDE** will prepare Release Certificates attesting that the prisoner has been in custody and the days of same. ICRC has examples of such attestation certificates.

Training to Prevent Abuse and Maltreatment: A training program will be implemented by the **MPs and Prisons** to all Iraqi police and prison guards. The **800th MP BDE** will insure that all MPs and Detention facility soldiers shall be familiar with proper human rights and trained to comply with same. Investigations of allegations of abuse and maltreatment shall be immediate and reports will be forwarded to the Division SJA and higher if warranted.

Warrants: **PMOs and MPs** will develop a standard warrant. **CJTF-7 JRAT** will work with Iraqi Judges to approve format and substance.

Medical Care: The **800th MP BDE Surgeon** will evaluate, coordinate and ensure all medical needs for the detention facilities and request additional needed medical assets from the military or the Iraqi Ministry of Health.

Death Investigation Reports and Remains: The report of any investigation of a death of a prisoner while in custody shall be declassified and redacted for privacy and provided to the ICRC (and potentially to the family members). At least two such deaths have

occurred. **800th MP BDE** will provide such reports of investigation to the ICRC post haste. Remains shall be quickly produced for disposition by family members as soon as practicable after investigation is completed. **800th MP BDE** will coordinate.

Rules of Force and Non Lethal Weapons: **CJTF-7** will issue guidance on training and graduated rules of force to quell prisoner uprisings. Non lethal weapons and methods will be requested and implemented as appropriate. **800th MD BDE** will train and instruct such methods and on the RUF.

Weekly ICRC Meeting: **CPA Office of the General Counsel** [COL (b)(6)]
CJTF-7 OSJA [LTC (b)(6)] and a representative of the **800th MP BDE** will meet weekly with the ICRC at Saturday, 1400 hrs at the ICRC.

Weekly Prison Meeting: A weekly prison meeting will be conducted on Thursdays at 1000 hrs at CPA hosted by **CJTF-7 OSJA** to address and discuss prison and detainee issues throughout Iraq. Representatives of **CPA OGC, MOJ, Prisons, 800th MP BDE, Division SJAs, MP JAs, PMO and MPs** are requested to attend.

0705

Budget for the Republic of Iraq 2003

July-December

BUDGET REVENUES AND EXPENSES

Ministerial Expenses

CPA

**Ministry of Finance
Ministry of Planning**

Budget Summary

	(\$USm)
Expenditures	
Operating	2,002.1
Capital	352.7
Reconstruction	256.8
Other Expenditures	3,488.0
Total	6,099.6
Revenues	
Oil revenues	3,455.0
Fees, charges and taxes	69.1
Returns from State Owned Enterprises	373.6
Total	3,887.7
BUDGET BALANCE (Deficit)	2,211.9

Reconstruction	257
Security and Justice improvements	233
Electrical improvements	294
Public Health improvements	211
Water and Sewerage improvements	73
Communications improvements	150
Defense funding	225
Subsidies to state owned enterprises reduced by:	269

Table 1: Net Budget Position

	(\$USm)
Revenues	3,887.7
Expenditures	6,099.6
BUDGET BALANCE (Deficit)	-2,211.9

Table 2: Budget Financing

	(\$USm)
Vested Assets	1,700.0
Seized Assets	795.0
Development Fund for Iraq	1,192.0
Iraq Relief (appropriated)	2,475.0
Natural Resource Risk Remediation Fund	489.0
less spending before 1 July 2003	1,248.0
NET POSITION as at 1 July 2003	5,403.0
<i>less:</i>	
Budget Deficit	2,211.9
Central bank currency support	2,100.0
NET POSITION as at 31 December 2003	1,091.1

Table 3: Expenditures by Organization

Organization	Operational Expenditure (\$USm)	Capital Expenditure (\$USm)	Total (\$USm)
Ministry of Agriculture	9.4	10.0	19.4
Baghdad Mayoralty	12.1	4.3	16.4
Board of Supreme Audit	0.4	0.0	0.4
Central Organization of Standards	0.0	0.0	0.0
Ministry of Culture	1.2	61.6	62.8
Ministry of Defense	45.0	120.0	165.0
Ministry of Education	9.7	0.0	9.7
Electricity Commission	24.0	77.6	101.6
Ministry of Foreign Affairs	23.5	0.0	23.5
Ministry of Finance	199.4	1.2	200.6
Ministry of Health	210.6	1.0	211.6
Ministry of Higher Education and Scientific Research	32.8	4.0	36.8
Ministry of Housing & Construction	6.0	32.6	38.6
Ministry of Industry & Minerals	209.1	0.3	209.4
Ministry of the Interior	2.4	20.5	22.9
Ministry of Irrigation	2.7	30.5	33.2
Ministry of Labor and Social Affairs	6.4	0.0	6.4
Ministry of Justice (excluding Prisons)	5.8	25.7	31.5
Ministry of Justice (Prisons)	6.3	21.9	28.1
Ministry of Oil*	*	*	*
Ministry of Planning	4.6	0.0	4.6
Ministry of Municipalities and Local Authorities	20.8	52.0	72.8
Ministry of Religious Affairs	0.7	3.2	3.9
Iraq Science and Technology Commission	11.8	1.6	13.4
Ministry of Trade	4.0	0.0	4.0
Ministry of Transportation and Communication	10.8	138.7	149.6
Youth Commission	2.6	2.8	5.4
Total Organization Expenditures (excl salaries)	862.1	609.5	1,471.6
Total Salaries and Pensions			1,140.0
Total Organization Expenditures			2,611.6

* Operational and capital expenditure to be funded through extra realised revenues. Over \$1 billion of capital expenditure to be funded off-budget.

Ministry of Justice (Prisons)

30

This funding:

\$US1:ID1500

A credible prison service is a vital component in the provision of security and the administration of justice in Iraq. This funding will provide pre and post trial facilities for adults and juveniles which will treat all prisoners with decency and fairness.

\$USm

	Actual 2002 (Half Year)	Jul-Dec Proposal	Jul-Dec Approved 2003
Number of employees		(b)(5)	10,150
Expenditure			
Operating expenditure	0.0		6.3
Capital Expenditure	0.0		21.9
Revenues			
Operating expenditure			
Staff expenditure			4.9
Service requirements			0.0
Goods requirements			6.3
Assets maintenance			0.0
Capital expenditure			0.0
Transferred expenditure			0.0
Foreign obligations			0.0
Special programmes			0.0
Salaries + retirement awards			0.0
Total (excluding salaries)	0		6.3
Capital expenditure			
Estimated Reconstruction authorised or requests pending			5.5
Additional Capital Expenditure Required for Reconstructions			7.0
Start Up costs to re-equip prisons			9.4
Total			21.9
<i>incl. reconstruction</i>			21.9

B(5)

No provision has been made for the employment of security guards

The cost of reconstruction for 2003 is based on a programme to open and operate 12 detention centres and prisons by the end of the year housing 11,278 inmates.

It is anticipated that Iraq will eventually require accommodation for up to 30,000 prisoners.

Ministry of Justice (excluding prisons)

This funding:

\$US1:ID1500

Moves towards a single system of justice for Iraq, with equal access to the law.

Provides resources for assessing claims for confiscation of real property by the fo

\$USm

	Actual 2002 (Half Year)	Jul-Dec Proposal	Jul-Dec Approved 2003
Number of Employees	6,555	(b)(5)	7,711
Expenditures			
Operating Expenditures	0.4		5.7
Capital Expenditures	0.0		25.7
Revenues			
Courts, deeds offices and notary public	13.0		12.0
Operating Expenditures			
1 Staff Expenditures	1.6		
2 Service Requirements	0.3		5.1
3 Goods Requirements	0.1		0.1
4 Assets Maintenance	0.0		0.5
5 Capital Expenditures	0.0		0.0
6 Transferred Expenditures	0.0		0.0
7 Foreign Obligations	0.0		0.0
8 Emergency	0.0		0.0
9 Salaries & Retirements' rewards	0.0		0.0
Total (excluding salaries)	0.4		5.7
Capital expenditure			
IT infrastructure			2.7
Reconstruction (buildings and furniture)			22.5
Real estate claims reconciliation			0.5
total			25.7
<i>incl. reconstruction</i>			25.7

B(5)

Service requirements includes \$0.5 M for 2,265 security guards.

Ministry of Justice (Prisons)

This funding:

\$US1:ID1500

A credible prison service is a vital component in the provision of security and the administration of justice in Iraq. This funding will provide pre and post trial facilities for adults and juveniles which will treat all prisoners with decency and fairness.

\$USm

	Actual 2002 (Half Year)	Jul-Dec Proposal	Jul-Dec Approved 2003
Number of employees		(b)(6)	10,150
Expenditure			
Operating expenditure	0.0		6.3
Capital Expenditure	0.0		21.9
Total			28.1
Revenues			
Operating expenditure			
Staff expenditure			4.9
Service requirements			0.0
Goods requirements			6.3
Assets maintenance			0.0
Capital expenditure			0.0
Transferred expenditure			0.0
Foreign obligations			0.0
Special programmes			0.0
Salaries + retirement awards			0.0
Total (excluding salaries)	0		6.3
Capital expenditure			
Estimated Reconstruction authorised or requests pending			5.5
Additional Capital Expenditure Required for Reconstructions			7.0
Start Up costs to re-equip prisons			9.4
Total			21.9
<i>incl. reconstruction</i>			21.9

B(5)

No provision has been made for the employment of security guards

The cost of reconstruction for 2003 is based on a programme to open and operate 12 detention centres and prisons by the end of the year housing 11,278 inmates.

It is anticipated that Iraq will eventually require accommodation for up to 30,000 prisoners.

FROM THE MINISTER OF JUSTICE

Current Status of the Sector:

Prisons are in dire need of help. Prisons were little more than dungeons and occasionally torture chambers under Saddam; they must be brought up to humane standards before they can be returned to service as correctional facilities. The facilities of the prior regime stand devastated from official neglect and deliberate pre-war destruction of infrastructure, as well as rampant post-war looting. Virtually every detention and correctional facility requires complete reconstruction, with special attention given to the provision of adequate personal space, health, hygiene, education, treatment, training, exercise, and rehabilitation programs. Currently there are only 3600 prison beds compared with a projected need of 38,000. There are no maximum-security facilities to house terrorists and organized criminals.

Special security courts that were no more than an extension of the former regime's abuses have been abolished, and regular courts have resumed operation. Judicial independence was established in September, when control of judges was transferred from the Minister of Justice to a Council of Judges, headed by the Chief Judge of the Supreme Court. New criminal defendants' rights have been established and are being implemented, with the help of a public defender program. Judges and courthouses face severe security threats. All judges and prosecutors nationwide are being vetted for past corruption and other malfeasance. However, these early steps along the path to an impartial legal system need considerable reinforcement in the form of extra resources.

Sector Goals:

The goal of the Ministry of Justice is to establish an expeditious, effective and efficient justice system comprising the judiciary, courts, and penal institutions. These three elements must be based on the rule of law, free from corruption, within a legal framework that guarantees access to justice by all and complies with or surpasses international legal standards.

Proposed Projects (in priority order):

The following list, which is far from exhaustive, summarizes the most pressing needs in establishing such a system:

- Prisons: construction and reconstruction, provision of technical assistance.
- Courthouse security enhancement and reconstruction programs.
- Establishment of a National Criminal Justice Information Database.
- Provision of equipment for prisons.
- Assistance with judicial, prosecutorial and attorney training.

Implementation Issues:

Prisons suffer from a lack of qualified, reliable personnel, placing the provision of skilled technical assistance at a premium. The corrections culture must be transformed from one of brutality and abuse to one of humane and rehabilitative punishment. Similarly, corruption must be eradicated from the legal system so as to engender widespread respect for the judicial process. Respect for human rights and fundamental due process must be engrained at all levels in the bench and bar.

**Background Note on Human Rights
Meeting between Ambassador Mr. Bremer and SRSG Vierra de Mello
14 July 2003**

1. **An Overview of the United Nations activities in the human rights field in Iraq**

1. In its resolution 1483 (2003), the Security Council has mandated the SRSG, working in coordination with the Authority, to assist the people of Iraq by promoting the protection of human rights in Iraq, "encouraging international efforts to rebuild the capacity of the Iraqi civilian police force," "encouraging international efforts to promote legal and judicial reform," and "promoting the safe, orderly, and voluntary return of refugees and displaced persons." The Security Council also affirmed the need for accountability for crimes and atrocities committed by the previous Iraqi regime.
2. The SRSG is and will be discharging this mandate through the following activities, *inter alia*:
 - Engaging and supporting national dialogue and institutions to address accountability for past human rights violations;
 - Encouraging the development of a national human rights action plan;
 - Promoting the establishment of an independent national human rights institution to promote and protect human rights at the central and possibly at the regional level;
 - Promoting human rights education through, *inter alia*, the establishment of a Human Rights Documentation Centre in Baghdad, together with the Office of the High Commissioner for Human Rights and the support of UNDP;
 - Advising on training curricula and other training materials, and facilitating the conducting of training for public civil servants - law enforcement and judicial personnel in particular - in the area of human rights and gender, consistent with human rights related international standards;
 - Supporting the development of civil society, particularly Iraqi human rights and women's groups, legal associations and a free and independent media; and
 - Observing, analyzing and responding to the prevailing human rights situation in the country.
3. Systematic human rights workshops will be held throughout Iraq to identify further national human rights partners and begin to identify with them the principal elements for a national human rights strategy.

Issues:

(b)(5)

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II. Addressing Past Human Rights Violations

4. Several well-meaning initiatives have taken place with regard to evidence and information pertaining to past human rights violations. Key files and documents of the previous security and police apparatus are now in private hands. Families and local communities have unearthed some mass graves, hoping to find the remains of their relatives and bury them in a dignified manner and in accordance with their faith. Some mass graves locations have been preserved. There is a need for a national strategy of addressing the question of the past based on broad-based Iraqi participation.
5. On 30 June and 1 July 2003, the first national human rights workshop in the last four decades was held in Baghdad under UN auspices. It was an Expert Consultation on International Principles to Support Justice for Past Human Rights Violations Committed in Iraq. The 50 Iraqi and 10 international participants identified the following possible options to support justice for past crimes in Iraq: the establishment of an Iraqi national tribunal, a hybrid (Iraqi-International) tribunal, and a victims' reparations fund. The meeting acknowledged the need for one central organization to be responsible for coordinating all related issues. It was also acknowledged that a nationwide debate would assist in ensuring that the people of Iraq drive this process forward, and that such a debate would take time.
6. A number of next steps were identified, including the possibility that the UN should explore forming an independent and impartial body composed of Iraqi and international experts. Its tasks include the following:
 - To make recommendations in terms of mechanisms for accountability for those with most responsibility for gross human rights violations of the past;
 - To make recommendations in terms of accountability for those alleged to have committed lesser violations in the past; assist and standardize the procedures for the preservation of evidence;
 - To set up a central repository for forensic, testimonial and documentary evidence; and,
 - To set up training mechanisms for forensic, testimonial and documentary evidence.

Issues

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III. Visit of the Special Rapporteur of the UN Commission on Human Rights:

7. In resolution 2003/84 of 25 April 2003, the UN Commission on Human Rights mandated the Special Rapporteur on the situation in Iraq to "submit an interim report on the situation of human rights in Iraq, focusing on newly available information about violations of human rights and international law by the Government of Iraq over many years, to the General Assembly at its fifty-eighth session and to report to the Commission at its sixtieth session". The Special Rapporteur would like to visit Iraq in July. He wrote to the Permanent Representative of the US Mission in Geneva on 13 May and 7 July 2003, expressing his wish to conduct an exploratory visit to Iraq for three working days, preferably in July. In addition to Baghdad, the Special Rapporteur would like to visit Kirkuk or Mosul, as well as Karbala.

Issues:

- **The Special Rapporteur will visit Iraq during the last week of July or early August**

IV. Preliminary observations on current issues

8. Since the arrival of the SRSR to Iraq, a number of concerns have been brought to his attention. Many of the concerns relate to the lack of adequate protection against general criminality, particularly with regard to the right to life, security of the person, violence against women, and protection of property. Some of these concerns relate also to the behavior of the Coalition forces. Resolution 1483 calls upon all concerned to comply fully with their obligations under international law including in particular the Geneva Conventions of 1949 and the Hague Regulations of 1907.
9. **Rules of engagement:** The Geneva Convention prohibits willful killings, including through a fault of omission. There is no doubt that Coalition Forces may use force in self-defense provided that it is necessary and it is proportionate to the threat. Lethal force has resulted in the death of civilians, however, particularly in the context of responding to threats to the Coalition forces, dispersing demonstrations in Baghdad, Faluja, and Mosul and at checkpoints. On 12 June 2003, one person was killed by lethal force inside the Abu Ghraib prison.

