

Dr. Zakheim wanted to know the status of the living accommodations and camp conditions for the coalition forces (Multinational division) with specific emphasis on the Polish sector. He was concerned that all personnel in theater be treated on an equal footing as regards the camp accommodations. He also wanted a comparison to contractor living conditions.

We have been performing some floorchecks and perambulations in the Polish sector and making observations over the past weeks. I personally visited one of the Camps, Camp Lima. There was about a 60:40 split of Thai versus Polish troops at that location, so the Thai commander was the camp commander. I spoke to the Thai commander as well as the Polish commander on site and made some observations of my own. I also spoke to some Thai, Polish, and American troops. There were a few American troops at the camp and some Slovak troops were due to arrive in a couple days.

My observation was that the living accommodations of all the troops appeared to be similar, whether Thai, Polish or American. Higher ranking officers did have better quarters than the regular troops, as would be expected. At the time of my visit, all but about 150 of the Polish troops were in mobile containers, which is considered a desirable living accommodation at a camp like this. All the Thai troops were already in containers. I am not sure why the Thai's got priority over the Poles. It could be that they were there first or may have had something to do with the fact that the commander was Thai. But once they get into a container, the accommodations are similar.

There was a very clear difference in the living accommodations for the troops versus the contractor (KBR) personnel. There were 25 containers for KBR personnel, each a one person container with plumbing. By contrast, the troops are three to a container with no plumbing.

Another observation is that the KBR containers seemed to have better protective measures than some of the troop containers. A blast wall had been erected between the KBR containers and the camp perimeter. There was no such wall for much of the troop housing. There may have been good reasons for this disparity. It may be that the KBR side of the camp was considered more dangerous or vulnerable; they may have been closer to the perimeter etc. I am not qualified to make these assessments. The Thai commander said some of his troops had commented on this disparity. He was not complaining, but did say he had heard some comments.

I asked the Thai commander about the KBR housing. He said that some of the Thai troops had brought up this subject. He said he had explained to them that it was not a problem because KBR itself was paying for those containers. I did not attempt to explain to him that it was really the contract that was paying for the containers. As for the LOGCAP support, he did not have major complaints but was not entirely satisfied. He said it took a long time to get things done. He said they sometimes just use their own money when they want to get something done quickly. On this subject, I am sure there is a certain amount of confusion and misconception about what can and can't be done under LOGCAP. His expectations could be different than what the contract actually provides for.

The Polish commander had no major complaints. He did not seem to have a problem with the disparity in living conditions. One of the Polish officers explained that soldiers expected to be living in field conditions and that they expected that civilian contractors would be treated differently.

We made additional observations at Babil, with a large concentration of Polish troops and a Polish commander. We spoke with the commander there. He was very satisfied with the conditions and treatment his troops were receiving. The food was good and the camp conditions positive. The conditions at Babil were better than Camp Lima and the feedback from the commander sounded more positive. The commander did not seem to have any problem with contractor living conditions there. He said the troops expected to be living in field conditions.

The IBO auditors performed three additional field visits at camps for the Polish and the Ukrainians. Our observations disclosed no significant problems with the quantity and quality of the life support being provided to the Multi-National Forces under the LOGCAP Contract. We have coordinated with the local DCMA offices on this review.

KBR's living conditions are significantly better than the troops, but there may be valid reasons for this. We are considering an operations audit to determine if cost savings can be achieved by placing KBR personnel in housing more similar to that provided to the troops. We asked KBR for its in-theater housing policy for its personnel nearly a month ago. We have still not received it.

Best regards,

Dan Altemus
Branch Manager
Defense Contract Audit Agency
Iraq Branch Office

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~~For Official Use Only~~

March 17, 2004

TO: Marc Thiessen

FROM: Donald Rumsfeld *DR*

SUBJECT: Poll Results

Here is an interesting poll you might want to reference in some remarks sometime.

Thanks.

Attach.
Poll

DHR:dh
031704-7

.....
Please respond by _____

000.7

17 MAR 04

Poll: Iraqis say life better now

LONDON, England-- A majority of Iraqis believe life is better now than it was under Saddam Hussein, according to a poll by broadcasting organizations released to coincide with the first anniversary of the U.S.-led invasion.

And almost half -- 49 percent-- of those questioned believe the invasion of their country by U.S. and British troops was right, compared with 39 percent who said it was wrong.

The poll-- the first nationwide poll in Iraq since the war -- was commissioned by ABC of the U.S., Britain's BBC, Germany's ARD and Japan's NHK.

Some 57 percent of respondents said life was better now than under Saddam, against 19 percent who said it was worse and 23 percent who said it was about the same.

Iraqi people appeared optimistic about the future, with 71 percent saying they expected things to be better in a years time, six percent predicting it will be worse and nine percent the same.

But Iraqis are concerned about conditions in their country, the poll shows.

They have considerable worries about joblessness, security and basic services like electricity.

"The positive attitudes and the high expectations and optimism are quite striking, with majorities telling us their lives are going well," ABC polling director Gary Langer told The Associated Press.

"Expectations carry risks, however. If these are unmet, there could be political consequences."

Seven in 10 say the availability of jobs is poor and nearly that many said the same about electricity. Almost three-fourths gave a positive rating to local schools, however.

The biggest overall concern nationally was regaining public security -- named as the top concern by almost two-thirds in the poll, 64 percent. That was far higher than any other priority.

About half said they oppose the presence of coalition forces, but few want those troops to leave now -- wanting soldiers to stay until the Iraqi government is in place or until security is restored.

Only 25 percent said they had confidence in coalition forces to deliver their needs. There were far higher levels of confidence in Iraqi religious leaders, 70 percent; local police, 68 percent; and the new Iraqi army, 56 percent.

Four of five said they want a unified country with a central government in Baghdad. Kurds, an ethnic minority in northern Iraq who make up about one-third of the total population in Iraq, were less likely to feel that way. By a 2-1 margin, Kurds favored the formation of regional states with a federal government. Kurds have been seeking autonomy in Iraq.

The number who think Iraq needs "a single strong Iraqi leader" in the next year increased from 27 percent in November, when the polling firm Oxford Research International last asked the question, to 47 percent now.

When asked what Iraq needs in five years, people were more likely to say an Iraqi democracy, 42 percent, followed by "a single strong leader," 35 percent. The poll was conducted by the Oxford Research International of Oxford, England, for ABC News, the British Broadcasting Corp., the German broadcasting network ARD and the Japanese network NHK.

The poll of 2,737 face-to-face interviews was conducted in Iraq from Feb. 9-28 and has a margin of sampling error of plus or minus 2 percentage points.

ABC's Langer told **AP** the interviewers faced difficulties conducting the poll because of the security situation in Iraq.

The polling firm "reported a car wreck, interviewers detained by coalition forces, interviewers detained and questioned by Iraqi police, and some who had to detour around a bombing site," he said.

