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August 24, 2003

TO: CPA Directors and Local Military Commanders
FROM: L. Paul Bremer, Administrator, Coalition Provisional Authority
RE: Clarifying the De-Ba'athification Policy

Objectives of the Policy

Rooting out and destroying the last vestiges of the Ba'ath Party continues to be a key CPA priority. The long-term health of Iraqi society can only be accomplished through the rigorous removal of senior Ba'ath Party officials who benefited from Saddam's regime and the prosecution of those guilty of crimes. This objective is shared by virtually the entire Iraqi population, which is why the first order I issued upon my arrival in Baghdad was the one to de-ba'athify Iraqi society. The order, issued May 16th, outlines a process that makes clear that Ba'athist organizations and individuals who fail to renounce Saddam's Ba'ath Party have no place in a liberated Iraq. The purpose of this memo is to outline the scope of the policy and to reinforce among coalition representatives the critical nature of its implementation.

The de-ba'athification policy seeks to 1) eliminate from positions of power and responsibility high level Ba'athists who supported Saddam, 2) open those same positions to those who suffered under the regime, and 3) leave the door ajar for people who were essentially a-political, lower-level Ba'athists to contribute to Iraq's future.

The policy is not a one-size fits all policy. It does not paint everyone with the same brush, but instead recognizes the different levels of involvement in the party and the former regime. Even at its most expansive, the policy targets around 30,000 people, only a tiny fraction of the estimated 1.5 million associated in some manner with the Ba'ath Party.

This policy has, and will continue to be, in the interest of the coalition and the Iraqi people. But, like any policy, it is not without unintended consequences. Where possible, the coalition has sought to mitigate these consequences, by granting a limited number of exceptions to individuals and to categories of people, such as former prisoners of war who were automatically granted high-level party status upon their return from Iran. The soon-to-be-established Governing Council and all future Iraqi governments will have the authority to alter the de-ba'athification policy as they deem is appropriate and in the interest of the Iraqi people. The decisions of these bodies will be retroactive if they so choose.

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After nearly two months of de-ba'athification efforts, we have found that fewer people have been affected by the policy than we originally anticipated. As de-ba'athification proceeds in Baghdad and in the governorates, these numbers will grow and there will be further destabilizing effects. Nonetheless, a negligible percentage of the entire Iraqi society will be affected by the policy.

Parameters of the Policy

The policy, as laid out in the May 16th order, has several basic components:

1. *Senior Ba'ath Party Members.* All civil servants who are senior Ba'ath Party members are to be removed from their jobs, regardless of the level of their position in the ministry or municipality. A senior Ba'ath Party member is defined to be anyone who is in the top four tiers of the Ba'ath party: Regional Command (Qutriyya), Branch (Far), Section (Shu'bah), Group (Firqah).
2. *Top Levels of Management in the Ministries.* Those in the top three levels of management of the ministries or municipalities are subject to even greater scrutiny because of their positions of leadership. Anyone of the level of Director General or above in any ministry or municipality must be removed if he or she was in the top five tiers of the Ba'ath Party – the four tiers listed above plus the Full Party Member status (Udw). Senior ministry or municipal managers can keep their jobs if they were never a member of the Ba'ath Party or if their affiliation was at a level below the Full Party (Udw) level.
3. *Junior Ba'ath Party Members.* Any Iraqi who was associated with the Ba'ath Party at a level below Full Party member (Udw) retains his job in the public sector.
4. *Mid-Level and Junior Civil Servants.* Any Iraqi who was a Full Party member (Udw) and held a job below the DG level retains his position.
5. *Exceptions.* The administrator of the Coalition Provisional Authority has the ability to make exceptions to any element of this policy. No one else has the authority to make such exceptions unless explicitly delegated by the Administrator and to date no one has been delegated that authority anywhere in Iraq.

Implementation of the Policy

The following questions and answers provide guidance on the actual implementation of the policy. Any questions regarding the implementation of the policy not answered below should be referred to either CPA headquarters in Baghdad (POC) or CPA regional offices in Basra, Hilla, or Mosul.

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1. Who qualifies for an exception?

The Administrator of the Coalition Provisional Authority has the discretion to grant exceptions to the de-ba'athification policy. Although he may choose to delegate this authority, he retains the ability to reverse any decision to grant or refuse an exception.

In considering whether to grant an exception, the CPA will take a number of factors into account, including whether the individual:

- Is willing to denounce the Ba'ath Party and his past association with it;
- Was a senior Ba'ath Party member or simply a 'full' party member;
- Has exceptional educational qualifications;
- Left the Ba'ath Party before April 16, 2003;
- Continues to command the support of his colleagues and respect of their subordinates;
- Is judged to be indispensable to achieving important Coalition interests at least in the immediate term;
- Can demonstrate that he joined the party to hold his job or support his family.