Issues

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10. **Detention issues:** Hundreds of Iraqis have been detained since the beginning of the conflict in Iraq. Although the detainees fall into different categories -prisoners of war, political detainees, suspects of ordinary crime, suspects of attacks against Coalition Forces and those rounded up at random- all of them are protected by the extensive provisions of the III or IV Geneva Convention. Reports received support that detainees are often not always informed of the period of detention, the charges against them, and the legal process that applies to them. Most detainees appear not to receive family and lawyers visits. Some families are not aware of the place of detention of their relatives. Minors are reportedly held with adult detainees. Those released have reported poor conditions of detention. There are reports of abuse, particularly at Camp Cropper at Baghdad International Airport. Specifically, Amnesty International has reported that some detainees were tightly bound with plastic handcuffs and sometimes denied water and access to a toilet during the first night of arrest. Amnesty delegates saw numerous ex-detainees with wrists still scarred by the handcuffs more than a month after their release.

11. At the request of Judge Campbell, the secondment of UN staff member, (b)(6) (b)(6) to CPA as Prison's director has been extended for 90 days.

Issues:

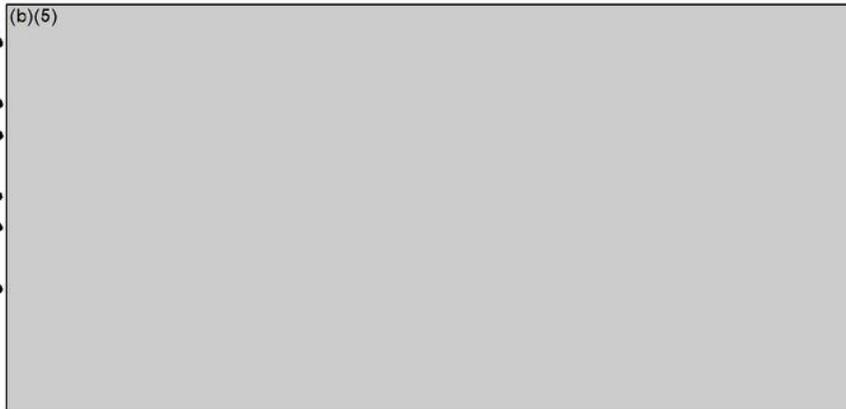
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12. **Ill-treatment:** The IV Geneva Convention entitles protected persons, in all circumstance, to respect for their persons, their honor and their manners and customs. It states that they shall at all times be humanely treated, and shall be protected especially against all acts of violence, and against insults.
13. Many Iraqis have expressed concerns relating to the round-up and reported ill-treatment of suspects, forced entry into and searches of homes as part of the weapons confiscation campaign – coupled with alleged non-compliance with applicable of legal procedures, and disrespect of local customs and traditions, especially with regard to women. Several of those who informed us that their houses had been searched advised that it took them days to restore their home to its previous condition.
14. On 23 June 2003, *Azzaman* newspaper published the photo of an individual being led by an American soldier. He was handcuffed and appears to have been hooded by his captor.
15. In an incident on 24 June 2003, Mr. Ra'ed Mohammad Jasem, an Iraqi journalist working in Abu Dabi TV station, and who is known to my team, was arrested near the Zaoyeh bank in Karada Dakhel, after he apparently filmed abusive treatment by the Coalition Forces against Iraqi civilians. The soldiers beat him and broke his spectacles as well as his personal video camera.
16. On 28 June 2003, in another incident, three members of the SRSG team witnessed an incident of ill-treatment in Zawraa' park Baghdad, which they promptly brought, through e-mail, to the attention of the Human Rights Official at the CPA. The UN staff witnessed a man, who was being held against the park's fence by an American soldier. His hands were already up on the fence. One soldier pushed him on the floor and started beating him in plain view of all who were on the traffic jam. On 30 June, the CPA Human Rights Officer told my staff that the soldiers had claimed that the man had shot at them. No explanation was given as to why the soldiers beat and mistreat a suspect who already restrained, nor of the measures taken against the soldiers, if any, who carried out the beating.

Issues:



B(5)

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COALITION PROVISIONAL AUTHORITY

15 July 2003

TO: L. Paul Bremer
Administrator, Coalition Provisional Authority

FROM: E. Scott Castle
General Counsel, Coalition Provisional Authority

SUBJECT: Response to Section IV of SRSG Letter/Supplement to Response
Memo from Office of Humanitarian Assistance of 14 July 2003

Draft responses prepared by Office of the SJA, CJTF-7 to Section IV, Background Note on Human Rights Meeting between Ambassador Mr. Bremer and SRSG Vierra de Mello dated 14 July 2003 to supplement the responses contained in the 14 July 03 Memo from Office of Humanitarian Assistance are as follows:

Section IV.

8. General Compliance.

[Redacted] (b)(5)

9. Rules of Engagement.

[Redacted] (b)(5)

Issues:

- (b)(5)
- [Redacted]
- [Redacted]
- [Redacted]

10. Detention Issues.

[Redacted] (b)(5)

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(b)(5)



Issues:

- (b)(5)
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11. Mr. (b)(6) will remain with CPA for an additional 90 days.

(b)(5)



(b)(5)



Issues:

- (b)(5)



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(b)(5)



(b)(5)



Issues:

- (b)(5)
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0715

COALITION PROVISIONAL AUTHORITY
BAGHDAD

July 17, 2003

FOR: Administrator, CPA

FROM: Office of the General Counsel

SUBJECT: Meeting on Human Rights Issues with Office of the Special Representative of the Secretary-General of the United Nations for Iraq

This memorandum documents a meeting concerning human rights issues in Iraq, held at 1700 hours on July 16, 2003, with Ms. (b)(6) Chief of Staff, Office of the Special Representative of the Secretary-General of the United Nations for Iraq (SSRG), at her Canal Hotel office in Baghdad. Also participating in the meeting were Mr. Scott Castle, General Counsel, CPA; COL (b)(6) Staff Judge Advocate, CJTF-7; COL (b)(6) Office of the General Counsel, CPA; Ms. (b)(6) Office of Human Rights and Transitional Justice, CPA; and Ms. (b)(6) Senior Human Rights Advisor, Office of the SRSG.

- The meeting provided an opportunity for CPA officials personally to respond to the “Background Note on Human Rights Meeting between Ambassador Mr. Bremer and SRSG Vierra de Mello 14 July 2003,” prepared by the Office of the SRSG (Enclosure 1).
- The CPA attendees provided copies of the memoranda at Enclosure 2 to Ms. (b)(6) and Ms. (b)(6). These documents respond to each issue raised in the “Background Note” prepared by the Office of the SRSG. The CPA attendees also provided a copy of the unclassified “Rules of Engagement” card issued to each member of the Coalition Forces (Enclosure 3).
- The CPA attendees elaborated upon these written responses by fully discussing each question posed in the “Background Note,” and responding to additional matters raised by Ms. (b)(6) and Ms. (b)(6).
- The following key points summarize the attendees’ discussion:
 - In response to Ms. (b)(6) question whether there is a need for an external commission to oversee an Iraqi-led effort to develop a mass graves policy, CPA officials indicated that the CPA is coordinating policy in this area and that another coordinating element would be unnecessary and counterproductive. The CPA officials expressed CPA’s continuing willingness to accept assistance from the UN, Member States (e.g., South Africa, Germany), and international organizations (e.g., INFORCE) in carrying out CPA’s mass graves policy.

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- The CPA officials responded to allegations that juveniles and adult detainees are not segregated in Coalition Forces detention facilities by reiterating the Coalition's clear policy of ensuring separate detention of these classes of detainees, and promising to investigate any specific allegations that Coalition Forces are violating this policy.
- The CPA officials responded to a report and photograph in the Arabic press of a detainee being handcuffed and hooded, by observing that this treatment is not in contravention of international law; is an accepted means of subduing detainees that obviates the need for force; and protects the identity of the detainee.
- The attendees agreed to explore means of regularizing the process of receiving and addressing complaints of detainee maltreatment, by allowing such complaints to be lodged at Iraqi police stations.
- The CPA officials reaffirmed the CPA's commitment to establish a reliable, comprehensive record-keeping system that accurately documents the identity, location and other relevant information concerning all detainees being held by Coalition Forces.
- The CPA officials agreed to investigate reports that Iraqi judges were subject to public searches in Mosul.
- The attendees agreed to continue meeting on human rights issues on a regular basis (once every week or 10 days) to review progress on these matters.

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July 15 2003

MEMO FOR: Secretary Rumsfeld
FROM: Paul Bremer <signed>
SUBJECT: Prosecution of Atrocities

I have your memo of July 14 on prosecuting atrocities in Iraq.

I fully share your view on the desirability of moving ahead on these matters. A month ago, I established a Central Criminal Court which could be used for such cases should the Iraqis decide they want to proceed in that manner. I have also told them they may want to establish a special court whose only role would be handing major crimes and atrocities.

The Governing Council raised the issue with me in today's meeting of the Council. I repeated to them that we consider the matter of prosecutions for major crimes to be one for the Iraqis to decide. After the meeting, they announced that they have decided to form a sub-committee of the Governing Council to make recommendations to the Council on prosecutions. We have offered to provide them any assistance they may need.

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0717

COALITION PROVISIONAL AUTHORITY

BAGHDAD

ACTION MEMO

July 17, 2003

FOR: THE ADMINISTRATOR

FROM: Judge Donald F. Campbell, Director, Civil Affairs

SUBJECT: Prisons staffing needs

I request your approval for 87 Coalition staffers required by the Prisons Department at the earliest possible date. The vulnerability of prisoners to undetectable neglect and abuse including murder and torture, the past ubiquity of such neglect and abuse, primitive prewar prison conditions, and the dearth of qualified Iraqi personnel, demand that prisons be largely operated and not merely supervised by the Coalition. The current indigenous capability cannot provide training, reconstruction and new construction, managerial programs, treatment programs, daily routines, new and replacement security equipment, replacement of stolen items, and personnel systems, without which this indispensable component of law and order will flounder and defy international human rights standards. The requested level of Coalition involvement will be required for approximately two years, during which Iraqi replacements would be groomed and then phased in during the ensuing two years. This recommendation conforms to the staffing plan proposed by (b)(6) before he departed last month.

The attached chart shows the prison system organizational structure, and the key offices within each department. No Iraqis currently have the requisite skills and knowledge to fill these positions. Experts estimate that the prison system will eventually detain approximately 30,000 persons, requiring a staff of 15,000 to 20,000. All of the more than 150 prisons nationwide have been severely damaged or destroyed. Rebuilding the system to conform to well-developed international standards on the rights of prisoners requires substantial Coalition involvement. Yet, at present, by August 3 there will be no more than five Coalition prisons staffers.

It is anticipated that the Coalition staffers would be drawn from the Departments of Justice and Defense, from our Coalition partners, and from contractors DynCorp and KBR, with the input of (b)(6) our Prisons Department chief.

I therefore request and recommend that you approve:

- Eighty-seven Coalition personnel for the Prisons Department, beginning at the earliest possible date.

Approve:

Disapprove:

Approve with modification:

W/ subject to funding
be identified

ATTACHMENT: Prisons staffing needs chart

COORDINATION: (b)(6) Senior Prisons Consultant

UNCLASSIFIED

PRISONS	Intl Staff	Local Staff	Start Date	Months	Personality	Budget
Director	1 SES		8 th Sept	24		
Secretary	1 GS 10		8 th Sept	24		
Interpreter		1	8 th Sept	24		
OPERATIONS						
Head of Operations	1 GS 15		8 th Sept	24		
Deputy Head of Ops	1 GS 14		6 th Oct	23		
Assistant Operations	1 GS 13	1	6 th Oct	23		
Interpreters		3	8 th Sept	24		
Drivers/Messengers		6				
SECURITY						
Head of Security	1 GS 15		8 th Sept	24		
Deputy Head of Sec	1 GS 14		6 th Oct	23		
Assistant Security	1 GS 13	1	6 th Oct	23		
Secretary		1	8 th Sept	24		
Interpreters		3	6 th Oct	23		
MEDICAL						
Head of Medical	1 GS 15		8 th Sept	24		
Deputy Medical	1 GS 14	2	6 th Oct	23		
Psychiatrist	1 GS 14		6 th Oct	23		
Secretary		1	8 th Sept	24		
Interpreters		2	8 th Sept	24		
Prison Directorate						
Prison Directors	5 GS 15		8 th Sept	24		
Deputy Directors	4 GS 14		6 th Oct	23		
Assistant Deputy Dir	5 GS 13	3	6 th Oct	23		
Training Tutors	2 GS 13		8 th Sept	24		
Interpreters		6	6 th Oct	23		
Establishment Directors	12 GS 15		6 th Oct	23		
Estab/Deputy Direc	12 GS 14		6 th Oct	23		
Estab/Assist Direc	12 GS 13		6 th Oct	23		
Establishment Tutors	12 GS 13		6 th Oct	23		
Interpreters		24	6 th Oct	23		
Works Services						
Construction Engineer	1 GS 14	1	8 th Sept	24		
Electrical Engineer	1 GS 14	1	8 th Sept	24		
Architect	2 GS 13	1	6 th Oct	23		
Interpreters		2	8 th Sept	24		
LEGAL						
Senior Legal Officer	1 GS 14		8 th Sept	24		
Legal Officer	2 GS 13	2	6 th Oct	23		
Secretary		1	8 th Sept	24		
Interpreters		2	8 th Sept	24		
FINANCE						
Finance officer	1 GS 14		8 th Sept	24		
Deputy Finance	2 GS 13	2	6 th Oct	23		
Secretary		1	8 th Sept	24		
Interpreters		2	8 th Sept	24		
Procurement	2 GS 13	2	8 th Sept	24		
Total	87	73				
TOTAL POSTS						
SES	1					
GS 15	20					
GS 14	24					
GS 13	41					
GS 10	1					
Secretaries Local		5				
Interpreters		44				
Drivers/Messengers		6				
Others		18				
TOTAL	87	73				

0722

Norwood, Scott Col

From: (b)(6)
Sent: Tuesday, July 22, 2003 6:27 PM
To: Bremer, Paul
Cc: Kennedy, Patrick AMB; (b)(6)
Subject: FW: Amnesty International

FYI below - Should have TP's tonight and any adjustments required after we read the report at 1200 tomorrow our time

vr (b)(6)

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

From: (b)(6)
Sent: Tuesday, July 22, 2003 6:13 PM
To: (b)(6)
Cc: (b)(6)
Subject: RE: Amnesty International

Here's the Independent article (b)(6) mentions. The Amnesty report will be strongly critical, and will be seen in the context of de Mello's expected remarks (albeit less critical) at the UN today on HR and detention conditions. Grateful for lines from IPU (b)(6)

(b)(6)

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The Independent (London)

July 22, 2003, Tuesday

HEADLINE: THE UGLY TRUTH OF AMERICA'S CAMP CROPPER, A STORY TO SHAME US ALL

BYLINE: ROBERT FISK IN BAGHDAD Injured Iraqis classified as enemy PoWs are transferred from military hospital to Camp Cropper AFP

BODY:

NOW HERE'S a story to shame us all. It's about America's shameful prison camps in Iraq. It's about the beating of prisoners during interrogation. "Sources" may be a dubious word in journalism right now, but the sources for the beatings in Iraq are impeccable. This story is also about the gunning down of three prisoners in Baghdad, two of them "while trying to escape". But most of

all, it's about Qais Mohamed al-Salman.

Qais al-Salman is just the sort of guy the US ambassador Paul Bremer and his dead-end assistants need now. He hated Saddam, fled Iraq in 1976, then returned after the "liberation" with a briefcase literally full of plans to help in the restoration of his country's infrastructure and water purification system. He's an engineer who has worked in Africa, Asia and Europe. He is a Danish citizen. He speaks good English. He even likes America. Or did until 6 June this year.

That day he was travelling in Abu Nawas Street when his car came under American fire. He says he never saw a checkpoint. Bullets hit the tyres and his driver and another passenger ran for their lives. Qais al-Salman stood meekly beside the vehicle. He was carrying his Danish passport, Danish driving licence and medical records.

But let him tell his own story. "A civilian car came up with American soldiers in it. Then more soldiers in military vehicles. I told them I didn't understand what had happened, that I was a scientific researcher. But they made me lie down in the street, tied my arms behind me with plastic-and-steel cuffs and tied up my feet and put me in one of their vehicles."