ABC, BBC, ARD (GER) AND NHK (JAPAN) NATIONWIDE POLL, 9-28 FEB 04: LIFE IN IRAQ

Based on 2737 face-to-face interviews; 2% margin of error. Oxford Research International did polling for the news organizations. Some difficulties encountered during polling due to security situation.

Issue	Data
Life now versus under Saddam Hussein	57% life is better than under Saddam 19% life is worse 23% about the same
On the future	71% said things will be better in one years time 5% things will be worse 9% things the same
Rated poor	70% poor availability of jobs - 70% poor availability of electricity
Rated positive	75% positive about local schools
Biggest concern	64% regaining public security
Coalition Forces	50% oppose presence; but most want soldiers to stay until Iraq gov't in place or security restored 25% believe coalition forces can deliver needs
Iraqi Leadership	70% confidence Iraqi religious leadership 68% confidence local Iraqi police 56% confidence new Iraqi army
Unified country with central gov't in Baghdad	80% favor (Kurds favor regional states with federal gov't by 2 to 1)
Strong, single Iraq leader	47% of Iraqis see need for (up from 27% in Nov)
Iraq's needs in 5 yrs	42% democracy 35% single, strong leader

March 17, 2004

TO: Steve Cambone
Marc Thiessen

FROM: Donald Rumsfeld

SUBJECT: Questions and Answers

Advance
copy sent
3/17 1245

Here is an article from this week's *Time* that I think raises some questions we may want to raise and answer ourselves.

Thanks.

Attach.

Klein, Joe, "Bush and 9/11: What We Need to Know," *Time*

DHR:dh
031704-8

.....
Please respond by 3/19/04

000.5

17 MAR 2004

OSD 10773-04

11-L-0559/OSD/35917







★ VIEWPOINT

Bush and 9/11: What We Need to Know

The investigative panel is getting ready to grill the President. Here's what they

should ask

By JOE KLEIN

   
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Saturday, Mar. 13, 2004

George W. Bush's most memorable day as President was Sept. 14, 2001, when he stood in the rubble of the World Trade Center, holding a bullhorn in one hand, his other arm slung over the shoulder of a veteran fire fighter from central casting. Bush was pitch perfect that day—the common-man President, engaged and resolute. This is the image the Bush campaign is probably saving for the last, emotional moments of the election next fall. It is the memory the Republicans want you to carry into the voting booth. It is why the Republican Convention will be held in New York City this year. And it may also be why the White House has been so reluctant to cooperate with the independent commission investigating the events of Sept. 11, 2001.

The commission, which will finish its work in midsummer, on the eve of the conventions, will soon question the President about his response to the terrorist threat in the months before 9/11. I asked a dozen people last week—some intimate with the commission's thinking, some members of the intelligence community, some members of Congress who have investigated 9/11—what they would ask the President if they could. Their questions fell into three broad categories.

Why didn't you respond to the al-Qaeda attack on the U.S.S. *Cole*? The attack occurred on Oct. 12, 2000; 17 American sailors were killed. The Clinton Administration wanted to declare war on al-Qaeda. An aggressive military response was prepared, including special-forces attacks on al-Qaeda training camps in Afghanistan. But Clinton decided that it was inappropriate to take such dramatic action during the transition to the Bush presidency. As first reported in this magazine in 2002, Clinton National Security Adviser Sandy Berger and counterterrorism deputy Richard Clarke presented their plan to Condoleezza Rice and her staff in the first week of January 2001.

Berger believed al-Qaeda was the greatest threat facing the U.S. as Clinton left office. Rice thought China was. What were President Bush's priorities? Was he aware of the Berger briefing? Did he consider an aggressive response to the bombing of the *Cole* or to the al-Qaeda millennium plot directed at Los Angeles International Airport—which was foiled on Dec. 14, 1999? Did he have any al-Qaeda strategy at all? Rice, who has not yet testified under oath, decided to review counterterrorism policy; the review wasn't completed until Sept. 4. A related question along the same lines: Why didn't you deploy the armed Predator drones in Afghanistan? The technology, which might have provided the clearest shot at Osama bin Laden before 9/11, was available early in 2001. But the

CIA and the Pentagon squabbled about which agency would be in charge of pulling the trigger. The dispute wasn't resolved until after 9/11. Were you aware of this dispute, Mr. President? Why weren't you able to resolve it?

Indeed, the second category of questions revolves around the President's interest in and awareness of the al-Qaeda threat. As late as Sept. 10, after the assassination of Northern Alliance leader Ahmed Shah Massoud, Bush was asking in his national-security briefing about the possibility of negotiating with the Taliban for the head of bin Laden. "If he had studied the problem at all," an intelligence expert told me, "he would have known that was preposterous." As early as Aug. 6, Bush had been told that al-Qaeda was planning to strike the U.S., perhaps using airplanes. What was his response to that? How closely was he following the intelligence reports about al-Qaeda activity, which had taken an extremely urgent tone by late spring? Another intelligence expert proposed this question: "Did he ever ask about the quality of the relationship between the CIA and the FBI?"

Obviously, the President couldn't be responsible for knowing that the FBI was tracking suspicious flight training in Arizona or that the CIA had an informant close to two of the hijackers, but was he aware of the friction between the two agencies? Was he aware that John Ashcroft had opposed increasing counterterrorism funding for the **FBI**?

Finally, there are the questions about the President's actions immediately after 9/11. Specifically, why did he allow planeloads of Saudi nationals, including members of the bin Laden family, out of the U.S. in the immediate aftermath of the terrorist attacks? Who asked him to give the Saudis special treatment? Was he aware that the Saudi Arabian government and members of the royal family gave money to charities that funded al-Qaeda?

It is easy to cast blame in hindsight. Even if Bush had been obsessed with the terrorist threat, 9/11 might not have been prevented. But the President's apparent lack of rigor—his incuriosity about an enemy that had attacked American targets overseas and had attempted an attack at home—raises a basic question about the nature and competence of this Administration. And that is not a question the Republicans want you to take to the polls in November

!!

March 17, 2004

TO: Powell Moore
CC: Paul Wolfowitz
David Chu
FROM: Donald Rumsfeld *DR*
SUBJECT: RC Members Serving in the Balkans

My recollection is that when Blunt was here, we talked about what the percentage was of the Reserves actually utilized for the Balkans, and I guessed it was 0.12.

In any event, here are the numbers. I wonder if you ought to get them to Blunt. Did we ever do that?

Please check with David Chu and see if he did.

Thanks.

Attach.

3/8/04 USD(P&R) memo to SecDEF re: Number of Reserve Component Members Serving in the Balkans (OSD 03585-04)

DHR:dh
031704-14

.....
Please respond by

3/26/04

326

17 Mar 04



PERSONNEL AND
READINESS

UNDER SECRETARY OF DEFENSE
4000 DEFENSE PENTAGON
WASHINGTON, D.C. 20301-4000
INFO MEMO



March 8, 2004, 1200

FOR: SECRETARY OF DEFENSE

FROM: David S. C. Chu, USD(P&R)

SUBJECT: SNOWFLAKE – Number of Reserve Component Members Serving in the Balkans

- Based on an inquiry from Congressman Roy D. Blunt, you asked for the number and percentage of Reserve component members who served in the Balkans.