As soon as can be arranged, a professional investigator or an administrative law judge empowered by the Coalition Authority will determine whether a person meets the above criteria. Meanwhile, exceptions will be determined by the Administrator. Exceptions may either allow the individual to stay on in his current position or specify that he can only continue employment at the ministry in a lower position. The Administrator reserves the right to overturn an exception if new evidence comes to light that is grounds for altering the original decision.

2. Will members of the top three tiers of management be allowed to maintain their current positions pending the start of the exception process?

No. All employees who were 1) in the top four layers of the Ba'ath Party or 2) full Ba'ath Party members in the top three tiers of ministry management (including DGs) must leave their jobs immediately. A temporary exception may be granted in unusual circumstances if the senior advisor can make the case that removing an individual immediately will seriously harm important U.S. or Coalition interests (such as restoration of law and order in Iraq, the reestablishment of a judicial system, and the repair of power and water systems). So far, only around 100 temporary exceptions have been granted country-wide. It is important to remember that exceptions will not be granted simply to preserve the convenience or efficient running of institutions. If a senior advisor or coalition representative wishes to request a temporary exception, he or she will use the attached form addressed to the CPA Administrator.

3. Will we pay pensions to those who lose their jobs due to their Ba'ath Party involvement?

No. Senior advisors and other CPA staff may respond to pension queries by saying 1) that the Coalition has no plans to pay the pensions of people who lose their job under the de-ba'athification policy and 2) our unwillingness to do so does not prejudice the ability of a future

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Iraqi government to decide otherwise. We reserve the right to revisit this issue if we find the consequences of this approach to be contrary to Coalition interests.

4. Should DGs be included in the top three tiers of management?

Yes. The de-ba'athification policy will be applied down to and including the DG level, regardless of how many tiers of management sit above DGs.

5. How many ministry employees will we investigate for senior Ba'ath Party membership?

We will investigate 1) all employees in the top three tiers of ministry management (to include DGs as stated above) and 2) all individuals for whom we receive at least two independent allegations that they were senior ba'athists.

6. Will people have the right of appeal?

Yes. An appeal mechanism will be created for those who wish to contest the facts of their case (i.e. that they were members of the Ba'ath Party). We will not consider appeals over the denial of an exception.

7. Will ex-members of the Ba'ath Party be exempt from the de-ba'athification policy?

Having left the Ba'ath Party before 16 April 2003 will not in itself be sufficient for an individual to avoid the consequences of the de-ba'athification policy. It may weigh in a person's favor when an exception is being considered.

8. Are those removed from positions of management on account of Ba'ath Party full membership (opposed to being a senior party official) allowed to stay on as ministry employees at lower levels?

As a rule, no. Those removed from positions of management should assume that they must leave employment in their ministry altogether. Willingness to serve in a lower position in the ministry could weigh in favor of an exception should one be sought. But all such requests for an exception must be based on the factors listed in paragraph #1 above. Persons requesting such an exception would have to sign the denunciation form.

9. Will we continue to issue letters of authority to ministry members before the investigative process is complete?

No. There is a moratorium on issuing letters of authority signed by the Administrator of the CPA until we understand the full ramifications of de-ba'athification. Until then, senior advisors

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may sign specific authorities (i.e. for the payment of salaries) and continue verbally to designate people as having interim authorities to make decisions and implement policies.

10. Will we screen individuals replacing those we fire for Ba'ath Party affiliation?

We will adopt hiring procedures to ensure that the new ministry employees are not ba'athists. Applicants will be required to fill out a questionnaire regarding their past party involvement; it shall be clear that falsification of answers is grounds for termination of their position. New hires will need to sign a form either disavowing or denouncing the Ba'ath Party (depending on whether they were ever affiliated with it). We will also conduct a character reference check that includes questions about the individual's past party affiliation.

11. Should we reclaim property and privileges that Ba'ath Party members gained as a perk of membership?

Yes. Officials who are to be removed from office should first be asked to return ministry property such as cars, computers, cell phones, etc. We should inform these people that a failure to return ministry property could have prosecutable consequences. Such efforts must be complemented by the search for records detailing the ministry property distributed to employees.

12. Is there a policy in regards to the POWs who were automatically granted firqah level status upon their return from Iran?

POWs who were automatically granted firqah level status in the Ba'ath Party on account of their captivity in Iran – and are able to demonstrate this – will not be removed from their positions.

Drafted: Meghan L. O'Sullivan

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