The next bit of his story carries implications for our own journalistic profession. "After 10 minutes in the vehicle, I was taken out again. There were journalists with cameras. The Americans untied me, then made me lie on the road again. Then, in front of the cameras, they tied my hands and feet all over again and put me back in the vehicle."

If this wasn't a common story in Baghdad today - if the gross injustices meted out to ordinary Iraqis and the equally gross mistreatment in America's prison camps here was not so common - then Qais al-Salman's story would not be so important.

5/9/2004

Amnesty International turned up in Baghdad yesterday to investigate, as well as Saddam's monstrous crimes, the mass detention centre run by the Americans at Baghdad international airport in which up to 2,000 prisoners live in hot, airless tents. The makeshift jail is called Camp Cropper and there have already been two attempted breakouts.

Both would-be escapees, needless to say, were swiftly shot dead by their American captors. Yesterday, Amnesty was forbidden permission to visit Camp Cropper. This is where the Americans took Qais Al-Salman on 6 June.

He was put in Tent B, a vast canvas room containing up to 130 prisoners.

"There were different classes of people there," Qais al-Salman says. "There were people of high culture, doctors and university people, and there were the most dirty, animal people, thieves and criminals the like of which I never saw before.

"In the morning, I was taken for interrogation before an American military intelligence officer. I showed him letters involving me in US aid projects . He pinned a label on my shirt. It read, Suspected Assassin'."

Now there probably are some assassins in Camp Cropper. The good, the bad and the ugly have been incarcerated there: old Baathists, possible Iraqi torturers, looters and just about anyone who has got in the way of the American military. Only "selected" prisoners are beaten during interrogation. Again, I repeat, the source is impeccable, and Western.

Qais Al-Salman was given no water to wash in, and after trying to explain his innocence to a second interrogator, he went on hunger strike. No formal charges were made against him. There were no rules for the American jailers.

"Some soldiers drove me back to Baghdad after 33 days in that camp," Qais al-Salman says. "They dropped me in Rashid Street and gave me back my documents and Danish passport and they said, Sorry'."

5/9/2004

Qais al-Salman went home to his grief-stricken mother who had long believed her son was dead. No American had contacted her despite her desperate requests to the US authorities for help. Not one of the Americans had bothered to tell the Danish government they had imprisoned one of its citizens. Just as in Saddam's day, a man had simply been "disappeared" off the streets of Baghdad.

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

From: (b)(6)
Sent: Tuesday, July 22, 2003 9:54 AM
To: (b)(6)
Cc: (b)(6)
Subject: Amnesty International

Amnesty International are due to publish their latest report on HR in Iraq tomorrow. I understand it is due at about noon Baghdad time. We can expect it to be extremely critical, and will need to respond rapidly.

Grateful for any heads-up from cc addressees if you know what might be in the report. I understand that it will focus on detainees, as did the last report. (I attach one of the more critical articles on detainees, published in today's UK newspaper, the Independent.)

MG (Judge) Campbell, Brig-Gen Karpinski, Col (b)(6) and I held a briefing on HR and detainee issues ten days ago, centred around reopening the Abu Ghraib facility.

(b)(5)

B(5)

Finally, we will need to pull together some good material for London and Washington (especially for Ambassador Bremer). Could I suggest a meeting on this subject at 1900 today, for most of the addressees above?

Charles Heatly
CPA Spokesman
(b)(6)

For more information on the Foreign & Commonwealth Office visit: <http://www.fco.gov.uk> For information about the UK visit: <http://www.i-uk.com>

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EMBARGOED UNTIL 23 JULY 2003 ⁰⁷²²
0900 GMT / 1300 BAGHDAD

Public

amnesty international

Iraq
Memorandum on concerns
relating to law and order



July 2003
AI Index: MDE 14/157/2003

INTERNATIONAL SECRETARIAT, 1 EASTON STREET, LONDON WC1X 0DW, UNITED KINGDOM

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Iraq

Memorandum on concerns relating to law and order

I. INTRODUCTION

This memorandum outlines a number of concerns and recommendations relating to law and order legislation and practices by the Coalition Provisional Authority (CPA) and the Coalition Forces in Iraq. It highlights issues relating to the overall legal framework; addresses in some detail concerns relating to the use of force, detention practices, treatment in custody, searches and the role of the judiciary; and outlines concerns relating to the need for ensuring accountability of the CPA and the Coalition Forces.

The memorandum also includes a number of cases illustrating the nature of Amnesty International's concerns. As part of its recommendations, Amnesty International calls on the CPA to carry out competent, independent and impartial investigations into these individual cases.

Amnesty International delegates have been present in Iraq since 24 April 2003, monitoring human rights issues, specifically in the areas of policing and detention. Places visited have included Baghdad, Ramadi, Fallujah, Basra, Amara, Najaf and Nassiriya, as well as Irbil, Kirkuk and Mosul. In the course of their work, Amnesty International delegates have interviewed victims of crime, former detainees and their families, lawyers, judges, police officers, as well as officials in the CPA and members of United States (US) and United Kingdom (UK) military forces.

Amnesty International remains deeply concerned by the lack of law and order prevailing in many areas of Iraq. Many Iraqis have repeatedly expressed to Amnesty International delegates their sense of fear and insecurity. In the document, *Iraq: The need for security* (AI Index: MDE 14/143/2003) issued earlier this month, Amnesty International outlined concerns about the law and order situation in Basra, including the impact on the lives of ordinary Iraqis of looting, revenge killings, kidnappings and other violent crime. This memorandum highlights continuing concerns in Baghdad and other parts of Iraq. Amnesty International calls on the CPA and the Coalition Forces to take urgent steps to fully restore law and order in all parts of Iraq.

II. AMNESTY INTERNATIONAL'S CONCERNS

1. Applicable international law

Amnesty International welcomes the fact that the US and UK governments, in exercising their authority as the occupying powers through the CPA, have made use of international human rights standards to inform the formation of new legislation and the suspension of certain provisions of Iraqi law which were inconsistent with such standards. For example, we welcome the use of provisions of the United Nations (UN) Standard Minimum Rules for the Treatment of Prisoners as a basis for CPA Memorandum Number 2 on Management of Detention and Prison Facilities. We also welcome the CPA's suspension of the death penalty, a step which is consistent with the internationally recognized desirability of its abolition.

However, we are concerned at the statement in a letter, dated 27 June 2003, to Amnesty International from Ambassador Paul Bremer, the CPA Administrator, that "the only relevant standard applicable to the Coalition's detention practices is the Fourth Geneva Convention of 1949. This Convention takes precedence, as a matter of law, over other human rights conventions."

Amnesty International stresses that, consistent with international humanitarian law, Coalition states are also under an obligation to respect the provisions of the human rights treaties to which they are a party, as well as those to which Iraq is a party, especially given that these treaties have been formally incorporated into Iraqi domestic law. Iraq is a party to the International Covenant on Civil and Political Rights (ICCPR); the International Covenant on Economic, Social and Cultural Rights; the Convention on the Rights of the Child; the International Convention on the Elimination of All Forms of Racial Discrimination; and the Convention on the Elimination of All Forms of Discrimination against Women.

The Human Rights Committee, set up under the ICCPR, and other bodies monitoring the implementation by states of their human rights obligations under the treaties they have ratified, have consistently ruled that such obligations extend to any territory in which a state exercises jurisdiction or control, including territories occupied as a result of military action. International human rights law complements provisions of international humanitarian law, for example by providing content and standards of interpretation, such as on the use of force to respond to disorders outside combat situations or with regard to safeguards for criminal suspects.

Amnesty International also points out that the European Convention for the Protection of Human Rights and Fundamental Freedoms is applicable to the conduct of forces belonging to Coalition states, such as the UK, that are parties to this treaty. Commenting on the extra-territorial application of the Convention in its Decision as to Admissibility in *Bankovic* (Application no. 52207/99), the European Court of Human Rights stated (para 71):

“the case-law of the Court demonstrates that its recognition of the exercise of extra-territorial jurisdiction by a Contracting State is exceptional: it has done so when the respondent State, through the effective control of the relevant territory and its inhabitants abroad as a consequence of military occupation or through the consent, invitation or acquiescence of the Government of that territory, exercises all or some of the public powers normally to be exercised by that Government”.

Recommendation

Amnesty International urges the CPA to recognize the applicability of international human rights law and standards, as complementary to international humanitarian law, and to abide by all the relevant obligations.

2. Domestic law

Amnesty International welcomes the review undertaken by the CPA of the Iraqi Penal Code of 1969 and the Criminal Procedure Code of 1971, to evaluate their compatibility with international human rights standards. The organization is currently in the process of examining the codes, as well as the amendments introduced by the CPA, and intends to submit its overall observations separately, addressing in this memorandum only selected provisions.

Amnesty International is concerned that items of legislation issued by the CPA have entered into force prior to their publication in the Official Gazette, for example on the date of signature. Article 65 of the Fourth Geneva Convention states that the “penal provisions enacted by the Occupying Power shall not come into force before they have been published and brought to the knowledge of the inhabitants in their own language.” A strict observance of this provision by the CPA is all the more necessary in the current situation characterized by significant communications difficulties affecting Iraqi society, including the legal sector.

Amnesty International is also concerned at inconsistencies between the English and Arabic texts of legislation published by the CPA. These inconsistencies may cause the general public in Iraq, including the legal sector, to be misinformed about the law.

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 and that English and Arabic texts are consistent.

3. Use of force

In a letter to Ambassador Paul Bremer of 26 May 2003, Amnesty International expressed concern about several incidents involving the shooting of Iraqi civilian demonstrators by US soldiers in disputed circumstances, including the incidents in which a number of demonstrators were killed in Mosul on 15 April and in Falujah on 29 and 30 April. Since then Amnesty International has documented other possibly unlawful killings of demonstrators which appear to have taken place when security forces failed to use non-lethal means initially to disperse the demonstrators.

Amnesty International acknowledges that the Coalition Forces are dealing with a complex situation. On the one hand, they are still engaged in combat situations, whereby the rules of international humanitarian law on the conduct of hostilities apply. Such rules include the prohibition of direct attacks on civilians, unless and for such time as they take a direct part in hostilities, and the requirement that responses to military attacks are consistent with the principle of proportionality with the concrete and direct military advantage anticipated.

On the other hand, the Coalition Forces are also dealing with situations where the use of force may be necessary in circumstances outside combat, for example the dispersal of a violent demonstration. In such circumstances it is policing methods that are required, in line with human rights standards of law enforcement such as the UN Code of Conduct for Law Enforcement Officials and the 1990 UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. Amnesty International

is concerned that in several incidents such standards appear not to have been followed. In one meeting with a senior US military official Amnesty International delegates were told that the military Rules of Engagement were applicable in a situation that involved controlling a violent demonstration.

Amnesty International acknowledges the difficulties also faced by the Iraqi police. In many areas the Iraqi police has seen much of its equipment and premises destroyed, the departure of many of its officers, and the speedy recruitment and induction of new officers who have not received adequate training. Iraqi courts are functioning with limited capacity. In addition, the police force has been confronted with dramatic increases in the levels of serious crime in many areas. Its capacity to maintain law and order appears limited. At the same time many of the Coalition Forces soldiers and military police engaged in law enforcement do not appear to have basic skills in civilian policing or to be aware of local Iraqi law and the Fourth Geneva Convention.

Recommendations

Amnesty International calls on the CPA and the Coalition Forces to ensure that soldiers fully respect the rules of international humanitarian law when engaged in combat.

Outside combat situations, the Coalition Forces must abide by law enforcement standards and therefore use force in line with the principles of necessity and proportionality. In particular, they should use firearms only if lives are in danger and there is no other means to respond to that danger.

Iraqi police, assisted by international police officers where necessary, must replace combat soldiers as soon as possible in carrying out law enforcement duties. Police officers must be deployed in adequate numbers and provided with appropriate equipment and training, including in implementing standards on law enforcement.

4. Arrest and detention

4.1 Double standards for criminal suspects

Under international law, the Coalition Forces are entitled to hold prisoners of war, whose treatment is regulated by the Third Geneva Convention, as well as internees and criminal suspects, whose treatment is regulated by the Fourth Geneva Convention, complemented by international human rights law and standards, such as the ICCPR and UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (Body of Principles). The Body of Principles was adopted by consensus by the UN General Assembly in 1988 and its requirements apply to "any person deprived of personal liberty".

While our concerns are not confined to the treatment of criminal suspects, in this memorandum we wish to draw attention to the situation of this category of detainees. Amnesty International's overall concern in this respect is that suspects are currently accorded different rights depending on whether they are held by the Coalition Forces or by Iraqi law enforcement officials, despite their identical legal status. CPA Memorandums Numbers 2 and 3, dealing with the application of the Iraqi Code of Criminal Procedure, create a two-tier system whereby criminal suspects arrested and detained by the Coalition Forces have less safeguards than those detained by Iraqi officials.

For example, the standards contained in CPA Memorandum Number 2 only apply to the management of detention and prison facilities controlled by the Iraqi Ministry of Justice. They do not apply to facilities controlled by the Coalition Forces where criminal suspects are also held. As illustrated below, the rights set out in CPA Memorandum Number 3 are more comprehensive for criminal suspects held within the framework of the Code of Criminal Procedure than for those held by the Coalition Forces.

Recommendation

Amnesty International calls for a unified system, derived from the Iraqi Code of Criminal Procedure and CPA Memorandums, whereby all criminal suspects are treated in the same way and are afforded all safeguards provided for in international law. The rights of all suspects must be fully respected regardless of which authority is responsible for holding them.

4.2 Access to judges

Suspects held within the framework of the Iraqi Code of Criminal Procedure must have their case reviewed by an examining magistrate within 24 hours of arrest, according to Article 123. By contrast, suspects held by the Coalition Forces should be brought before a judicial officer as rapidly as possible and in no instance later than 90 days after induction, according to Section 6(1)(d) of CPA Memorandum Number 3.

According to information obtained by Amnesty International from US military lawyers, a classified US military order also requires a Judge Advocate General to review the detention of a criminal suspect held by US forces within 21 days of arrest. However, we understand that this review is carried out on paper without the presence of the detainee, and in any case a Judge Advocate General could not be considered a "judicial or other authority" whose "status and tenure should afford the strongest possible guarantees of competence, impartiality and independence" as required by the Body of Principles.

These provisions fail to provide the guarantees contained in Article 9(4) of the ICCPR, which states: "Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful."

The Body of Principles specifies that a "person shall not be kept in detention without being given an effective opportunity to be heard promptly by a judicial or other authority" (Principle 11.1). Also, a detainee "or his counsel shall be entitled at any time to take proceedings according to domestic law before a judicial or other authority to challenge the lawfulness of his detention in order to obtain his release without delay, if it is unlawful" (Principle 32.1). The relevant proceedings "shall be simple and expeditious" and the "detaining authority shall produce without unreasonable delay the detained person before the reviewing authority" (Principle 32.2).

Recommendation

Amnesty International recommends that the CPA amend Memorandum Number 3 to ensure that all criminal suspects have available a simple mechanism to be brought before a judicial authority promptly after arrest, to review the lawfulness and necessity of their detention, as well as their treatment, in accordance with international standards.

4.3 Implementation of judicial decisions

Amnesty International is concerned that even when detainees are referred to the Iraqi courts, the Coalition Forces occasionally fail to implement decisions of the Iraqi examining magistrates who should decide whether a person should be remanded in custody, released on bail, or have the charges against them dropped. The organization has investigated a number of cases of unlawful detention, the result of failure by the Coalition Forces to implement promptly decisions issued by examining magistrates to release criminal suspects. As well as being a flagrant breach of the rule of law, the scarce resources available for the management of detentions and prisons are being expended on holding and processing prisoners who should be released, reducing the resources available for dealing with other detainees. Iraqi judges, lawyers and police officers interviewed by Amnesty International have frequently expressed concern about failures by the Coalition Forces to respect the jurisdiction of the Iraqi courts in relation to criminal matters.

Amnesty International understands that in Baghdad, it is the policy of the CPA and the Coalition Forces not to implement court decisions to release detainees on bail; court orders for the unconditional release of detainees are only implemented after approval from a senior military official. Such a policy contravenes Article 9(3) of the ICCPR, which clearly states that it "shall not be the general rule that persons awaiting trial shall be detained in custody". It is also contrary to the provisions of the Code of Criminal Procedure, which require decisions regarding pre-trial detention of criminal suspects to be taken by the courts.