	FY96	FY97	FY98	FY99	FY00	FY01	FY02	FY03	Total
Bosnia	8,114	7,776	1,378	1,754	1,965	4,614	2,808	3,041	31,450
Kosovo	0	0	0	5,576	1,527	960	842	2,529	11,434
Total- Balkans	8,114	7,776	1,378	7,330	3,492	5,574	3,650	5,570	42,884
% of Selected Reserve*	0.87%	0.85%	0.15%	0.83%	0.40%	0.64%	0.41%	0.63%	
% of Ready Reserve**	0.53%	0.54%	0.10%	0.57%	0.28%	0.46%	0.30%	0.48%	

- Reserve component call-ups for Bosnia operations began December 8, 1995 (Presidential Executive Order 12982) and for Kosovo operations April 27, 1999 (Presidential Executive Order 13120).
- The annual totals represent less than 1% of the Selected Reserve force for each year, and, at the highest, slightly more than ½ of 1% of the Ready Reserve.
- COORDINATION: NONE

Prepared By: Mr. Dan Kohner, OASD/RA(M&P)

(b)(6)

SPL ASSISTANT DI RITA	
SR MA CRADDOCK	
MA BUCCI	
EXECSEC MARRIOTT	3/10

11-L-0559/OSD/35921

OSD 03585-04

Mobilized Reserve Members in Support of Balkan Contingencies

	FY96	FY97	FY98	FY99	FY00	FY01	FY02*	FY03*
Bosnia	8,114	7,776	1,378	1,754	1,965	4,614	2,808	3,041
Kosovo	0	0	0	5,576	1,527	960	842	2,529
Balkans - Total	8,114	7,776	1,378	7,330	3,492	5,574	3,650	5,570

SelfRes Pop	928,033	909,740	889,078	879,027	873,207	875,398	882,142	882,792
Mob'd for Balkans - % of SelfRes	0.87%	0.85%	0.15%	0.83%	0.40%	0.64%	0.41%	0.63%

IRR Pop	608,607	541,234	464,350	409,817	378,245	348,723	317,179	284,309
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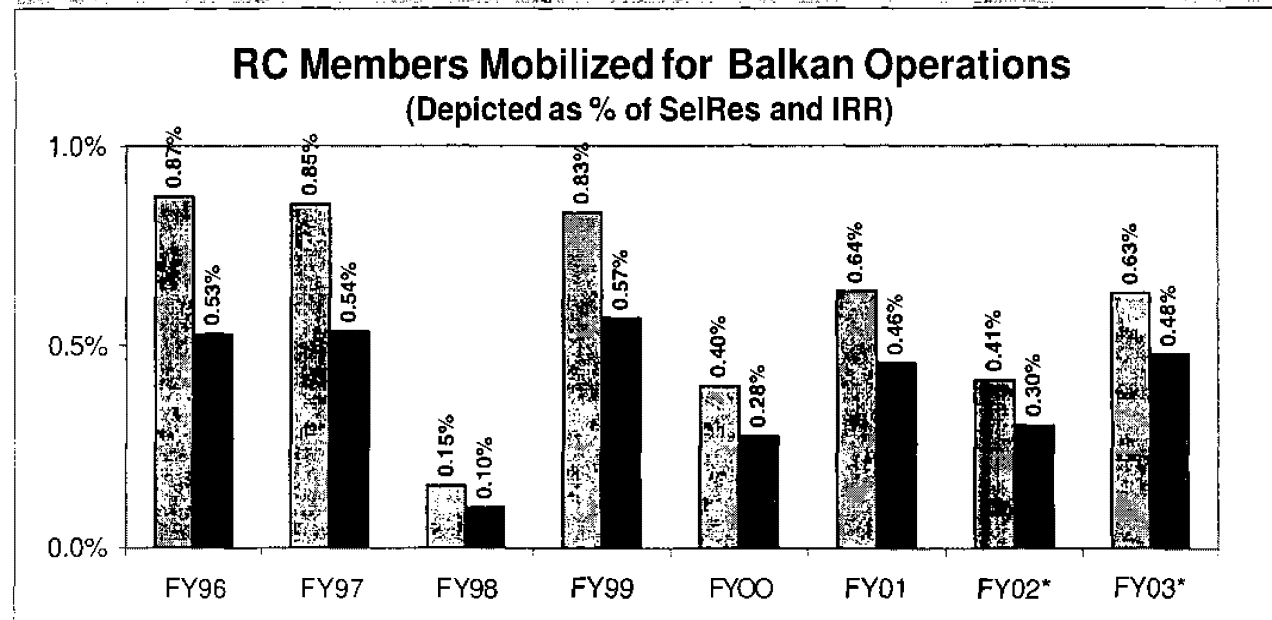
Ready Reserve Pop (SelfRes + IRR/ING)	1,536,640	1,450,974	1,353,428	1,288,844	1,251,452	1,224,121	1,199,321	1,167,101
Mob'd for Balkans - % of Ready Reserve	0.53%	0.54%	0.10%	0.57%	0.28%	0.46%	0.30%	0.48%

Bosnia	PRC via EO 12982 - 8 Dec 95
Kosovo	PRC via EO 13120 - 27 Apr 99

Cumulative RC Members:	Invol
Bosnia	31,450
Kosovo	11,434

* Includes Reserve members in support of Operation NOBLE EAGLE in Balkan countries as well as Operations JOINT ENDEAVOR/GUARD/FORGE (Bosnia) and JOINT GUARDIAN (Kosovo)

Does not include volunteers.



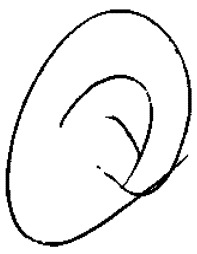
- RC members mobilized for Balkans - % of SelfRes force.
- RC members mobilized for Balkans - % of Ready Reserve force.

3/11/230 3/5/04

C3/12
3/17

March 4, 2004

TO: David Chu



Letty Di Rita
3/12

FROM: Donald Rumsfeld

SUBJECT: Number

Please get back to me with that number I asked you for, the percentage — the one I guessed was something like .012.

Thanks

DHR:dh
030404-30

.....
Please respond by 3/12

March 17, 2004

TO: Doug Feith
CC: Paul Wolfowitz
FROM: Donald Rumsfeld
SUBJECT: Oil-for-Food

Here is the material Newt gave me on the UN oil-for-food "scandal." What do you think about getting the Inspector General working on it?

Thanks.

Attach.
3/10/04 Gingrich e-mail to SecDef w/attachments (45 documents)

DHR:dh
031704-15

.....
Please respond by

3/26/04

OSD 10775-04

11-L-0559/OSD/35924

Craddock
Di Rita

10, 2004 8:09 AM

(b)(6)@osd.pentagon.mil; Larry.DiRita@osd.pentagon.mil;
John.Craddock@OSD.Pentagon.mil; (b)(6)@jack.patterson@osd.mil

Cc: peter.pace@js.pentagon.mil; damicorj@js.pentagon.mil

Subject: corruption in iraq and the threat to the BUsh administration

for secdef,depsecdef
from Newt
3/10/04

Hankes-Drielsma (the man who uncovered the Nobel scandal in Sweden and negotiated the South African debt crisis) is convinced the UN oil for food program was the largest financial scandal in history

he is also convinced it reaches into France, the UN, Jordan, and a host of other countries

finally he is convinced it will inevitably show up as corruption in our efforts to modernize Iraq because the depth and habit of corruption are so deep

it is vital that we get ahead of this corruption scandal by appointing a special investigative task force both to help uncover past corruption and to root out current corruption.

Given the scale of corruption KPMG is uncovering it is almost certain a lot of very clever experts in bribery and false accounting are doing business with CPA.

former **Deputy Attorney General Ed Scmults** is in Iraq now as Advisor to the Justice Ministry. He could be reassigned immediately to head an anti-corruption task force with a counterpart from Iraq.

Either we will be the people rooting out corruption or we will be the people presiding over corruption


This could explode this summer and fall and be very much to our disadvantage unless we get ahead of the curve and very loudly meet it head on

I am forwarding a number of already published articles which make clear how big this is and Hankes-Drielsma is back in town next week and I am certain this will get bigger. Someone fairly senior should be assigned to work with him.

3/10/2004

11-L-0559/OSD/35925

March 17, 2004

TO: Ken Krieg
CC: Paul Wolfowitz
FROM: Donald Rumsfeld 
SUBJECT: Cost-Cutting

Here is a memo I sent you January 31. Please take the lead on this and make sure we get a good list.

Thanks.

Attach.
1/31/04 SecDef Memo (103104.16)

DHR:dh
031704.17

.....
Please respond by 4/16/04

11-L-0559/OSD/35926

OSD 10776-04

020000

17 MAR 04

TO: Larry Di Rita
LTG John Craddock
Jaymie Durnan
Steve Cambone
Paul Wolfowitz
Kew Kries
FROM: Donald Rumsfeld *DR*
DATE: January 31, 2004

SUBJECT: **Attached**

Attached is a list of some major cost-cutting efforts. Why don't you add some others to this list and let's refine it.

Thanks.

DHR/azn
103104.16

Attach: List of Cost Cutting Activities

Respond by: _____

2/7/04

11-L-0559/OSD/35927

09068-04

MEMORANDUM
January 31, 2004

Important cost-cutting activities that will change the face of how this department functions.

1. Complete revamping of the DAT system worldwide.
2. New security cooperation.
3. Massive review of regular international and bilateral meetings to increase the ones that should be increased and decrease the ones that should be decreased.
4. Force posture.
5. Complete review of DoD directives.
6. Complete revamping of contingency plans.
7. Other.

DHR/azn
013104.15

11-L-0559/OSD/35928

March 17, 2004

TO: Marc Thiessen
Tony Dolan

FROM: Donald Rumsfeld *DR*

SUBJECT: Questions for Press

We ought to think about questions I can ask the press that the answer to which will inform them of something that is useful.

On a recent trip, I asked the press how many people they thought had been killed in action in Afghanistan. As I recall, the estimates were 200 to 500. I think the truth is that it was in the 60s or 70s. It was helpful for them to learn the answer. It was also helpful for them to know that they thought they knew the answer but didn't, and that they were wrong because of impression.

We ought to think about questions we can ask.

Thanks.

DHR:dh
031704-18

.....
Please respond by 4/2/04

000.7

17MAR04

OSD 10777-04

11-L-0559/OSD/35929

3/12
1320

120

March 17, 2004

TO: Doug Feith
CC: Paul Wolfowitz
LTG John Craddock
Larry Di Rita

ask June
Chen

China

FROM: Donald Rumsfeld *DR*
SUBJECT: China

I have not been to China in the three-plus years I have been here. I am wondering if we ought to finish four years without my doing that. I have been asked to visit 15 times.

I am going to be going over to Australia and Singapore. Why don't you noodle that and give me your advice?

Thanks.

DHR:dh
031704-20

OB

Please respond by 4/2/04 3/21 **5/18**

Cal

So, Def-
Agree. When all the
Taiwan election items
settle down, should
consider doing. After
Singapore may be good!
(early June)
Di Rita

OSD 10779-04

3/29
11-L-0559/OSD/35930

March 17, 2004

✓ 3/17

TO: Larry Di Rita
FROM: Donald Rumsfeld *DR*
SUBJECT: Story on Stop-Loss

After we get a report back from the Army Association of America, or whatever outfit it was that came out with the story about stop-loss being like a draft, I would like to know who contacted them and whether or not we were able to disabuse them.

Thanks.

DHR:dh
031504-35

.....
Please respond by

3/19/04

3/15

SecDef-

Les Brownlee told me he would make a point of getting to the group in question (Military Officer's Association). I suggested he and Schoomaker or he and Casey do it. Also, we are providing the correct info to other like associations and to the Military "talking heads". Also, going back to Schieffer/Friedman *Di Rita*

11-L-0559/OSD/35931 OSD 10780-04

320.2

INFO MEMO

March 15, 2004, 4:45 p.m.

FOR: SECRETARY OF DEFENSE

FROM: GEN Casey, Vice Chief of Staff, Army

SUBJECT: Army Stop Loss Update

1. Purpose. To respond to a question of the Secretary of Defense on "Face the Nation" concerning an allegation by the Military Officer's Association of America (MOAA) that the Army policy of Stop Loss (SL) is being used as a means to generate the authorized 30K end strength increase.

2. Discussion.

- Stop Loss is the temporary holding of soldiers past the completion of their contracted term of service for operational purposes.
- The Army has judiciously employed SL over the last two years, being effective stewards who used SL to increase unit readiness. The requirement for SL is reviewed monthly and was completely eliminated for an extended period for the active forces; however, operational requirements caused it to be reinstated.
- The focus of Army deployments is on trained and ready units, not individuals. SL is a management tool that sustains effectively a force, which has trained together, to remain a cohesive element throughout its deployment.
- As of February 2004, SL affects a total of 44,535 soldiers of all components; with the transition between OIF1/OIF2 and OEF4/OEF5, current projections reflect an average of 30,889 Soldiers affected by Stop Loss (all components for the remainder of this calendar year).
- Without SL, selected low density skilled units would be required to remain in theater longer than the current *12 months Boots on the Ground*.
- The Army's Force Stabilization Initiative will minimize the necessity for SL as we source OIF3 and OEF6.
- SL is a temporary measure that does not permanently affect the Army's End strength; moreover, it has not been a key planning element in increasing the end strength.
- The 30K temporary growth will be met through a 20K increase in recruiting and a 10K increase in retention over the next four years. Actions have already been initiated to increase accessions by 5K this FY.
- The SL program was initiated well before the approval of the 30K temporary growth and affects only the deployed or deploying forces.
- This temporary growth allows the Army to reorganize internally through the Army's initiatives of Modularity, Restructuring and Rebalancing our AC/RC force structure mix, and Force Stabilization.