Amnesty International has also investigated a number of cases in which the Coalition Forces have failed to bring criminal suspects in their custody to court for trials and other hearings. For example, we understand that as of early July, seven cases had been sent for trial to the Felonies Court of Rasafa, Baghdad, since the start of the occupation. In six of these cases the accused, who numbered seven, had not been released on bail. The court ordered that the detainees be produced in court for trial on 5 July. However, the detainees were not brought to court by the US Military Police on that date. It later emerged that the Coalition Forces had released five of these detainees without informing the investigating magistrate.

The failure of the Coalition Forces to implement decisions of the Iraqi examining magistrates, whether in releasing a detainee or ordering them to appear in court, undermines the authority of Iraqi courts and the rule of law as a whole.

Recommendations

Amnesty International recommends that the CPA and the Coalition Forces rescind immediately the policy of not releasing on bail detainees held in the Baghdad area.

The Coalition Forces should also respect and promptly implement orders by Iraqi courts with regard to criminal suspects.

4.4 Access to lawyers

Section 8 of CPA Memorandum Number 3 provides that all criminal detainees suspected of a felony offence are entitled to consult with a lawyer while in detention, without setting out any time limitations, except in the case of a detainee held in a Coalition Forces detention centre, who is only entitled to exercise this right 72 hours after induction into the centre. There is no specific timeline for the induction, and it may take place some time after the actual arrest, thus prolonging the period of incommunicado detention.

In practice, criminal suspects held in a number of prisons and detention centres run by the Coalition Forces – such as Camp Cropper, Abu Ghraib Prison, Habbaniya Airport and Baghdadi Airport – appear to be invariably denied access to lawyers, sometimes for weeks. Amnesty International has also received several reports of cases where detainees held in Iraqi police stations in Baghdad were denied access to a lawyer by the US Military Police.

The Body of Principles stresses the need to ensure the right of detainees to be assisted by legal counsel and be allowed adequate time and facilities for confidential consultation (Principles 17 and 18). The UN Basic Principles on the Role of Lawyers state that “all persons arrested or detained, with or without criminal charge, shall have prompt access to a lawyer, and in any case not later than forty-eight hours from the time of arrest or detention” (Principle 6). The UN Special Rapporteur on torture has recommended that anyone who has been arrested be given such access “no later than 24 hours after the arrest” (UN Doc. E/CN.4/1990/17).

Recommendations

Amnesty International recommends that the CPA amend Memorandum Number 3 to ensure its consistency with international human rights standards regarding prompt access to lawyers.

In the meantime, access to a lawyer should be granted to all criminal suspects as soon as possible, within a matter of hours rather than days from the point of arrest, to take advice on any legal matter.

4.5 Access to families

Whereas Section 30(13) of CPA Memorandum Number 2 provides that untried prisoners shall be allowed to inform their families immediately of their detention, criminal detainees held by the Coalition Forces are not so entitled.

During a meeting in June with the Senior Adviser to the Ministry of Justice, a member of the General Counsel of the CPA and members of the Office of the Staff Judge Advocate Combined Joint Task Force 7, Amnesty International delegates raised concerns regarding the Coalition Forces' failure to notify the families of detainees of their arrest and place of detention. One official informed the delegates that families would now be able to seek this information in Humanitarian Assistance Centres (HAC) throughout Iraq, where web-based computerized lists of detainees would be maintained. However, this system does not appear to be reliable or accessible to families

Also, whereas Section 14(1) of CPA Memorandum Number 2 provides that detainees are entitled to communicate with family and friends through correspondence and regular visits, criminal detainees held by the Coalition Forces are not fully accorded these rights. Section 6(1)(e) of CPA Memorandum Number 3 enables detainees and their families to communicate through the International Committee of the Red Cross (ICRC), but they are not entitled to receive family visits.

The Body of Principles requires notification to the family or other appropriate person of the detainee's choice "[p]romptly after arrest and after each transfer from one place of detention or imprisonment to another" (Principle 16.1). Notification may only be delayed "for a reasonable period where exceptional needs of the investigation so require" (Principle 16.4). A detainee "shall have the right to be visited by and to correspond with, in particular, members of his family and shall be given adequate opportunity to communicate with the outside world" (Principle 19). In any case,

“communication of the detained or imprisoned person with the outside world, and in particular his family or counsel, shall not be denied for more than a matter of days” (Principle 15).

Recommendations

Amnesty International recommends that the CPA amend Memorandum Number 3 to allow for the prompt notification of families in all cases of arrest of criminal suspects, regardless of the identity of the arresting or detaining authority.

The CPA should put in place suitable mechanisms to ensure that such notification occurs in practice.

All criminal suspects must be able to communicate with and receive regular visits from their families, in line with international standards.

5. Treatment in custody

5.1 Allegations of torture or ill-treatment

Amnesty International welcomes the explicit prohibition on the use of torture and cruel, inhuman or degrading treatment or punishment contained in Section 9 of CPA Memorandum Number 7. However the organization has received a number of reports of torture or ill-treatment by Coalition Forces not confined to criminal suspects. Reported methods include prolonged sleep deprivation; prolonged restraint in painful positions, sometimes combined with exposure to loud music; prolonged hooding; and exposure to bright lights. Such treatment would amount to “torture or inhuman treatment” prohibited by the Fourth Geneva Convention and by international human rights law.

Amnesty International’s concerns with regard to allegations of inhuman treatment immediately after arrest and in detention camps run by the US military have been raised in its letter to Ambassador Paul Bremer of 26 June 2003. Regrettably, testimonies from recently released detainees held at Camp Cropper and Abu Ghraib Prison do not suggest that conditions of detention have improved, although it is reported that Camp Cropper is due to be closed. Detainees continue to report suffering extreme heat while housed in tents; insufficient water; inadequate washing facilities; open trenches for toilets; no change of clothes, even after two months’ detention; no

hygiene packs and no books, newspapers, radios or writing materials. This is in addition to their denial of access to family and lawyers, as described above.

Similar conditions were witnessed at the Division Core Collection Centre in Mosul, which an Amnesty International delegate was able to visit on 2 July. In meetings with senior US military personnel, Amnesty International had been told that the detention facility usually only held two or three people. However, on the date of the visit, there were 27 detainees. The detainees were held in the open air, in two separate areas enclosed by barbed wire. Each area contained a small roof (approximately 2m by 4m) which provided some shelter from the sun. The detainees had not been able to wash or change their clothes since their detention. They had each been provided with one blanket. They slept on the ground, which was of fine dust and stones. When Amnesty International asked military personnel if they were able to wash, the delegate was told that they could wash using the water provided. However, the detainees said that the water provided was only sufficient for drinking. There was one toilet facility inside each enclosure which appeared to be a form of plastic tank open to view. The detainees had not been allowed any family visits, although the ICRC had been able to visit the facility recently.

A former detainee interviewed by Amnesty International described conditions in tents pitched in Abu Ghraib Prison. Detainees were not given blankets to lie on, water was limited and the toilet was an open trench in full view of all. During the whole of his detention he was unable to change his clothes, shave or cut his hair. He was apparently arrested after slapping his son and a nephew to stop them fighting. He was released by order of an examining magistrate on 30 June after 44 days without access to judicial review or to his family or lawyer. An Amnesty International delegate saw him, unkempt and with his hands and feet in cuffs, at al-Bayaa' Court in Baghdad on 28 June.

While the standards laid out for prisons under the authority of the Iraqi Ministry of Justice generally accord with the UN Standard Minimum Rules for the Treatment of Prisoners, it is not clear what standards, if any, regulate the management of detention centres and prisons holding criminal suspects and run by the Coalition Forces.

Recommendations

Amnesty International urges the CPA and the Coalition Forces to ensure that the prohibition of torture and any other form of ill-treatment is absolutely respected by the Coalition Forces and Iraqi law enforcement officials.

Amnesty International urges the CPA and the Coalition Forces to improve the conditions of detention for all detainees, as a matter of priority, so that they comply with the Standard Minimum Rules for the Treatment of Prisoners.

5.2 Deaths in custody

Amnesty International has received a number of reports of cases of detainees who have died in custody, mostly as a result of shooting by members of the Coalition Forces. Other cases of deaths in custody where ill-treatment may have caused or contributed to death have been reported; one case, the death of Radi Nu'ma in Basra on 8 May, is being investigated by UK authorities. In two other cases, where Iraqis were seriously wounded in operations to arrest or search, it is still not clear, in one case more than two months after the incident, whether the persons concerned have died or are still detained.

Recommendations

The CPA and the Coalition Forces should ensure that use of force with regard to detainees is in line with the principles of necessity and proportionality. In particular, firearms should only be used if lives are in danger and there are no other means to respond to that danger.

The CPA and the Coalition Forces should also clarify without delay the fate and whereabouts of anyone taken into custody.

6. Searches

There continue to be many reports of members of the Coalition Forces engaging in house searches and damaging or destroying property without justification. Iraqis have told Amnesty International that soldiers preferred to smash their way into cars and cupboards even when house owners offered keys and begged them to use them. There are also numerous reports of confiscation of property, including large sums of money, upon arrest. This property is not returned upon release. In its letter of 26 June 2003 Amnesty International stressed the importance of bringing in a local witness during house searches, as provided for in Iraqi law, to ensure that they are carried out properly. Amnesty International does not know whether such a suggestion has been considered.

Amnesty International is also concerned at the inadequacy of the system for dealing with complaints regarding searches. US officers at Civilian Military Operation Centre (CMOC) who dealt with the case of As'ad Ibrahim Mahdi, mentioned in our letter of 26 June, accepted that there was evidence that a crime had been committed by the officer of the 101st Division who reportedly removed more than three million dinars from this family's home. The officers complained that redress would be long and difficult as they lacked the means to find out where the division was now stationed so that the Judge Advocate General of that division could take action.

Amnesty International is also concerned that Article 70 of the Code of Criminal Procedure may facilitate abuses during searches. According to Article 70, the examining magistrate or investigator may compel the plaintiff or defendant in a felony or misdemeanour case to cooperate in a physical examination "or the taking of photographs, fingerprints, samples of his blood, hair or nails, or other", for the purposes of the investigation. Also according to Article 70, as far as possible, search of a female should be conducted by another female.

Amnesty International is concerned that some of the practices ordered under this article may constitute cruel, inhuman or degrading treatment, prohibited by international law. For example, the inclusion of the phrase "or other" could be interpreted to include abusive forms of bodily or other search. It is also of particular concern that the law does not require that women should be searched only by other women.

The Human Rights Committee in its general comment 16 to Article 17 of the ICCPR stated that persons "being subjected to body search by State officials, or medical personnel acting at the request of the State, should only be examined by persons of the same sex" (para 8).

Recommendations

Amnesty International calls for a review of the conduct of searches by the Coalition Forces. Wherever possible an independent witness, possibly a representative of a local civilian authority, should be called to witness the search.

Article 70 of the Code of Criminal Procedure must be reviewed to ensure that it is consistent with international human rights standards.

7. The Central Criminal Court of Iraq

Amnesty International welcomes the CPA's abolition of the Revolutionary, Special and National Security Courts, as trials before these courts were grossly unfair. It also notes the establishment of a new Central Criminal Court of Iraq by Order Number 13 with jurisdiction over crimes committed in Iraq since 19 March 2003 and applying the Iraqi Criminal Code and the Code of Criminal Procedure.

Amnesty International understands that the Central Criminal Court is intended to ensure that persons accused of serious crimes, such as looting, crimes against the person and security threats, are brought to trial promptly and fairly, while the rest of the Iraqi judicial system is being rehabilitated. It also understands that this court is intended to serve as a best practice model for other Iraqi courts.

Amnesty International would welcome clarification as to the precise status of the Central Criminal Court and the way in which it may relate to a wider program of judicial reform. Under the Fourth Geneva Convention, the establishment of tribunals by occupying powers remains an exceptional measure, as indicated by Article 64 which states the principle that the tribunals of the occupied territory shall continue to function.

Amnesty International is also concerned at a number of specific aspects of Order Number 13. For example, the order imposes the sweeping condition that judges appointed to the court were not members of the Ba'ath party or, if they were, that their membership did not fall within the leadership tiers "and entailed no involvement in Ba'ath Party activity" (Section 6,1,b). Also, the judges are appointed for a term of one year by the Administrator of the CPA. The term of appointment may be extended by agreement. Renewable terms of appointment of one year may not provide sufficient security of tenure and therefore may violate the principle of judicial independence. The UN Special Rapporteur on the independence of the judiciary has noted that "judges appointed on contracts generally have no security of tenure; such judges cannot therefore be perceived to be independent" (see E/CN.4/2001/65, para 95).

In addition, Section 7(2) of Order Number 13 does not list gender or political opinion among the grounds upon which judges are not allowed to discriminate. Only the CPA or the Coalition Forces have the right to appear before the court as *amicus curiae* "for the purpose of adducing or providing evidence".

Recommendations

Amnesty International would welcome clarification from the CPA that the establishment of the Central Criminal Court of Iraq is consistent with the responsibilities of the occupying powers and would not adversely affect the reform of the Iraqi judiciary.

The CPA should ensure that the provisions of Order Number 13 dealing with membership of the Ba'ath party do not unfairly penalize potential judges and prosecutors.

The CPA should ensure that judges are appointed for the duration of the existence of the court and guaranteed tenure as judges afterwards.

The grounds of prohibited discrimination outlined in Order 13 should include gender and political opinion.

The right to appear before the court as amicus curiae should not be limited to the CPA or the Coalition Forces.

8. Accountability of the CPA and the Coalition Forces

Amnesty International is concerned at what appears to be a lack of accountability as regards CPA officials and Coalition Forces personnel. Section 2(3) of CPA Memorandum Number 3 removes the jurisdiction of the Iraqi courts over any Coalition personnel, in relation to both civil and criminal matters. Also, section 6(2) states that a failure to comply with procedures set out in Section 6(1) relating to the treatment of criminal detainees held by the Coalition Forces shall not constitute grounds for any legal remedy if a detainee is subsequently transferred to an Iraqi court. In this context we understand that available mechanisms of redress would be primarily those afforded by the military internal investigation systems of the Coalition Forces.

In accordance with international standards, any credible allegations of violations of human rights, in the context of use of force, treatment while in custody, or any other context, must be properly investigated and anyone found responsible brought to justice. Victims must receive reparation. There is an urgent need to clarify to the public what are the disciplinary and criminal mechanisms of accountability operated by the CPA and the Coalition Forces. Information about such mechanisms

should be widely disseminated. Clarity as to the procedures that are followed is the first essential step to ensure that victims can use such mechanisms, which should also be easily accessible. Openness and transparency, including the publication of investigation findings, are important in order to inspire the confidence of those who have been victims of abuses.

Allegations of human rights violations, including breaches of international humanitarian law, by CPA officials or the Coalition Forces should be investigated by a body that is competent, impartial and independent, and seen to be so, of those against whom the allegations are made. Amnesty International considers that this may require the use of civilian personnel rather than, or in addition to, the ordinary military investigation system. Using the model of the ombudsperson, a high-level CPA official could also be appointed with the authority to ensure that investigations are initiated and properly conducted, and any systemic problems redressed.

Recommendations

Amnesty International calls on the CPA to ensure that proper mechanisms are in place to ensure competent, impartial and independent investigations into allegations of violations of international human rights and humanitarian law by the CPA and the Coalition Forces.

Depending on the gravity of the violation, disciplinary or criminal measures must be taken against the perpetrators.

- Information about such mechanisms and the investigations carried out should be widely disseminated, and the submission of complaints facilitated.*

The CPA should consider employing civilian staff, including a high-level official, with the authority to oversee the investigation process into allegations of violations by CPA officials and Coalition Forces.

Amnesty International calls on the CPA to carry out appropriate investigations into the cases detailed in Part III and would welcome information about the progress and outcomes of such investigations.

III: CASE STUDIES

Below are cases of reported violations by Coalition Forces, as described to Amnesty International by witnesses, the victims or other sources.

Use of Force

Killing of Sa'adi Suleiman Ibrahim al-'Ubaydi in Ramadi, 14 May

In the early morning of 14 May, two US armed vehicles crashed through the stone perimeter wall surrounding the home of Sa'adi Suleiman Ibrahim al-'Ubaydi, located behind the courthouse in Ramadi, and drove right up to the door of the house. Sa'adi al-'Ubaydi, unarmed and in his nightclothes, rushed to shut the exterior door in the kitchen. Several soldiers forced their way in and beat him with their rifle butts. He ran out of the house to get away from them; soldiers shot him a few meters away and he died immediately.