Prepared By: LTG Lovelace (b)(6)

Craddock, John J, Lt Gen, OSD

From: Lovelace, James J LTG DAS [james.lovelace@us.army.mil]
Sent: Monday, March 15, 2004 6:18 PM
To: Craddock, John J Lt Gen OSD; Caldwell, Bill MG OSD
Subject: Stop Loss Update...SITREP 15 March 04

John/Bill,

- Today met with several on the staff to wargame/AAR circumstances that led to Stop Loss being an issue on this past weekend's "Face the Nation" program.

PURPOSE: To respond to a question of the Secretary of Defense on "Face the Nation" concerning an allegation by the Military Officer's Association of America (MOAA) that the Army policy of Stop Loss is being used as a means to generate the authorized 30K end strength increase.

- **MOAA appears to believe that the Army's Stop Loss policy is keeping Soldiers in the Army until 2005, not understanding the actual facts of the program. An inaccurate article was posted on MOAA's legislative update web site on 13 February, 2004 (item #3).**
- I spoke with GEN (Ret) Sullivan, President of Association of the United States Army earlier today he was also caught by surprise on MOAA's perspective on Stop Loss.
- BG Gaylord (OCPA) has made contact with MOAAI also have attempted to call (ADM(Ret) Ryan has not yet returned my call) in order to offer to provide them factual information that they then can use to set the record straight on their web site. Secretary Brownlee intends to talk with the President of MOAA ...already being coordinated between the offices.
- We are currently developing TTP, so that in the future the Army can keep Army-related lobbying organizations accurately informed, staying within legal bounds... similar to what we already do with AUSA. Will not let this happen again!!
- We have been monitoring both the media and the Hill for any follow up requests for information....none to this point.
- Below is an **updated** information paper to show your bosses .



Army Stop Loss
Update.doc (25 ...

Changes highlighted.

Hooah, Jim

March 17, 2004

TO: Larry Lanzilotta
FROM: Donald Rumsfeld *DR*
SUBJECT: Departure

I am very sorry you're leaving.

I sure hope you'll stick around until Tina is confirmed and in the saddle, and has a week or two with you, so you can pass the baton.

Thanks.

DHR:dh
031704-16

.....
Please respond by 3/26/04

11-L-0559/OSD/35934

OSD 10781-04

02005C

17MAR04

March 17, 2004

TO: Larry Di Rita
FROM: Donald Rumsfeld *DR*
SUBJECT: Kennedy Story on Internet

I think you better let Kennedy's office know that I have never said anything like that e-mail being sent out on the internet, so they are aware that it is just factually not true.

Thanks.

DHR:dh
031704-1

.....
Please respond by 3/19/04

OB
3/24

413.51

17 MAR 04

March 16, 2004

TO: Larry Di Rita
FROM: Donald Rumsfeld *DR*
SUBJECT: Binder for "Radio Day"

The notebook for today's "Radio Day" activities arrived in my office sometime after I left last night. It is 40 or 50 pages long, and there is no way in the world I have any time to even look at it.

It is just a waste of everyone's time to do it if they are not going to get it to me the day before. I should also add that it is unintelligible.

Thanks.

DHR:dh
031604-5

.....
Please respond by _____

3/15

*I agree. Totally unhelpful
and sloppy.*

Di Rita

000.5750

16 MAR 04

OSD 10783-04

11-L-0559/OSD/35936

March 15, 2004

TO: LTG John Craddock
FROM: Donald Rumsfeld *DR*
SUBJECT: Location of Iraqi Chemical Suits

Please find out in what town in Iraq did we find the chemical suits the Iraqis had to protect them against a chemical attack, how many suits there were and where they were located.

Thanks.

DHR:dh
031504-34

.....
Please respond by 3/19/04

11-L-0559/OSD/35937

OSD 10784-04

IRAQ

15 Mar 04

March 15, 2004

TO: LTG John Craddock
FROM: Donald Rumsfeld *DR*
SUBJECT: Lessons Learned Brief for POTUS

Let's make sure we get Ed Giambastiani scheduled to brief the President on lessons learned from the Iraqi viewpoint.

Thanks.

DHR:dh
031504-29

.....
Please respond by

4/9/04

OB
3/16

IRAQ

15 MAR 04

11-L-0559/OSD/35938

OSD 10785-04

March 15, 2004

OB
3/16

TO: Larry Di Rita
FROM: Donald Rumsfeld
SUBJECT: 9/11 Press Avail

Larry Di Rita
3/15

Please get me the transcript of my press briefing the night of September 11, 2001 in the press briefing room in the Pentagon. I think it was around 6 p.m. I need to read it.

Also, please give me a videotape of it.

Thanks.

DHR:dh
031504-27

.....
Please respond by _____

3/15

Tape Coming

Larry Di Rita

3/15

031504-27

031504-27



United States Department of Defense.

On the web: [http://www.defenselink.mil/cgi-bin/dlprint.cgi?](http://www.defenselink.mil/cgi-bin/dlprint.cgi?http://www.defenselink.mil/transcripts/2001/t09112001_t0911sd.html)
http://www.defenselink.mil/transcripts/2001/t09112001_t0911sd.html
Media contact: +1 (703) 697-5131
Public contact: <http://www.dod.mil/faq/comment.html> (703) 428-0711

Presenter: Secretary of Defense Donald H. Rumsfeld

Tuesday, Sept. 11, 2001 - 6:42 p.m. EDT

DoD News Briefing on Pentagon Attack

(Also participating were Chairman of the Joint Chiefs of Staff Gen. Hugh Shelton, Secretary of the Army Thomas E. White, Senator Carl Levin (D-Mich.), and Senator John Warner (R-Va.))

Rumsfeld: This is a -- first of all, good evening. This is a tragic day for our country. Our hearts and prayers go to the injured, their families and friends.

We have taken a series of measures to prevent further attacks and to determine who is responsible. We're making every effort to take care of the injured and the casualties in the building. I'm deeply grateful for the many volunteers from the defense establishment and from the excellent units from all throughout this region. They have our deep appreciation.

We have been working closely throughout the day with President Bush, Vice President Cheney, CIA Director George Tenet, the vice chairman of the Joint Chiefs of Staff, Dick Myers, who is currently participating in a meeting elsewhere in the building, and a great many other officials from throughout the government.

I should say we've received calls from across the world offering their sympathy and indeed their assistance in various ways.

I'm very pleased to be joined here by Chairman Carl Levin and Senator John Warner. Senator Warner called earlier today and offered his support and was kind enough to come down and has been with us. We've very recently had a discussion with the president of the United States. Chairman Hugh Shelton has just landed from Europe. Secretary of the Army Tom White, who has a responsibility for incidents like this as executive agent for the Department of Defense, is also joining me.

It's an indication that the United States government is functioning in the face of this terrible act against our country. I should add that the briefing here is taking place in the Pentagon. The Pentagon's functioning. It will be in business tomorrow.

I know the interest in casualty figures, and all I can say is it's not possible to have solid casualty figures at this time. And the various components are doing roster checks, and we'll have information at some point in the future. And as quickly as it's possible to have it, it will certainly be made available to each of you.

I'll be happy to take a few questions after asking first General Shelton if he would like to say anything, and then we will allow the others to make a remark or two.

11-L-0559/OSD/35940

<http://www.defenselink.mil/cgi-bin/dlprint.cgi?http://www.defenselink.mil/transcripts/200...> 3/15/2004

Shelton: Thank you, Mr. Secretary. Ladies and gentlemen, as the secretary just said, today, we have watched the tragedy of an outrageous act of barbaric terrorism carried out by fanatics against both civilians and military people, acts that have killed and maimed many innocent and decent citizens of our country.

I extend my condolences to the entire Department of Defense families, military and civilian, and to the families of all those throughout our nation who lost loved ones.

I think this is indeed a reminder of the tragedy and the tragic dangers that we face day in and day out both here at that home as well as abroad.

I will tell you up front, I have no intentions of discussing today what comes next, but make no mistake about it, your armed forces are ready.

Warner: The chairman.

Rumsfeld: The chairman of the Senate Armed Services Committee, Carl Levin.

Levin: Our intense focus on recovery and helping the injured and the families of those who were killed is matched only by our determination to prevent more attacks and matched only by our unity to track down, root out and relentlessly pursue terrorists, states that support them and harbor them.

They are the common enemy of the civilized world. Our institutions are strong, and our unity is palpable.

Senator John Warner.

Warner: Thank you.

As a past chairman, preceding Carl Levin, I can assure you that the Congress stands behind our president, and the president speaks with one voice for this entire nation. This is indeed the most tragic hour in America's history, and yet I think it can be its finest hour, as our president and those with him, most notably our secretary of Defense, our chairman, and the men and women of the armed forces all over this world stand ready not only to defend this nation and our allies against further attack, but to take such actions as are directed in the future in retaliation for this terrorist act -- a series of terrorist acts, unprecedented in world history.

We call upon the entire world to step up and help, because terrorism is a common enemy to all, and we're in this together. The United States has borne the brunt, but who can be next? Step forward and let us hold accountable and punish those that have perpetrated this attack.

Again, I commend the secretary, the chairman, and how proud we are. We spoke with our President here moments ago. He's got a firm grip on this situation, and the Secretary and the General have a firm grip on our armed forces and in communication the world over.

Rumsfeld: Thank you very much.

We'll take a few questions and then we'll adjourn.

Charlie.

Q: Mr. Secretary, did you have any inkling at all, in any way, that something of this nature and something of this scope might be planned?

Rumsfeld: Charlie, we don't discuss intelligence matters.

Q: I see. And how -- how would you respond if you find out who did this?

Rumsfeld: Obviously, the president of the United States has spoken on that subject, and those are issues that he will address in good time.

Yes?

Q: Mr. Secretary, we are getting reports from CNN and others that there are bombs exploding in Kabul, Afghanistan. Are we, at the moment, striking back? And if so, is the target Osama bin Laden and his organization?

Rumsfeld: I've seen those reports. They -- in no way is the United States government connected to those explosions.

Q: What about Osama bin Laden, do you suspect him as the prime suspect in this?

Rumsfeld: It's not the time for discussions like that.

Q: Mr. Secretary, you said you could not be specific about casualties. Can you give us some characterization, whether it's dozens, hundreds in the building?

Rumsfeld: Well, we know there were large numbers, many dozens, in the aircraft that flew at full power, steering directly into the -- between, I think, the first and second floor of the -- opposite the helipad. You've seen it. There cannot be any survivors; it just would be beyond comprehension.

There are a number of people that they've not identified by name, but identified as being dead, and there are a number of casualties. But the FBI has secured the site. And the -- information takes time to come. People have been lifted out and taken away in ambulances. And the numbers will be calculated, and it will not be a few.

Q: Mr. Secretary, could you tell us what you saw?

Q: Mr. Secretary?

Rumsfeld: Yeah?

Q: Mr. Secretary, do you consider what happened today, both in New York and here, an act of war?

Rumsfeld: There is no question but that the attack against the United States of America today was a vicious, well-coordinated, massive attack against the United States of America. What words the lawyers will use to characterize it is for them.

11-L-0559/OSD/35942

Q: Does that mean that the U.S. is at war then?

Q: Mr. Secretary, you said that the Pentagon would be open for business tomorrow. What kind of assurances can you give the people who work here at the building that the building will be safe?

Rumsfeld: A terrorist can attack at any time at any place using any technique. It is physically impossible to defend at every time in every place against every technique. It is not possible to give guarantees. The people who work in this building do so voluntarily. They're brave people, and they do their jobs well.

Q: Mr. Secretary, can you give a sense of what happened -- what did you see when you left your office, ran down to the site and apparently helped people on stretchers and then returned to the command center?

Rumsfeld: The -- I felt the shock of the airplane hitting the building, went through the building and then out into the area, and they were bringing bodies out that had been injured, most of which were alive and moving, but seriously injured. And a lot of volunteers were doing a terrific job helping to bring them out of the buildings and get them into stretchers and into ambulances and into airlifts.

Q: Mr. Secretary, can you tell us how many of the dead were soldiers and how many were civilians? Have you been able to determine that?

Rumsfeld: Absolutely not.

Yeah.

Q: Mr. Secretary, today we saw military planes both in New York and in Washington. How much more of a military presence will we see, now that this incident has occurred, for the next week?

Rumsfeld: Those kinds of decisions are made day to day. It is correct that we had aircraft flying protective missions at various places in the United States today. And they will do that as appropriate.

Q: Mr. Secretary --

Q: Mr. Secretary --

Q: -- what do you say to the American people who may have questions on how something so coordinated has been carried out against this nation? What do you say to them who might not have confidence that our intelligence and security are what they should have been?

Rumsfeld: I say to them that the president of the United States will be making some remarks to them this evening that will address those subjects.

Q: Mr. Secretary, you've declared -- the Pentagon has declared Threatcon Delta for forces around the world. Could you tell me why? Have you received any threats? Or has anyone claimed credit for this?

Rumsfeld: We have in fact declared Force Protection Condition Delta and a condition of high alert -- indeed, the highest alert. We did so almost immediately upon the attacks, and it is still in force.

Q: Mr. Secretary, were there threats issued against other U.S. facilities elsewhere in the world today?