Demonstration in Mosul, 12 and 13 June

On 12 June former Iraqi military officers demonstrated in front of the City Hall in Mosul about arrangements concerning their salaries. The City Hall was guarded by Iraqi police. Amnesty International has not been able to ascertain the precise sequence of events that followed the start of the demonstration. A senior US military official told Amnesty International that on 12 June, Iraqi police opened fire after the City Hall building had been fired on by elements within the crowd, killing two people and wounding two. At some stage crowds of people reportedly attempted to storm the building. The mayor's assistant was also reportedly killed. On 13 June disturbances continued. According to the same senior US military official, Coalition Forces killed two Iraqis who had fired against them. Three were injured when they threw grenades at Coalition Forces. Amnesty International has received reports that as many as 29 people were injured during these two days. In addition to the four killed on 12 and 13 June, four others later died from their injuries.

The senior Coalition military official said that he had personally witnessed these events and was satisfied that all action taken, by both the Iraqi police and Coalition Forces had been "appropriate" and that therefore there would be no investigation. He said that the Iraqi police and the Coalition Forces who had shot and killed four Iraqis had been identified and remained in service. However, some Iraqi police had been sacked for deserting their posts.

When questioned about the decision to put Iraqi police in charge of policing the demonstration the military official said that this was part of a process to hand over to the Iraqis the responsibility for policing. From information made available to Amnesty International it appears that the Iraqi police in charge of policing the demonstration had not received any specific training from the Coalition Forces on this element of policing.

Shooting at demonstrators in Baghdad, 18 June

During a demonstration held outside the entrance to the Republican Palace in Baghdad on 18 June, US soldiers shot and killed at least two demonstrators, including Ja'far Musa Hashem. US forces at the palace gates confirmed to Amnesty International delegates that soldiers had opened fire on demonstrators throwing stones. They stated that there had been no use of firearms by Iraqis during the demonstration.

Shooting of Mohammad al-Kubaisi in Baghdad, 26 June

US forces shot 12-year-old Mohammad al-Kubaisi in the Hay al-Jihad area of Baghdad on 26 June. It was the rule in his family that Mohammad should carry the bedding up to the roof where the family slept during the summer and his twin brother Mustafa should carry it down in the morning. From 9.30pm dozens of US troops were carrying out search operations in the houses and around 10.30pm Mohammad stopped on the stairs up to the roof to watch the soldiers. One soldier saw him from the house opposite and aimed his gun. Three Iraqis were close to him. One told Amnesty International delegates that he said: "That baby", but the soldier said "No baby" and opened fire.

The family were in the house of a neighbour who had been taken to hospital by Mohammad's father when someone ran in saying "Mohammad's dead". They came back to the house and Mohammad's mother, Wafa, embraced him. She said he was still alive. About 20 US soldiers had entered the house after the shot and started to search it, but she said they kicked her aside as she held the heavily bleeding boy and did not offer medical treatment. A neighbour, Yaser Ala', aged 17, rushed to fetch his car and he and another neighbour, Jassem Mohammad, put the boy in the car to drive him to hospital, a seven-minute drive away in a fast car with no traffic. But they were stopped by a tank guarding the road out. They explained to the interpreter that there was a wounded boy in the back of the car, but the US soldiers handcuffed them behind their back and threw them face down on the ground. Yaser said that when Jassem tried to get up they put a gun to his head. After about 15 minutes they were allowed up and told they must go back home; it was 11pm and the curfew had started. They saw Mohammad was dead; the halting of the car with the wounded boy in the back and the arrest of the drivers had taken half an hour.

On 9 July US soldiers came to the family's home, examined the scene of the killing and interviewed at least two witnesses. They informed the family that a soldier had been detained in connection with the killing. They stated that they would report to their superiors on what they had seen.

Shooting in Kirkuk, 1 July

On 1 July US troops opened fire on the car of Merdan Muhammad 'Ali, aged 74, in Jama' Kirkuk, a district of Kirkuk, killing his wife, and injuring him. At about 9 pm on that day Merdan Muhammad 'Ali was leaving his home in his car, with his wife sitting beside him in the passenger seat. As Merdan 'Ali was driving he saw four US military vehicles blocking the top of the road. Merdan 'Ali told Amnesty International delegates that when he was at a distance of about 50 meters from the vehicles, he heard gunshots coming from behind his car. He stopped the car, heard some shouting and decided to take a left turn to get away from the apparent danger. As he was turning, US soldiers opened fire on the car: the shooting lasted for about two minutes.

Merdan 'Ali was not aware of any warning shots having been fired. His right knee was fractured by a bullet while his wife was hit by several bullets in her abdomen and her heart. Merdan 'Ali sounded his car horn to attract attention but although members of his family came out of the house they were allegedly prevented from assisting him or his wife for a period of time he estimated to be about 15 minutes. His wife died of her injuries. Amnesty International delegates visited the scene of the incident on 3 July and were told by local residents that they were not aware of any shooting at US soldiers on 1 July. Merdan 'Ali was visited in hospital by a US military representative, who reportedly apologised, but made no reference to the possibility of an investigation.

Implementation of judicial decisions

Iyad Tareq Khalil

On 4 June an examining magistrate at al-'Azamiyah court ordered the release on bail of Iyad Tareq Khalil, who had been arrested on suspicion of obtaining stolen goods, subject to a guarantee of Iraqi dinars 500,000. On 5 June, an Iraqi police officer in Bab al-Sheikh police station wrote to the Military Police informing them that Iyad Khalil had been summoned by court order and requesting them to bring him to the police station. By that time Iyad Khalil had been transferred to Camp Cropper. Despite this court order, Iyad Khalil was not released by The Coalition Forces until 20 June.

Hashem Hussein Hindi

Hashem Hussein Hindi, aged 49, a building foreman, was arrested on 19 June on suspicion of involvement in the burglary of a house; he was later transferred into US custody, reportedly at Camp Cropper detention centre. On about 25 June an examining magistrate in Bab al-Jadidh Magistrates Court summoned Hashem Hussein Hindi for further questioning because two other accused had given contradictory statements regarding the detainee's connection to the burglary. As of 10 July, he remained in custody and had not appeared before the examining magistrate.

Access to lawyers

Saddam Wahid and Fadil Jassem

On the morning of 26 June, Saddam Wahid, aged 66, and Fadil Jassem, in his 20s, were arrested in Zayuneh on suspicion of armed robbery. Saddam Wahid had been wounded in the leg and Fadil Jassem in the right shoulder by a homeowner, who had shot at them. The police did not immediately provide them with medical treatment but first transferred them to Muthanna Police Station where they were interrogated for three hours. They were then transferred to al-Kindi Hospital for treatment. Muhammad Faisal, a lawyer, was informed of their arrest and went to the station at about 2pm in order to obtain a power of attorney from them and to take instructions. He spoke to a member of the US Military Police who refused to allow him to see the detainees or take a power of attorney on the grounds that his orders did not permit this. He reportedly justified his position by saying: "These people are criminals."

The following day at about 9am the lawyer tried to visit the detainees again, but the same member of the US Military Police refused him access. Attorney Muhammad Faisal was only able to see the detainees and take a power of attorney when they were brought before an examining magistrate in Baghdad al-Jadida court on 28 June. They were later transferred to Camp Cropper and their lawyer no longer had access to them.

Information and access to families

Duraïd Khalis Aballey

Duraïd Khalis Aballey, a 48-year-old businessman, was shot on 30 April, apparently when he opened fire on US military forces who were attacking the house where he lived. According to his father, Duraïd Aballey opened fire because he thought the house was being attacked by armed looters. His brother, Khreisan Khalis Aballey, who was also held in detention (see below) was first told that Duraïd Aballey was alive, then told he was dead and buried. However, when he was referred to a cemetery run by the US military, he found that the paper he was given by US soldiers to collect his brother's body was not such an authorization. The only unnamed body of the relevant date was that of a soldier. Since then Khreisan Aballey has spent two months appealing to the US authorities to give him information about his brother; he says he has visited the Institute of Forensic Medicine and the morgue of every hospital in Baghdad searching for his brother.

Nasrat Mohammad 'Amer 'Abd al-Latif

Nasrat Mohammad 'Amer 'Abd al-Latif, a 23-year-old physics student, was shot on 12 June 2003 by armed men in plain clothes, who were apparently US nationals. They raided the house his family had rented 16 days before, apparently looking for Taha al-Jazrawi, a senior member of the Ba'ath party. His father and two brothers were detained for five days, apparently near Baghdad International Airport. They were not allowed to speak to each other for two days when they were in the same room. They were told that Nasrat Mohammad 'Amer was dead, and the corpse would be transferred to them. However, no body has yet been brought to them at the time of writing. Meanwhile they have frequently inquired at the Airport (where they were told that a wounded person like Nasrat had been flown to Kuwait) and visited hospitals and morgues in Baghdad without success.

Ahmad Suhail

On 1 July an Amnesty International delegate accompanied Dr Suhail Laibi to the HAC in Baghdad in order to find out the whereabouts of his son Ahmad. A final year high school student, Ahmad Suhail had been arrested on 15 May 2003 with his father, apparently because his father's pistol was in the car. His father, who had been released from Abu Ghraib Prison on 14 June 2003, had been told that his son had been transferred to Nassiriya and had travelled there himself to try to find out. He was not given any information in Nassiriya but an officer warned him not to go himself to the prison camp to enquire about his son, as, if he presented himself at the camp, he might be arrested.

At the HAC in Baghdad Ahmad Suhail was at first difficult to locate on the database because of the spelling of his name. However, Dr Suhail was able to locate him by means of his date of birth and prison number. The officer in charge told Dr Suhail that his son was in Camp Bucca, but neither he nor any other officer in the room could provide any information on Ahmad Suhail's legal status or say where Camp Bucca was. Amnesty International delegates later found that this was the official name for the Umm Qasr camp, which remains inaccessible to families.

Zakariya Zakher Sa'ad

Zakariya Zakher Sa'ad, aged 55, an Egyptian national married to an Iraqi, works as a gardener and night watchman at the house of the Russian Consul in Baghdad. He was arrested at 12am on 6 June. Apparently a gang of thieves came to burgle the house of the Russian consul. A nearby house had been burgled twice before. Upon hearing the noises Zakariya Zakher Sa'ad rushed to the house with his Kalashnikov but did not shoot; the thieves escaped but he was arrested by seven US soldiers who had then arrived at the scene accompanied with an Iraqi interpreter. Eye witnesses said that the US soldiers threw Zakariya to the ground as he struggled and tied his hands behind his back before taking him away. The neighbours tried to tell the US soldiers that he was the guard, not the thief, but the soldiers would not listen. A month later Zakariya Zakher Sa'ad, who earned \$14 a week and was the sole support of his family, was still in detention. His family heard that he was held at Camp Cropper but have had no access to him.

Fadel 'Abbas Ibrahim al-'Amari

On 5 July, an Amnesty International delegate accompanied Lamia Khaled Dayekh, the wife of Fadel 'Abbas Ibrahim al-'Amari, a former member of Iraqi intelligence, to the HAC centre in Baghdad. The detainee had been arrested on 7 June by men in civilian clothes with American accents from his home in Hay al-Jihad, Baghdad. The wife of the detainee told Amnesty International that she had tried on numerous occasions to access the HAC and the Republican Palace but had been turned away by US soldiers at the entrance. A member of the US military informed Lamia Dayekh that her husband's name could not be found on the list of detainees, but that did not necessarily mean that her husband was not in the custody of the Coalition Forces. The soldier provided her with a list of police stations and told her that she could obtain information within 72 hours on her husband's legal status and place of detention from the station nearest to her home.

Lamia Dayekh, accompanied by the Amnesty International delegate, went to Hay al-Amil police station later that day. Neither the Iraqi police nor the US Military

Police were even aware of this tracing procedure. A member of the US Military Police took details regarding 'Abbas al-' Amari's arrest and contact details for the family. The soldier said that she would send this information up the chain of command and that the family would be contacted directly with the information either by telephone or by a visit to her home. As of 14 July, Lamia Dayekh had received no further information from the US military.

Treatment in custody

Abdallah Khudhran al-Shamran

Abdallah Khudhran al-Shamran, a Saudi Arabian national, was arrested with six others of different nationalities in al-Rutba in early April 2003 by US and allied Iraqi forces while travelling from Syria to Baghdad.

Following the arrest all were blindfolded with hands tied behind their backs and forced to walk for three hours. Upon reaching an unknown site, Abdallah Shamran alleged that he was subjected to beatings and electric shocks. Other torture methods reported included being suspended from his legs and having his penis tied. He also reported sleep deprivation through constant loud music. The arresting authorities accused him of being a "terrorist".

He was held for four days, blindfolded, before being transported to a camp hospital in Um Qasr for three days of treatment. He was then interrogated and released, left to sleep on the streets for eight days without money or his passport. Abdallah decided to speak to a British soldier about his passport whereupon he was driven to another place of detention before being forced with two other detainees into a lorry and taken to a military field hospital and again interrogated and tortured. He told Amnesty International delegates in Basra who interviewed him on 13 May:

"He stuck the pen he was holding into my right shoulder. The scar is still fresh and visible.....They tied my hands behind my back and put me exposed in the sun from noon to early evening. Then they transferred me to a container and locked me in. The next morning they put me in the sun until about 10 am".

Abdallah was then transferred to hospital, given treatment and later met with representatives of the ICRC to seek help in getting his passport returned. He reported being questioned by a British officer while in hospital who accused him of being part of Saddam Hussein's Fedayeen and threatened him with execution.

Khreisan Khalis Aballey

Khreisan Khalis Aballey, aged 39, was arrested at his home on 30 April with his 80-year-old father by a large force of US military. His brother was shot during the operation; two months later the family still did not know whether he was alive or dead.

The military were apparently looking for 'Izzat al-Duri, a senior member of the Ba'ath Party. Khreisan Aballey insisted that he had no knowledge of his whereabouts. During his interrogation, he was made to stand or kneel facing a wall for seven-and-a-half days, hooded, and handcuffed tightly with plastic strips. At the same time a bright light was placed next to his hood and distorted music was playing the whole time. During all this period he was deprived of sleep (though he may have been unconscious for some periods). He reported that at one time a US soldier stamped on his foot and as a result one of his toenails was torn off. The prolonged kneeling made his knees bloody, so he mostly stood; when, after seven-and-a-half days he was told he was to be released and told he could sit, he said that his leg was the size of a football. He continued to be held for two more days, apparently to allow his health to improve, and was released on 9 May. His father, who was released at the same time, was held in the cell beside his son, where he could hear his son's voice and his screams.

Sa'dun Hamadi

According to a detainee released on 30 June who had been held in a tent neighbouring that apparently reserved for political detainees, Sa'dun Hamadi, aged 75, former speaker of the Iraqi National Assembly, was seen at Camp Cropper lying on a single blanket in an extremely hot tent, using his shoes as a pillow.

Deaths in custody

Radi Nu'ma

On 8 May, Radi Nu'ma, a labourer and father of three children, was arrested by the UK Royal Military Police and died in custody later the same day. For two days, his family visited different police stations, but could obtain no information. On 10 May, UK soldiers delivered a written note to the family's house that read: "*Radi Nu'ma suffered a heart attack while we were asking him questions about his son. We took him to the military hospital. For further information, go to the hospital.*"

The family, unaware that Radi Nu'ma was dead, were told at the hospital that no person of that name had been admitted. They subsequently discovered his body in the morgue. According to hospital staff, the Royal Military Police had delivered an

unidentified corpse on the evening of 8 May, told staff that the cause of death was a heart attack but failed to provide other information, including the date and place of death. Hospital officials later told Amnesty International delegates that the Royal Military Police Special Investigations Branch had visited the hospital. On 18 May a soldier at the army base at the presidential palace in Basra told the family that the relevant Royal Military Police official had too much work and would not be able to see them. On 19 June soldiers came to the family's home and told them to go to the presidential palace on 21 June, but after waiting for two hours on 21 June, family members were again refused entry. Amnesty International has been informed by the UK authorities that the Royal Military Police has launched an investigation into this case.

Ala' Jassem

Ala' Jassem, aged 22, was killed when soldiers fired on detainees who were reportedly rioting on 13 June at Abu Ghraib Prison. Demonstrators were apparently throwing bricks and poles at the soldiers, but reportedly remained within the razor wire surrounding the tents and the lives of others were not in danger. According to eyewitnesses, Ala' Jassem was in a tent when he was shot. Seven other detainees were wounded.