Rumsfeld: The -- I don't know that there's a day that's gone by since I've been in this job that there haven't been threats somewhere in the world to some facility somewhere. It's a -- it's one of the complexities of the intelligence business that you have to sort through those kinds of things. But we don't get into the specifics.

Yes? You had your hand up? Yes?

Q: Mr. Secretary, there were rumors earlier in the day that the plane which crashed in Pennsylvania had been brought down by the United States, either shot down or in some other manner.

Rumsfeld: We have absolutely no information that any U.S. aircraft shot down any other aircraft today.

Q: I wonder if we could just ask Senator Levin one thing, Senator, if that's all right.

Levin: You bet.

Q: Senator Levin, you and other Democrats in Congress have voiced fear that you simply don't have enough money for the large increase in defense that the Pentagon is seeking, especially for missile defense, and you fear that you'll have to dip into the Social Security funds to pay for it. Does this sort of thing convince you that an emergency exists in this country to increase defense spending, to dip into Social Security, if necessary, to pay for defense spending -- increase defense spending?

Levin: One thing where the committee was unanimous on, among many, many other things, was that the -- we authorized the full request of the President, including the \$18 billion. So I would say that Democrats and Republicans have seen the need for the request.

Q: Mr. Secretary, could you describe what steps are being taken -- defensive measures -- beyond force protection, and whether there's been any operational planning for homeland defense and as to --

Rumsfeld: Those aren't the kinds of things that one discusses.

Q: Sir, the perpetrators of the Khobar Towers bombing were never found -- the Cole bombing as well. What assurances or what confidence do you have that the perpetrators of this act will be found?

Rumsfeld: All one can offer by way of assurance is a seriousness of purpose. We're still taking bodies out of this building, so I would say that that's a little premature.

Q: Mr. Secretary?

Rumsfeld: Yes?

Q: You've talked about -- and others at the podium have talked about being ready, the military is ready, General Shelton said. And we understand the Navy has dispatched two carriers and some guided-missile cruisers and destroyers and a couple of Marine Corps helicopter amphibious ships, such as the Bataan -- it's not the Bataan -- here and to New York. Can you tell us if that's true? And also any other things you can share with us about how the United States military is preparing to take on whatever in

the next few days?

Rumsfeld: We don't make announcements about ship deployments.

Q: Mr. Secretary?

Rumsfeld: Yes?

Q: Can you describe the fire-fighting efforts that are going on right now in that corridor and the search-and-rescue efforts that are beginning?

Rumsfeld: Can I describe them?

Q: Yeah.

Rumsfeld: Why don't we let the Secretary of the Army, who was out there with me a few minutes ago and has been talking to the incident commander on the site.

White: I think it's fair to say at this point that the fire is contained, and will shortly, if not already, be sufficiently controlled to allow entry into the building. That entry will be supervised by the FBI, who are in charge of the site, assisted by the fire departments that are present. We, on the Army side, will support them as they go in the building and search for casualties and bring them out, then we will support them in dealing with that. That's what's going on on the ground.

Rumsfeld: We'll take one last question.

Q: Is the government operating under the assumption that this attack is done, or is it poised or bracing for more action?

Rumsfeld: The government is certainly aware that it's difficult to know when attacks are concluded.

And I want to thank Senator -- Chairman Levin and Senator Warner, and certainly Secretary of the Army White and General Shelton for being here with me. And we'll excuse ourselves. Thank you.

Q: Thank you.

http://www.defenselink.mil/transcripts/2001/t09112001_t0911sd.html

March 15, 2004

TO: Jim Haynes

CC: Gen. Dick Myers
Paul Wolfowitz

FROM: Donald Rumsfeld *DR*

SUBJECT: Human Rights Watch Report

Here is a report by Human Rights Watch. I have not read it. How should we respond? Should we respond?

Please give me a way to think about this.

Thanks.

Attach.

3/04 Human Rights Watch, "'Enduring Freedom' Abuses by U.S. Forces in Afghanistan"

DHR:dh
031504-40

.....
Please respond by _____

DR 4/14

Sir,

*Response attached.
Original attachment
included behind.*

*vr / CDR Nosmzo
4/12*

4/12

Afghanistan

1500-0000

OSD 10787-04

11-L-0559/OSD/35946



GENERAL COUNSEL

GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE
1600 DEFENSE PENTAGON
WASHINGTON, D. C. 20301-1600

INFO MEMO

March 29, 2004, 7:00 PM

FOR: SECRETARY OF DEFENSE

FROM: William J. Haynes II, General Counsel

SUBJECT: Human Rights Watch (HRW) Report on ENDURING FREEDOM

- You asked whether DoD should respond to a report by HRW (Tab A) published in March 2004 covering operations in Afghanistan in 2003 and early 2004. The report alleges human rights/law of war violations during U.S. operations in Afghanistan. For the reasons explained below, a response is neither required nor recommended.
- This is the most recent of several HRW public criticisms of U.S. military operations in the Global War on Terrorism and the war in Iraq. Other reports have focused on combat operations in Iraq (December 2003) and post-conflict civilian casualties in Iraq (October 2003). HRW also has been publicly critical of the use of military commissions.
- This report alleges that U.S. forces have employed excessive force in the continuing military operations against al Qaeda and Taliban; denounces capture (versus arrest) and detention of al Qaeda/Taliban suspects; and criticizes HRW's lack of access to detainees.
- The HRW report contains major flaws of fact, law and theory. For example:
- HRW endeavors to apply peacetime law enforcement/human rights standards to an on-going armed conflict with regard to (a) use of force, and (b) capture vis-à-vis arrest.
 - o The argument disregards threat conditions and assumes, wrongly, that the rules for engaging the enemy during wartime do not apply. For example, it recommends that firearms not be used except in "self defense against the threat of death or serious injury," and states that "intentional lethal use of firearms may only be made when strictly unavoidable in order to protect life."



11-L-0559/OSD/35947

- o These are incomplete statements of domestic law enforcement rules for use of deadly force that would limit use of supporting arms and aircraft and would placing U.S. forces in Afghanistan hunting heavily armed al Qaeda and Taliban at undue risk.
- The complaint about HRW's lack of access to detainees assumes a privilege that HRW does not have.
 - o The U.S. abides by the law of war and, in the case of detainees, ensures that they are treated humanely and, to the extent appropriate and consistent with military necessity, in a manner consistent with the principles of the Geneva Conventions. We do this even though detainees are not entitled to prisoner of war (PW) status.
 - o Consistent with this policy, the U.S. has provided International Committee of the Red Cross (ICRC) access to detainees in view of the ICRC's recognized role under the Geneva Conventions. As is the case in armed conflicts across the spectrum, there is no requirement to provide access to other international and nongovernmental organizations.
- HRW argues that if detainees are not entitled to PW status, they are entitled to protection under the 1949 Geneva Convention Relative to the Protection of Civilian Persons in Time of War (GC). This argument is not consistent with the diplomatic history of the Geneva Conventions, which afford no protection for unprivileged belligerents.
- The HRW report applies standards contained in the 1977 Additional Protocol II, a treaty to which U.S. is not a party, incorrectly arguing that its provisions are customary law binding on the U.S.
- The HRW report is based on media reports rather than first-hand accounts.
- The HRW report expresses HRW's objections to U.S. policy and operations, framing its criticism in legal terms. A response is neither required nor recommended.