0122

(b)(6)

From: (b)(6)
Sent: Wednesday, July 23, 2003 8:04 AM
To: Bremer, Paul
Cc: (b)(6) Kennedy, Patrick AMB (b)(6) Executive Secretary;
 (b)(6)
Subject: Amnesty Report and Independent Article

Sir - See below. More to follow.

v (b)(6)

(b)(6) We have a hard copy only. Cannot scan, will try to fax, but see what you can do to get a copy there.

thx (b)(6)

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

From: (b)(6)
Sent: Wednesday, July 23, 2003 7:11 AM
To: (b)(6)
Subject: FW: Amnesty report and Independent article: HR in Iraq

(b)(6)

This is a good start.

(b)(6)

Points to Make

- (b)(5)
-
-
-

• **Specific criticisms**

- (b)(5)

(b)(5)

(b)(5)

Will you investigate the allegations of HR abuses in section 3?

(b)(5)

Detention facilities?

(b)(5)

Access to lawyers?

(b)(5)

Information on detainees?

(b)(5)

Family access?

(b)(5)

Story in the Independent?

(b)(5)

Prisoners shot trying to escape?

(b)(5)

Unable to contact family/embassy?

(b)(5)

0723

BELIEVE AMB MOHANAWAY TOOK THIS
NO MEND FOR RECORD


Ambassador L. Paul Bremer III
Administrator
Coalition Provisional Authority
Presidential Palace
Karadat Mariam
Baghdad, Iraq

Ref: TG AMR 51/67/2003

8 July 2003

Dear Ambassador Bremer,

As Amnesty International Secretary General, I will be leading a delegation to Iraq from 21-27 July to carry out high level meetings with officials of international organizations, including the UN, and representatives of Iraqi society. During this visit I would appreciate the opportunity to meet with you to discuss Amnesty International's concerns and recommendations in more detail. In this context I thank you for your response of 27 June 2003 regarding Amnesty International's human rights concerns in Iraq.

As you are aware, Amnesty International delegates in Iraq have already held meetings with officials of the Coalition Provisional Authority (CPA). The organization welcomes this dialogue and seeks to continue our discussions with your administration regarding the human rights situation in Iraq.

I would be grateful if you could confirm your availability for such a meeting. Please don't hesitate to get in contact with me should you wish to further discuss the possibility of arranging such a meeting. Our field co-ordinator in Baghdad, Elizabeth Hodgkin will be in touch with your office shortly to confirm the meeting date and time.

Yours sincerely,

Irene Khan
Secretary General

UNCLASSIFIED

COALITION PROVISIONAL AUTHORITY

BAGHDAD

July 18, 2003

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

Dear Ms. Khan:

Thank you for your letter of July 8, 2003, in which you noted your plans to lead a delegation to Iraq next week, and requested an opportunity to meet with Ambassador Bremer during your trip, to discuss Amnesty International's concerns and recommendations regarding human rights matters in Iraq.

We welcome the opportunity to meet with you at your convenience during the week of 21-27 July. Although Ambassador Bremer will be in Washington, D.C. during that period, members of our Office of General Counsel and Directorate of Human Rights will be available to discuss the status of human rights issues with you. Please feel free to contact Mr. Scott Castle at (b)(6) (b)(6) to arrange a convenient meeting time.

Patrick F. Kennedy
Chief of Staff

UNCLASSIFIED

0724

(b)(6)

From: (b)(6)

Sent: Thursday, July 24, 2003 4:48 PM

To: Kennedy, Patrick AMB

Subject: FW: Prison Staffing Needs

Thought you might want this while you are working personnel issues out there.

vr (b)(6)

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

From: (b)(6)

Sent: Thursday, July 24, 2003 4:33 PM

To: (b)(6)

Subject: FW: Prison Staffing Needs

COI (b)(6) Attached is MG Campbell's Action Memorandum to AMB Bremer regarding Prison Staffing Needs, and the attachment thereto. TLT (b)(6)

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

From: Campbell, Donald CIV Ministry of Justice

Sent: Thursday, July 24, 2003 4:29 PM

To: (b)(6)

Subject: FW: Prison Staffing Needs

(b)(6) Can you send this to him? Many thanks. DFC

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

From: (b)(6)

Sent: Thursday, July 24, 2003 11:01 AM

To: Campbell, Donald CIV Ministry of Justice

Subject: Prison Staffing Needs

Sir

Can I get a copy of your memo ref. above on email to push out to DC. I just have a hard copy.

thx
vr (b)(6)

Campbell, Donald CIV Ministry of Justice

From: Campbell, Donald CIV Ministry of Justice
Sent: Saturday, August 09, 2003 9:04 AM
To: Kennedy, Patrick AMB
Cc: (b)(6)
Subject: RE: CPA Justice Sector Staffing

Sir, As we briefly discussed this morning.

(1) I have been working this with (b)(6) who continues to do a great job for CPA despite the fact that he has returned to Washington.

(b)(5)

B(5)

(5) We have at the present time only one civilian prison expert for a program with more employees and a higher budget than the entire balance of Ministry of Justice.

(6) Yesterday AMB Bremer stated that we should tell him now if we were not going to meet our goals under the "metrics of the strategic plan."

(b)(5)

B(5)

(13) Any guidance you have for me would be appreciated.

v/r Don Campbell

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

From: Kennedy, Patrick AMB
Sent: Friday, August 08, 2003 10:30 PM
To: (b)(6); Kerik, Bernard B.; (b)(6) Campbell,
Donald CIV Ministry of Justice

(b)(6)

REF. THE PREVIOUS PAGE: THIS IS

From: (b)(6)

WHAT ACTUALLY HAPPENED

Sent: Sunday, May 23, 2004 2:00 PM

To: (b)(6)

Subject: RE: Prison Staffing Needs



(b)(6)

The prison advisors were funded by the Supplemental Budget last fall, for 107 subject matter experts. The initial 3 SME's were here for 60-90 days, June-August 2003 and left. They were replaced by 3 SME's on 9SEP03; a 4th was added in OCT03, followed by an additional 21 in JAN04, and another 48 in MAR04. A total of 73 were here at the end of APR04; contracts have been concluded for some, thus we are down to 58. Recruitment continues for the remainder of SME's and another 15-20 are in process to arrive late MAY or early JUNE.

Do you need more detail than this?

(b)(6)

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

From: (b)(6)

Sent: Sunday, May 23, 2004 1:17 PM

To: (b)(6)

Subject: FW: Prison Staffing Needs

(b)(6)

Any word on this? The front office has asked me for the info. within 1 week. Can we do that?

Thanks. 1LT (b)(6)

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

From: (b)(6)

Sent: Tuesday, May 11, 2004 10:24 AM

To: Bartlett, J. Terry (SES); (b)(6)

Cc: Schmults, Edward C. (AD00)

Subject: FW: Prison Staffing Needs

(b)(6)

The front office would like to know when prisons advisors were funded, for how many, when they did or will arrive, with documentation as possible. See below. You can pass the info. to me and I'll send it up the chain, keeping you apprised of everything that's going on. I know you also have the PM's questions to deal with. Mr. Schmults would like you do deal with this as soon as you're done with the PM's questions. Thanks. 1LT (b)(6)

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

From: (b)(6) Col

Sent: Tuesday, May 11, 2004 10:09 AM

To: (b)(6)

Subject: RE: Prison Staffing Needs

No. Please get the answers from (b)(6) Would like to know when it was funded, for how many, and when they arrived or will arrive. Need documentation of all of the above if possible.

thx much

v (b)(6)

Weekly Report Status
 ICDC / Border Guards Hired / Total Police in 4 major cities /
 Detainees by Camp and Third Country Detainees / NIA

As of 22 August 2003

1. ICDC (Iraqi Civil Defense Corps)
 Total number Recruits: 3,731
 Total in training: 793
2. New Iraqi Army (NIA): 798 (Completed 2d week of Training)
3. Border Police/Guards total number hired: 1,849

TOTAL #

Hired: 1,849
 Trained: 1,193
 To be trained: 3,408 (not hired)
 In training: 157

4. Iraqi Police:

City	Rehired	On Duty
a. Baghdad -	11,345	6,793
b. Mosul -	2,646	2,646
c. Kirkuk -	2,749	2,749
d. Basrah -	1,411	1,411

5. Detainees by Camp

a. BUCCA -	2,566
b. AD DIWANIYAH -	160
c. RUSAFI -	272
d. Tasferat -	389
e. Cropper -	645
f. HVD	105
g. MOSUL -	17
h. TIKRIT -	359
i. GANCI -	783
j. VIGILANTE	239
k. AL SALHYAT -	72
l. WHITFORD -	27
m. Dogwood (28 th CSH)	48
n. In Transit -	120
o. MEK	<u>3,742</u>

Total Detainees 9,544

6. Third Country Detainees: 220 (included in detainee total)
7. Items 1,3,4 and 5 provided by CJTF-7

Sir - I participated in the Detainee Summit on Tuesday, the outbrief with Gen Sanchez today, and had several other meetings this week with legal, prisons, police, and intel. Let me pass what I've found in two installments. Here is the first one.

Detainee Policy. Gen Sanchez made several key decisions today which are effective 30 August.

- Both security and criminal detainees will have their case review completed by a magistrate within 6 days of capture.
- There is no longer an MI hold for criminal detainees unless there is some affirmative evidence they are a threat to the coalition.
- Time limit for MI hold on a security detainee (that a magistrate determines does not pose a threat) is now 14 days after the magistrate decision.
- Magistrates will refer all criminal detainees to the Iraqi Court system. This will not be a problem in the North or South. It will be a challenge for the Baghdad court system, but the goal is still 30 August.
- Iraqi precincts will hold detainees until investigative hearing.
- We will segregate the 4,347 criminal detainees we now have custody from security detainees, re-vet them and release those we can, and then turn the balance over to the Iraqi Court system. This will take time and we do not know how long.
- We will continue to run camps and prisons as required for criminal detainees, but "as a service to the Iraqi's who are responsible" until they develop this capability.
- We will work towards moving security detainees to a single facility.
- Current six FRAGOs will be replaced by one that enacts all of the above.

Geneva Convention Requirements

- We have failed in one area. Not all security detainees have received an internment order or been advised of their right of appeal. Efforts are underway to correct this now.

Closing Down Detention Centers.

- We have 5,907 detainees. 1,257 are security detainees (not including MEK). 4,347 are criminal detainees. We have 303 EPWs.
- We are inducting at a rate of about 3000/mo and releasing at a rate of 1800/mo for a net increase of about 1200/mo. The policies described above should reduce the rate at which we add to the detainee population by some unknown amount.

- Prison capacity by 31 Dec will be about 8500 beds. If we straight-line a detainee gain-rate at 1000/mo, total population by 31 Dec will be about 10,000.
- Total population of Cropper, Ganci, and Vigilant is now 1,633. It seems reasonable to me that we can begin closing these in September and should be complete before Christmas.
- Planning bogie for 31 Dec 04 is about 34,500 additional beds -- or almost 3000 beds per month for a total of 43,000 beds (8,500+34,500).
- If we really do enter 2004 at 3000 beds/mo, we should be able to close Camp Bucca (2,500) in Feb-Mar.
- I cross-checked my estimates with (b)(6) and he says his are very close.
- Two caveats: 1) Changes in combat operations tempo will change detainee gain-rates; so the above is a guess. 2) We (and the Iraqis) might not have the capacity to manage this rate of prison growth.

Prison Management

- We have funds distribution problems (many and various) similar to those encountered by other ministries. Will pass this to (b)(6)
- CPA staff is inadequate to supervise growth. Our lead prisons expert (b)(6) is leaving this week without a replacement identified. Several volunteers are waiting for DOJ to make a selection.
- We will need to stand up a very large Iraqi corrections staff.
- At the Summit, most seemed to agree we are better off with a regional management. Current concept is federal and provincial without a middle layer.

JPB - YOU ASKED WHAT ARE THE RIGHT QUESTIONS AND
HOW DO WE MEASURE PROGRESS ON DETAINEES

Detainee Assessment

How can improve our detainee location process?

CC: MEM

VZ
ASJ

0821

Short Term

- * Can we print & photograph detainees at induction?
- * Can we get name verification at induction and the name spelled out in English and Arabic?
- * Better, can we get all information currently on the detainee data form duplicated on the back in Arabic?
- * Can we maintain a parallel Arabic database (or better) an integrated Arabic-English database?
- * When requests for location come in, can we prepare a standard form for the requester to complete that will assist in our search for the detainee; and in re-contacting the requester once the detainee is located?
- * Can we establish and publicize a contact procedure for requesters?

Long Term

- * Can we issue a Request For Proposal now for a database and communications systems for more effective management of the prison population?

THE WENT TO MEMBERS OF THE
EXECUTIVE BOARD AND (b)(6)
TO HELP FACILITATE THEIR DISCUSSION
OF ISSUES.

What is the detainee situation?

Detainees (Total)

- * How many did we have on 1 May?
- * How many have we taken since; and what is the average take rate per day?
- * How many have we released since; and what is the average release rate per day?
- * How many do we have as of 1 Sep and what is the net change from 1 May?
- * Where are they now (region, province, facility)?
- * Where were they originally detained (region, province, and city or district)?

Detainees (Security)

- * How many did we have on 1 May?
- * How many have we taken since; and what is the average take rate per day?
- * How many have we released since; and what is the average release rate per day?
- * How many do we have as of 1 Sep and what is the net change from 1 May?
- * Where are they now (region, province, facility)?
- * Where were they originally detained (region, province, and city or district)?

Detainees (Criminal)

- * How many did we have on 1 May?
- * How many have we taken since; and what is the average take rate per day?
- * How many have we released since; and what is the average release rate per day?
- * How many do we have as of 1 Sep and what is the net change from 1 May?
- * Where are they now (region, province, facility)?
- * Where were they originally detained (region, province, and city or district)?

EPWs

- * How many did we have on 1 May?
- * How many have we taken since; and what is the average take rate per day?
- * How many have we released since; and what is the average release rate per day?
- * How many do we have as of 1 Sep and what is the net change from 1 May?
- * Where are they now (region, province, facility)?
- * Where were they originally detained (region, province, and city or district)?

Chart Requirements (1 May - 1 Sep)

- * Number of takes and releases per day
- * Number of security and criminal detainees, total detainees, total EPWs, grand total

Will we shut down camps if we maintain our present course, and if so, when?

- * Provide an Iraq-wide inventory of current detention facilities by category, holding capacity, and location (region, province). Provide one month projections of the same for four months.
- * Provide a four month linear projection of detainee population based on current total and past take/release rates.
- * Given projected detainee population and prison capacity, how soon can we close camps (camp-by-camp)?
- * What are the priorities for closing camps, what are they based on, and what is the camp-by-camp schedule if we maintain our present course?
- * Recommend a recurring report format that can help us manage progress?

How can we accelerate release rates of those criminal detainees that do not present a security threat?

- * What initiatives are in work (or were recently put in-place) to accelerate release rates?
- * Are we complying with our 72 hour hold and 72 hour detention review policies? If we are, how do we know that? Do we report/track compliance or non-compliance? If not, should we?
- * Describe major resource and/or policy constraints that are slowing release rates (e.g. lack of interrogators, MI hold policy)
- * In those cases where the detention review authority suspects a crime but there is no probable cause:
 - + Is there a policy that requires the detainee meet a Release Board within a certain period of time? Do we report/track compliance or non-compliance? If not, should we?
 - + What is the policy on MI holds at the Release Board? What are the hold criteria? What is the MI hold rate? Are there any time limits on an MI hold (e.g. after 30 days, must seek approval to continue to detain). Is there a parole option in marginal cases.
- * For criminal detainees referred by a Release Board to the Iraqi court system:
 - + Do we track time-to-release to the Iraqi court system? If not, should we?
 - + Can we help ensure the Iraqis then track time to conviction or acquittal?
 - + Can we help ensure the Iraqis track conviction and acquittal rates for felonies and misdemeanors; and that this information is fed back to help project detainee population.
 - + Can we help survey the Iraqi court system (on a recurring basis) to determine what resource or policy constraints are unnecessarily extending time to conviction or acquittal? What is our current assessment of limiting factors (e.g. judges, investigators, prosecutors; or policy issues)?
- * Can we help the Iraqis rationalize the distribution of human resources with requirements (e.g. judges, investigators, prosecutors). Per capita rationalization? Rationalization based on detainee take rates in regions and provinces?

How can we accelerate release rates of those security detainees that do not present a security threat?

- * What does the Annex A flow chart mean: "Up to 24 days for security detainees?"
- * Do we track time in the cue waiting upon a Review Board, in those cases where the detention review authority has recommended release of a security detainee? If not, should we?
- * Do MI interrogations or MI holds delay presentation of a case to the Review Board, in those cases where the detention review authority has recommended release of a security detainee?
- * What is the Review Board's release rate and are we tracking this as a matter of policy?
- * Have we built a bow wave of cases with establishment of a 6 month Review Board requirement; or are we hearing cases at a rate that will allow us to meet this requirement?
- * What are the pros and cons of cutting the time-to-Review Board? What additional resources would be required to cut this time in half?
- * What measures can we take to enhance the viability of conditional releases (i.e. reduce the probability that a conditionally released detainee will become a security threat)?
- * What is our plan to transition control of the security detainee process to Iraqi authorities?

What is our policy with respect EPW release?

- * Have hostilities ended?
- * If hostilities have ended, why are we detaining any EPWs?
- * How is it possible to detain an EPW at this phase of the conflict?

What is our third-country detainee situation?

Third Country Detainees (Criminal)

- * How many did we have on 1 May?
- * How many do we have as of 1 Sep?
- * What countries are they from?
- * Where were they picked up?
- * How many are criminal detainees?
- * How many criminal detainees are awaiting Iraqi trial?
- * How many are security detainees?
- * How many security detainees have met a Review Board

MEMORANDUM

TO: MG Donald Campbell, Senior Advisor, Ministry of Justice

FROM: (b)(6) Department of Prisons *Janet*

DATE: August 24, 2003

SUBJECT: Opening Ceremony for Abu Ghraib

Attached is a response to a request from the PAO, Thomas Basile, for information on the two prisons we are opening this week. Baghdad Central (Abu Ghraib) and Al Hilah.

[Redacted block containing (b)(5) information]

B(5)

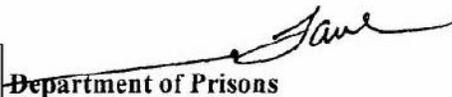
We have arranged for a small opening ceremony for the Phase 1, the first 400 beds at Abu Ghraib for 10:30 a.m., on Monday August 25th. Guests will include the 800th MP Brigade Commander, the CSM of the 18th MP Brigade, our new Iraqi General from Tasferate with a bus load of our newly certified Iraqi correctional officer graduates, the contractor and CWO Ward of the 18th MP Brigade who has hired and supervised the work there, and a list of 20 guests that are currently staffing the adult and juvenile headquarters. I have not invited any press up to this point. Should we...?

The ceremony will be remarks from you, a ribbon cutting and tour of the facility. The tour will end with refreshments.

Any further guidance?

MEMORANDUM

TO: Basile Thomas

FROM: (b)(6)  Department of Prisons

DATE: August 23, 2003

SUBJECT: Information on Prison Openings This Week

Ref: Memorandum, subject as above, 23 August 2003

Names of Facilities:

1. **Baghdad Central Prison (Abu Ghraib)** Opening scheduled for Monday, August 25, 2003;
 - **Capacity:**

Opening on August 25 th :	First 400 beds
September 1 st :	Additional 640 beds
October 1 st through December 31 st :	Open all remaining beds. At completion, total bed capacity: 3,100 inmates.
 - **Types of Inmates:** Maximum/medium custody (dangerous and long-term inmates). Should be noted that this is the only secure prison currently renovated within the country capable of housing maximum security, dangerous inmates.
 - **Number of guards: (Should refer to the officers as "Correctional Officers, not guards.)** When we open the first 400 beds on August 25th, we will use a combination of military police and a limited number, approximately 25 Iraqi correctional officers. As we continue to train and graduate additional Iraqi correctional officers, eventually we will replace the military and have senior advisors assigned to the facility to train and further mentor the Iraqi administrators, officers and staff. Once the entire facility is fully opened later this year, we anticipate an Iraqi staff of approximately 1,300 operating the facility. The ratio of officers to inmates will be higher in this facility because it will house the most difficult and dangerous, maximum custody and long term inmates.
 - **Have the guards been retrained?** We have established a Correctional Officer certification course that is conducted within the Iraq Public Safety Academy. The total course is three (3) weeks. The first week is conducted within the academy and consists of 40 hours of

mandatory professional training. The next 80 hours are conducted as on-the-job, hands-on training within an operational prison or detention facility. To date we have graduated 119 correctional officers. A new academy class of 115 students began on August 23, 2003.

- **How many guards (correctional officers) have received ethics and human rights training?** All correctional officers receive ethics and human rights training as part of the mandatory 40 hours of classroom instruction.

- **What amenities have we added to the facility?**

Bunk beds with mattress and mattress cover; bed linen, pillow with cover; inmate personal hygiene items such as tooth brush, tooth paste, soap, comb, and shampoo; wash basin; towel; drinking cup; individual prayer rugs; inmate uniform with under garments; sandals; an Iraqi food service contract is being placed to provide nutritious Iraqi meals.

- **What are the improvements to the facility since the old regime?**

The prison compound was completely trashed, looted and everything of value either destroyed or stolen. The first 400 beds, two complete cell blocks, have been completely renovated at a cost of \$172,000; water storage tanks installed to provide and insure an adequate water supply; a new sewer, water and electrical system has been installed; six additional showers have been installed within the two renovated cell blocks; new ceiling fans within each cell block; the former 'death house' has been excluded from the prison compound with an exterior wall eliminating sight; a new 250 kw generator system has been installed to insure power is available 24 hours per day; a medical facility has been renovated providing 40 infirmary beds, triage, dental and other medical facilities; a new kitchen facility will be completed by September 20; new outside recreation area adjacent to each cell block have been installed

2. **Al Hillah Prison:** Opened on Friday, August 22, 2003

- **Capacity:** 750
- **Types of Inmates:** Medium and minimum custody long and short term inmates. This facility will also be an overflow facility for inmates from the Baghdad area, if needed.
- **Number of guards:** (Should refer to the officers as "Correctional Officers, not guards.) We will use a combination of military police and approximately 91 Iraqi correctional officers. As we continue to train and graduate additional Iraqi correctional officers, eventually we

will replace the military and have senior advisors assigned to the facility to train and further mentor the Iraqi administrators, officers and staff.

- **Have the guards been retrained?** The Ministry of Justice Prison Department staff provided 24 hours of professional training on ethics, humanitarian standards for treatment of prisoners, and anticorruption. The 310th Military Police Battalion provided approximately 40 hours of correctional officer training and techniques. Within the next three months, all the Iraqi correctional staff will receive the new correctional officer certification training now required the Iraq Public Safety Academy staff.
- **How many guards (correctional officers) have received ethics and human rights training?** All Iraqi correctional officers and staff have received 24 hours of training in ethical conduct, humanitarian treatment standards for prisoners, and anti-corruption.
- **What amenities have we added to the facility?**

Bunk beds with mattress with cover; bed linen, pillow with cover; inmate personal hygiene items such as tooth brush, tooth paste, soap, comb, and shampoo; wash basin; towel; drinking cups; individual prayer rugs; inmate uniform with under garments; sandals; an Iraqi food service contract is being placed to provide adequate meals.

- **What are the improvements to the facility since the old regime?** The prison compound was completely trashed, looted and everything of value either destroyed or stolen. The entire facility has been renovated at a cost of \$126,000 to include painting; plexi glass windows; new doors; replaced and refurbished water, sewer and electrical systems; a new kitchen facility for food preparation; and a new medical infirmary treatment area. New ceiling fans and swamp coolers have been installed within each housing unit. A new 150 kW generator system has been installed to insure power is available 24 hours per day.

3. **Comments/quotes from the Senior Advisor, Ministry of Justice for your consideration:**

The renovation and opening of the first phase of the Baghdad Central Prison, formerly known as the Abu Ghraib Prison, is symbolic of the rebuilding of Iraq's destroyed prison system required to support the country's emerging police and judiciary. This prison provides an essential vital centerpiece for enhancing public safety throughout the nation. It is the only renovated prison within the Baghdad area that is capable of providing safe, humane, secure housing for the country's most dangerous and long-term criminals.

The first phase of the Baghdad Central Prison will provide immediate secure housing for up to 400 inmates. Within the next thirty days, an additional 640 secure cell beds will be made available for further supporting the criminal justice system. By the end of this year, this prison will provide up to 3,100 secure cell housing beds

The former Abu Ghraib Prison was considered to be one of the most harsh, inhumane operated prisons in the world prior to coalition hostilities. Initially, the Baghdad Central Prison will open with a combination of US military police officers and Iraqi certified correctional officers. These Iraqi officers are recent graduates of the new Iraq Public Safety Academy and have had extensive training in humane treatment of prisoners, ethnics and anti-corruption, as well as professional correctional officer operations. The Ministry of Justice Prison Department will closely supervise daily prisoner operations with assistance of the military and provide additional in-service professional training and mentoring to the new bred of Iraq officers that will eventually operate all the nation's prisons. Eventually, the military will be replaced by full-time coalition prison senior advisors which will continue to assist in the training and mentoring of all Iraqi prison administrators and staff until no longer needed.

CPA/MOJ

September 7, 2003-09-07

Meeting with Interim Minister of Justice, Mr. Hashim al-ShibliTalking Points

PRISONS: The greatest challenge may be in having the Ministry accept responsibility for the prison system and develop a comprehensive plan to build, guard and run the prison facilities in compliance with international standards.

RECRUITING PRISON PERSONNEL: There are approximately 2,000 prison employees on the prison payroll as far as we can determine. (No member of the CPA advisory staff knows for certain.) Employees who predate the war must be carefully screened and new guards and other personnel hired. It is estimated that the total number of employees will grow to between ten and twenty thousand.

SECURITY FOR THE COURTS: The judges must feel safe in their courtrooms and when they return to their families at the end of the work day. Without safety the system will be subjected to unacceptable pressures & will not function properly.

JUDICIAL REVIEW COMMITTEE: Making certain that each judge has his or her record and reputation reviewed by the JRC so that corrupt, inept and otherwise unacceptable members of the judiciary are dismissed is vital. Approximately 20% of the judges and prosecutors have been reviewed to date.

COURT HOUSE BUILDING RECONSTRUCTION: Although almost ninety five percent of the courts are back in operation countrywide, a great deal more needs to be up graded in order to give the court the dignity it deserves.

REPUTATION WITH PUBLIC: It may be a good idea to assign someone full time to deal with the press and other media to enhance the image of the Ministry (including both the courts and the prison system.)

Notes: I spent Saturday morning with our new minister. He appears to be pleased with his reception at the Ministry of Justice. I took him to the two buildings within the "green zone" which the Ministry expects to take over and we discussed how and if they should be used. He seems humble, capable and everyone appears to be very pleased with the appointment.

0913

COALITION PROVISIONAL AUTHORITY ORDER NUMBER 35

RE-ESTABLISHMENT OF THE COUNCIL OF JUDGES

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

Noting that, prior to the changes made by the former regime, Iraq had a functioning Council of Judges that administered the judicial and prosecutorial systems to insure that judges and public prosecutors were appointed from among persons enjoying the highest reputation for fairness and integrity and of recognized competence of law, and that the judicial system exercised its authority in accordance with the rule of law, and

Recognizing that a key to the establishment of the rule of law is a judicial system staffed by capable persons and free and independent from outside influences.

I hereby promulgate the following:

**Section 1
Purpose**

This Order re-establishes the Council of Judges ("the Council"), which is charged with the supervision of the judicial and prosecutorial systems of Iraq. The Council shall perform its functions independently of the Ministry of Justice.

**Section 2
Membership**

1) The following officials shall serve as members of the Council:

- Chief Justice of the Supreme Court (President of the Council)
- The Deputy Chief Justices of the Supreme Court
- Director-General of the State Council Assembly
- Director-General, Office of Public Prosecution
- Director-General, Legal Supervision Office
- Director-General, Administration, if such person is a Judge or Prosecutor
- Presidents of the Appellate Courts

- 2) The Council shall also have a Secretary-General, who shall be selected by the President of the Council. The Secretary-General shall perform administrative functions for the Council, together with such additional employees as the Council and the Ministry of Finance may deem appropriate.
- 3) The President of the Council shall be the Chief Justice of the Supreme Court. The Vice President of the Council shall be selected by the Council from the Deputy Chief Justices of the Supreme Court.

Section 3 Duties

- 1) The Council shall have the following specific duties:
 - a) To provide administrative oversight of all the judges and all public prosecutors, excluding, however, the members of the Supreme Court.
 - b) To investigate allegations of professional misconduct and incompetence involving members of the judiciary or public prosecutors, and, when appropriate, to take appropriate disciplinary or administrative measures against members of the judiciary or public prosecutors, including but not limited to, removing a judge or prosecutor from office, including the members of the Supreme Court.
 - c) To nominate capable persons as required to fill judicial vacancies or public prosecutor vacancies, and to recommend their appointment.
 - d) To promote, advance, upgrade, and transfer judges and prosecutors.
 - e) To assign or reassign judges and prosecutors to hold specific judicial and prosecutorial posts as provided for in the Law of Judicial Organization (Law No. 160 (1979)) and the Law of Public Prosecution (Law No. 159(1979)).
- 2) The Council shall have such other duties as may be determined from time to time by law.

Section 4 Meetings

- 1) The Council shall conduct regular meetings at least monthly. The President of the Council may call special sessions of the Council when needed to conduct necessary business.

- 2) A quorum shall require at least three-fourths of the membership of the Council and the presence of either the President or the Vice-President of the Council. Decisions of the Council will be by majority vote of those members present.

Section 5 Disciplinary and Professional Standards Committee

- 1) The Council shall appoint a Disciplinary and Professional Standards Committee ("the Committee") of at least three (3) members from its own membership. The Committee shall investigate allegations of misconduct and incompetence by members of the judiciary and public prosecutors, and shall make appropriate decisions concerning disposition of those allegations, including but not limited to, the removal of that judge or prosecutor from office if the allegations are substantiated.
- 2) Any judge or prosecutor adversely affected by a decision of the Committee may appeal the decision to the Council within thirty (30) days from the date of the decision of the Committee. The decision of the Council on the appeal shall be final and conclusive, and no further appeal is authorized.
- 3) The Director General of Public Prosecutions shall also have the right to appeal any decision made by the Committee to the Council, within thirty (30) days from the date of the decision of the Committee.

Section 6 Independence of the Council

- 1) The Council shall perform its duties and responsibilities independently of any control, oversight, or supervision by the Ministry of Justice. To the extent that provisions of Iraqi law, specifically the Law of Judicial Organization (Law No. 160 (1979) and the Law of Public Prosecution (Law No. 159) (1979)) conflict with the provisions of this Order, those provisions of Iraqi law are suspended.
- 2) The Council of Judges shall take the place of the Council of Justice that was previously established by the Judicial Organization Law (Law No. 160) (1979) in so far as the Council of Justice exercised any authority over any judge or prosecutor. All administrative oversight of the judges and prosecutors shall now rest only with the Council of Judges. The Council of Justice shall continue in existence, but shall have no jurisdiction over any prosecutor or judge.

**Section 7
Entry into Force**

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

 9/15/03
L. Paul Bremer, Administrator
Coalition Provisional Authority

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

1007

031007-307

**COALITION PROVISIONAL AUTHORITY
BAGHDAD**

7 October 2003

MEMORANDUM FOR THE CHIEF OF STAFF, COMBINED JOINT TASK FORCE 7

FROM ADMINISTRATOR, COALITION PROVISIONAL AUTHORITY

SUBJECT: Tasking Letter – 3280-307 Request for FEST Assessment of Detention Facilities for the Department of Prisons

Reference: Request from the Ministry of Justice – Department of Prisons

I request that the Commander, Combined Joint Task Force 7 take the appropriate action to provide a FEST Assessment for the Ministry of Justice – Department of Prisons.

WHO: Ministry of Justice – Department of Prisons.

WHAT: Conduct a FEST assessment of detention facilities for pre and post trial confinement.

WHEN: 14 October 2003

WHERE: Detention Facility and Administrative Work Area located at MB 47068 88357

WHY: To assess the structural worthiness of the facility to house pre and post trial inmates and provide an administrative work area for the Iraqi Department of Prisons leadership. Assessment will help to develop the scope of work for a construction and refurbishment contract.

Direct coordination authorized between the tasked unit(s) and the Ministry of Justice – Department of Prisons Point of Contact.

MINISTRY OF JUSTICE – DEPARTMENT OF PRISONS POINT OF CONTACT:

(b)(6)

The Requirements Coordination Office (RCO) Point of Contact is

The Requirements Coordination Office (RCO) Alternate Point of Contact is (b)(5)

Patrick Kennedy
Patrick Kennedy
Chief of Staff

Republic of Iraq

2004 Budget

Minister of Finance
Minister of Planning

October 2003

Budget Overview

This Budget provides authority for the commitment and expenditure of money by the Interim Government of Iraq for 2004 and sets the fiscal framework for 2005 and 2006.

As a consequence of over two decades of neglect by the former regime, Iraq has immediate reconstruction and redevelopment needs well in excess of available revenues.

The Budget meets, to the extent possible with available revenues, the recurrent costs of the Iraqi government, some of the most pressing capital projects and around NID 940 billion (\$US 625 million) in urgent nation building programs.

Iraq will run a deficit in 2004 of NID 886.3 billion (\$US 590.9 million), financed by refunds of unspent Oil-for-Food funds. In 2005 and 2006, the budget is in balance (see Table 1).

Table 1: Budget Aggregates for 2003 to 2006

	2003(a) bn NID	2004 bn NID	2005 bn NID	2006 bn NID
Revenues				
Oil	4,096.5	18,000.0	27,750.0	28,950.0
Customs Duty	-	450.0	525.0	-
Income Tax	-	45.0	120.0	240.0
Returns from State Owned Entities	337.5	562.5	142.5	150.0
User pays fees and charges	85.5	96.3	132.5	185.1
Other taxes and income	76.5	105.0	105.0	120.0
Total Revenues	4,596.0	19,258.8	28,775.0	29,645.1
Expenditures				
Operating Expenditure	7,362.3	19,026.7	21,119.2	21,463.8
Capital Projects	1,869.9	1,118.4	7,636.5	8,154.0
Total Expenditures	9,232.2	20,145.1	28,755.7	29,617.8
Budget Balance (Deficit)	4,636.2-	886.3-	19.3	27.3

(a) The 2003 Budget only covers July to December 2003.

In 2005 and 2006, revenue growth will permit Iraq to commit increased expenditures to much needed investment projects. These investment projects will grow to around NID 8 trillion (\$US 5.3 billion) in 2005 and 2006.

The Budget process identified very substantial reconstruction and redevelopment needs, nearly all of which are not able to be funded in the 2004 Budget. The Iraqi Governing Council, in conjunction with the Coalition Provisional Authority, is seeking the support of the international donor and investment community to meet these unmet needs.

Table 8

	2004			2005			2006		
	Operating bn NID	Capital bn NID	Total bn NID	Operating bn NID	Capital bn NID	Total bn NID	Operating bn NID	Capital bn NID	Total bn NID
Agriculture	35.4	17.7	53.2	42.2	75.0	117.2	45.5	75.0	120.5
Communications	1.8	7.5	9.3	6.3	225.0	231.3	6.3	225.0	231.3
Culture	12.3	1.5	13.8	9.3	22.5	31.8	9.3	22.5	31.8
Displacement and Migration	0.9	1.5	2.4	0.9	7.5	8.4	0.9	15.0	15.9
Education	805.9	10.0	815.9	806.2	30.0	836.2	806.2	30.0	836.2
Electricity Commission	2.2	-	2.2	2.2	2,250.0	2,252.2	2.2	2,475.0	2,477.2
Environment	0.9	1.5	2.4	0.9	30.0	30.9	0.9	60.0	60.9
Finance	15,683.8	132.9	15,816.7	17,441.4	240.0	17,681.4	17,545.4	240.0	17,785.4
Foreign Affairs	57.6	9.0	66.6	56.9	15.0	71.9	56.9	15.0	71.9
Governing Council	9.6	-	9.6	12.0	-	12.0	15.0	-	15.0
Health	1,345.5	75.0	1,420.5	1,592.9	150.0	1,742.9	1,790.5	150.0	1,940.5
Higher Education	171.1	12.0	183.1	171.1	7.5	178.6	171.1	7.5	178.6
Housing	55.2	200.1	255.3	46.7	450.0	496.7	46.7	450.0	496.7
Human Rights	0.9	1.5	2.4	0.9	7.5	8.4	0.9	15.0	15.9
Industry and Minerals	12.0	-	12.0	9.0	1.5	10.5	9.0	1.5	10.5
Interior	187.3	-	187.3	200.0	150.0	350.0	215.0	150.0	365.0
Justice	144.6	63.3	207.9	134.4	150.0	284.4	134.4	150.0	284.4
Labour and Social Affairs	49.2	3.1	52.3	52.2	7.5	59.7	67.2	7.5	74.7
Municipalities and Public Works	60.0	249.0	309.0	84.5	727.5	812.0	84.5	975.0	1,059.5
Oil	2.7	-	2.7	1.9	1,500.0	1,501.9	1.9	1,500.0	1,501.9
Planning	45.0	22.5	67.5	54.9	-	54.9	61.6	-	61.6
Science and Technology	28.6	7.7	36.4	31.0	15.0	46.0	31.0	15.0	46.0
Trade	10.8	4.5	15.3	6.3	-	6.3	6.3	-	6.3
Transport	34.2	93.0	127.2	8.1	750.0	758.1	8.1	750.0	758.1
Water Resources	25.2	192.3	217.5	29.3	750.0	779.3	29.3	750.0	779.3
Youth and Sport	18.2	4.2	22.4	18.2	75.0	93.2	18.2	75.0	93.2
Statutory Authorities									
Board of Supreme Audit	4.1	0.5	4.5	3.8	-	3.8	3.8	-	3.8
Central Organisation for Standards	2.7	-	2.7	1.7	-	1.7	1.7	-	1.7
Awqaf (Religious Endowments)	2.1	8.1	10.2	2.3	-	2.3	2.3	-	2.3
Iraqi Media Network	2.2	-	2.2	2.2	-	2.2	2.2	-	2.2
New Iraqi Army	34.8	-	34.8	109.8	-	109.8	109.8	-	109.8
Unallocated	180.0	-	180.0	180.0	-	180.0	180.0	-	180.0
Total	19,026.7	1,118.4	20,145.1	21,119.2	7,636.5	28,755.7	21,463.8	8,154.0	29,617.8

Justice

(note: the Ministry of Justice includes prisons)

Summary

	2003	2004	2005	2006
	bn NID	bn NID	bn NID	bn NID
Expenditure				
Operating Expenditure	15.0	144.6	134.4	134.4
Capital Projects	34.8	63.3	150.0	150.0
Total	49.8	207.9	284.4	284.4

Ministry Expenditure

	2003	2004	2005	2006
	bn NID	bn NID	bn NID	bn NID
<i>Ministry Capital Projects</i>	<i>34.8</i>	<i>63.3</i>	<i>150</i>	<i>150</i>
Staff Expenditures	-	44.1	44.1	44.1
Service Requirements	5.0	21.1	15.9	15.9
Goods Requirements	9.6	60.7	56.2	56.2
Assets Maintenance	0.5	6.2	6.2	6.2
Capital Expenditures	-	12.5	12.0	12.0
Transferred Expenditures				
Foreign Obligations				
Salaries & Retirement rewards				
<i>Ministry Operating Expenditure</i>	<i>15.0</i>	<i>144.6</i>	<i>134.4</i>	<i>134.4</i>
Total Ministry Expenditure	49.8	207.9	284.4	284.4

Memorandum Items

# Employees	2003	2004	2005	2006
Tier 1		991	991	991
Tier 2		3030	3030	3030
Tier 3		7766	7766	7766
Tier 4		9646	9646	9646
Total Employees		21433	21433	21433
Total Salary Cost		44.1	44.1	44.1

Operating Expenses	2003	2004	2005	2006
Normal Ministry Operating Expenses	15.0	138.1	133.6	133.6
Office of Foreign Litigation	-	5.3	-	-
Security for Justices	-	1.2	0.7	0.7
<i>Sub-total Operating Expenses</i>	<i>15.0</i>	<i>144.6</i>	<i>134.4</i>	<i>134.4</i>

Budget Funded Capital Projects (including reconstruction)

	2004 Total Project Cost	
Justice		
reconstruction	42.0	42.0
projects	3.0	3.0
prisons		
reconstruction	18.3	18.3
<i>Sub total Capital Projects</i>	<i>63.3</i>	<i>63.3</i>

LFB HAS SEEN

COALITION PROVISIONAL AUTHORITY EXECUTIVE SECRETARIAT	
FROM: [Redacted]	DATE: 17-Oct-03

(b)(6)

FOR: THE ADMINISTRATOR

ORIGINATOR: Exec/Sec

RE: Prison Memo from Judge Rubini

Attached is an email from Judge Rubini answering your question which you wrote on his memo. Original memo at TAB A.

ATTACHMENTS: As stated.

(b)(6)

(Drafted by CPT

(b)(6)

031014-01

8

From: (b)(6) (O-6)
Sent: Friday, October 17, 2003 3:25 PM
To: (b)(6)
Cc: Bartlett, Joseph T. (SES)
Subject: RE: Prisons Memo

Affirmative-- \$11.5million is funded in 2003 budget. This must be committed before end of 2003. This is in process now and if there is no objection from congress by this coming week, then commitment is accomplished. Judge Daniel Rubini Sr. Advisor MOJ

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

From: (b)(6)
Sent: Friday, October 17, 2003 2:41 PM
To: Rubini, Daniel L. (O-6)
Cc: (b)(6) Executive Secretary
Subject: Prisons Memo

Sir,

Amb Bremer has seen your memo subject "Prison." Under Funding and employees you mention that funding for 87 civilian prison experts to deploy to CPA will cost \$11.5 million through 2004; Amb Bremer wants to know if this is already funded in the 2003 budget.

A copy of this memo is in the Civil Affairs mailbox for you attention. A copy has also been forwarded to (b)(6)

Thanks,

V/r,

(b)(6)

**Executive Secretariat
Coalition Provisional Authority, Iraq**

(b)(6)

10/17/2003

TAB A
ORIGINAL MEMO



COALITION PROVISIONAL AUTHORITY
BAGHDAD

INFO MEMO

Thanks - see rck

October 14, 2003

FOR: THE ADMINISTRATOR
FROM: Judge Daniel E. Rubin, Senior Advisor to the Ministry of Justice
SUBJECT: Prisons

This memorandum answers the request for information regarding prisons that you made during yesterday morning's 8 o'clock meeting.

Overview

Operations. The Iraqi prison service is called the Iraqi Corrections Service (hereinafter the Service). It supervises prisons and pre-trial detention facilities, but not police lock-ups operated by the Ministry of Interior. Employees within the Service are employed by the Ministry of Justice. All prison facilities are supervised, and many are largely operated, by Coalition military personnel. The Coalition has continued in employment relatively few Iraqi personnel because of the prevalence of brutalities and abuses under Saddam.

Funding and employees. Funding for 87 civilian prisons experts (management, training, facilities engineering, medical, and legal) to deploy to CPA, at an expense of \$11.5 million through 2004, was approved on September 15, 2003. This team shall deploy incrementally from late 2003 through March 2004. The supplemental budget request included \$10 million for 100 additional advisors.

*is that all ready
counted
in 2003
budget?*

Approximately 1500 Iraqis currently work in the Service, including approximately 75 in management. About half are held-overs from the former regime. These numbers fluctuate, as all are continually being vetted and discharged for past abuses or present incompetence. No capable leaders have emerged, and most employees and managers exhibit an unacceptable lack of honesty and integrity within a short time.

Training. Currently, the sole capability for training and supervision rests with Coalition military police forces, who, with a small cadre of Iraqi instructors, provide basic instruction in 1-2 week training academies and on-the-job training to Service personnel. The impending redeployment to the United States of many MP units threatens to disrupt training until the civilian team for operations and training will likely not be in place until early 2004.

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Approximately 750 officers have completed the basic corrections training academy to date. None is yet trained according to any acceptable professional standard beyond the basic entry level, and none has demonstrated potential for training as manager or supervisor.

Transition plan. Currently, approximately 600 MP's are engaged in operations and training, excluding MP support personnel. The hand-off to CPA civilian personnel awaits arrival of the CPA civilian teams around February or March 2004. The prison guard training academies must continue through this timeframe to advance towards basic Iraqi operational capability. There is no Iraqi capability to stand alone and run the prison system.

Service self-sufficiency will be achieved through four overlapping phases. The timeline assumes the timely arrival of civilian experts and the emergence of suitable Iraqi personnel:

1. (b)(5)
- 2.
- 3.
- 4.

B(5)

Escape at Rusafa II (Tasferat)

Twenty-five adult inmates escaped from the Rusafa II prison (formerly known as Tasferat) on October 12 between 5 and 6 am. Preliminary indications are that the inmates broke through a bricked-in window covered with a steel frame, at the rear of the cellblock, between 11 pm on October 11 and 5 am on October 12. The Iraqi Police promptly caught eight escapees and know the identities of those still on the lam, of whom they hope to catch several.

Several factors contributed to the escape:

- Cell security checks were not performed, i.e., inspecting bars, windows, exhaust fans, door frames, sanitation, bathrooms, and detecting/removing contraband from inmate living areas.
- The tower guard left his duty post (on top of the cell block) and went, apparently unauthorized, to the front gate.
- The shift commander's log entries do not reflect that security checks were completed.

Seven employees (3 cellblock guards, 3 tower guards, and 1 shift supervisor of Lt. Col. rank) have been suspended pending investigation. Comprehensive review and development of standard security procedures and staffing deployment at each facility is underway.

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COALITION PROVISIONAL AUTHORITY
BAGHDAD

031018-03

1018

L.P.B HAS SEEN

ACTION MEMO

October 18, 2003

FOR: THE ADMINISTRATOR
FROM: Judge Daniel L. Rubini, Senior Advisor to the Ministry of Justice *DRB*
SUBJECT: Donor conference

I request that you petition the Governing Council to authorize the Iraqi Minister of Justice, Hashim Abdel Rahman al-Shibli, to attend the Madrid donor conference. The Ministry of Justice seeks over \$1B in donations, including many that were not in the supplemental budgetary request or have been reduced by the House Appropriations Committee. Such a large, important request, with many technical components requiring knowledgeable explanations, calls for high-profile, thoroughly informed salesmen. The justice system unites three elements--police, courts, and prisons--of a high-tech and professional character, and requires a correspondingly professional presentation.

We have already collaborated and coordinated extensively with the Ministry of Interior on a joint presentation for the three-hour segment that has been allocated especially for that purpose. That joint presentation calls for remarks by both the Minister of Interior (who has been approved to attend the conference) and by the Minister of Justice. An inexplicable asymmetry between the security and justice sectors will arise with only one of the two ministers present. Persuasively demonstrating a solid and coordinated plan for civil security and justice is necessary to reassure potential donors that their investments in this and all other fields will not be lost to lawlessness and anarchy. Willingness to invest in Iraq is predicated not only on economic growth but on its precursors, safety and rule of law.

The excellent rapport between (b)(6) (who will also represent the Ministry of Justice) and the Minister make them an engaging and persuasive tag-team. Further, the Minister is the only Iraqi who knows anything at all about prisons--our most pressing need. The Minister eagerly wishes to attend the conference.

RECOMMENDATION: That you petition the Governing Council to reconsider its decision to forbid the Minister of Justice from attending the Madrid conference.

Approve: *al Shibli* Disapprove: *Madhat* Approve with modification:

ATTACHMENTS: NONE

COORDINATION: Ministry of Interior (b)(6) CICI (b)(6)

(b)(6)

o/18/03

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(b)(6)

Col

(b)(5)

B(5)

From: (b)(6) Col

Sent: Friday, November 14, 2003 9:36 PM

To: Bremer, Paul

Cc: Kennedy, Patrick Amb

Subject: Update on Iranian Detainees

CJTF-7 has confirmed that 52 of the 118 are, in fact, detainees. They will board them all before Aid al-Fitr. This should boost the current 100+ estimate of the total size of the release.

Vr (b)(6)



COALITION PROVISIONAL AUTHORITY
BAGHDAD

ACTION MEMO

18 November 2003

MEMO FOR: Ambassador Bremer

FROM: Col (b)(6)

SUBJECT: Aid al-Fitr Release

(b)(5)

B(5)

This was not the answer you wanted, so we convened a working group to look at other alternatives. This group included myself, (b)(6) Scott Carpenter, (b)(6) and representatives from the CJTF-7 Judge Advocate and the 800th MP Brigade. Two other options were considered and rejected:

(b)(5)

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Criminal Detainees. We have about 2,642 criminal detainees under our physical control, but they are detained under the jurisdiction of Iraqi courts.

(b)(5)

B(5)

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