Attachment: As stated.

CC: CJCS
USDP
VCJCS

“Enduring Freedom”

Abuses by U.S. Forces in Afghanistan

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I. Summary

Following the September 11, 2001 attacks, the United States went to war in Afghanistan in the name of national security and the protection of fundamental rights and freedoms, and with a stated secondary **aim** of liberating the people of Afghanistan from the cruel and capricious rule of the Taliban.

Yet today, on Afghan soil, the United States is maintaining a system of arrests and detention as part of its ongoing **military** and intelligence operations that violates international human rights law and international humanitarian law (the laws of war). In doing so, the United States is endangering the lives of Afghan civilians, undermining efforts to restore the rule of law in Afghanistan, and calling into question its commitment to upholding basic rights.

This report, based on research conducted in southeast and eastern Afghanistan in 2003 and early 2004, focuses on how U.S. forces arrest and detain persons in Afghanistan.¹ It details numerous abuses by U.S. personnel, including cases of excessive force during arrests; arbitrary and indefinite detention; and mistreatment of detainees. The report also details the overall legal deficiencies **of** the U.S.-administered detention system in Afghanistan, which, as shown here, operates almost entirely outside of the **rule of** law.

In Afghanistan, United States and coalition forces, allied with local Afghan forces, are fighting armed groups comprised of members of the Taliban, the mujahidin group Hezb-e Islami, and a relatively small number of non-Afghan fighters, some of whom are associated with al-Qaeda. For their part, these groups have shown little willingness to abide by international humanitarian law **or** human rights standards: they have carried out abductions and attacks against civilians and humanitarian aid workers and detonated bombs in bazaars and other civilian areas. Those responsible for these violations, including the leaders of these groups, should, if captured, be investigated and prosecuted for violations of Afghan law and the laws of war.

¹ For the purposes of this report, the term "U.S. forces" refers to U.S. personnel **in** the Department of Defense and Central Intelligence Agency ("CIA") and **all** other military personnel under the **overall** command of the President of the United States. The U.S.-led coalition force in Afghanistan is made **up** predominately of U.S. personnel, although there are approximately two thousand troops from other nations in the force. **Approximately** 6,000 troops from various nations are also stationed in Kabul and Kunduz city as part of the U.N.-mandated International Security **Assistance** Force (ISAF).

But the activities of these groups are no excuse for U.S. violations. The Geneva Conventions do not require reciprocity to be applicable. Abuses by one party to a conflict, no matter how egregious, do not justify violations by the other side. This is a fundamental principle of international humanitarian law.

* * * * *

From 2002 to the present, Human Rights Watch estimates that at least one thousand Afghans and other nationals have been arrested and detained by U.S.-led forces in Afghanistan. Some of those apprehended have been picked up during military operations while taking direct part in hostilities, but others taken into custody have been civilians with no apparent connection to ongoing hostilities. (This latter category may include persons wanted for criminal offenses, but such arrests are not carried out in compliance with Afghan or international legal standards.)

There are numerous reports that U.S. forces have used excessive or indiscriminate force when conducting arrests in residential areas in Afghanistan. As shown in this report, U.S. military forces have repeatedly used deadly force from helicopter gunships and *small* and heavy arms fire, including undirected suppressing fire, during what are essentially law-enforcement operations to arrest persons in uncontested locales. The use of these tactics has resulted in avoidable civilian deaths and injuries, and in individual cases may amount to violations of international humanitarian law.

Human Rights Watch has also documented that Afghan soldiers deployed alongside U.S. forces have beaten and otherwise mistreated people during arrest operations and looted homes or seized the land of those being detained. These violations should be a matter of concern to the United States. The Afghan government remains responsible for violations by Afghan forces that are under their control, and individual Afghan military commanders are culpable for abuses by their troops. But where Afghan forces have been put under the de facto control or command of U.S. forces during operations, U.S. personnel have a responsibility to prevent ongoing abuses by Afghan troops, and may be criminally culpable if they fail to do so.

Many of those arrested by U.S. forces are detained for indefinite periods at U.S. military bases or outposts. While held, these detainees have no contact with relatives or others, although some detainees receive visits from the International Committee of the Red Cross (ICRC). Detainees have no opportunity to challenge the basis for their detention, and are sometimes subjected to mistreatment or torture. Some detainees have been sent to the U.S. detention center at Guantanamo Bay Naval Base in Cuba, while others have

been kept in Afghanistan.² Many have ultimately been released; but some detainees in Afghanistan have been held for over **two** years.

The U.S. military maintains its main detention facility in Afghanistan at the Bagram airbase, north of the capital Kabul. There are an unknown number of additional U.S. detention facilities in the country, including at bases in Kandahar, Jalalabad, and Asadabad. The U.S. Central Intelligence Agency (CIA) is also holding an unknown number of detainees, both at Bagram airbase and at other locations in Afghanistan, including in Kabul. Furthermore, the United States has encouraged **local** Afghan authorities to detain hundreds of persons taken into custody during joint U.S.-Afghan operations. These persons are held without charge and in poor conditions, and some have been subjected to torture and other mistreatment. In the northern city of Shiberghan, approximately one thousand detainees—alleged Taliban combatants and foreign fighters allied and captured with them—are being held at a facility under the control of Afghan General Abdul Rashid Dostum, a member of the Karzai government and the commander of a predominately Uzbek militia, Junbish-e Milli. CIA and U.S. military interrogators are believed to have access to these detainees and others held by Afghan forces. The United States has opposed efforts by the Afghan and Pakistani governments to screen such detainees for release.

Human Rights Watch is also concerned about mistreatment of detainees **in** custody. Human Rights Watch has had access only to detainees *released* from U.S. custody.³ Human Rights Watch researchers therefore have only been able to interview detainees **whom** U.S. authorities did not consider to be a security **risk** or indictable ~~for~~ criminal offenses. From these detainees, however, Human Rights Watch has received credible allegations of mistreatment in U.S. custody. These allegations are consistent with other allegations received by the Afghan Independent Human Rights Commission, the United Nations Assistance Mission in Afghanistan (UNAMA), and numerous international journalists.

² The Guantanamo Bay Naval Base in Cuba, where the United States is holding approximately 660 detainees, most of whom were taken into custody **in** Afghanistan, is not the subject of this report.

³ Human Rights Watch sent written requests in **2003** to Defense Secretary Donald Rumsfeld **and** General John Abizaid, the commander of Central Command (CENTCOM), for permission to visit U.S. detention facilities in Afghanistan and discuss our concerns about alleged abuses by U.S. forces **with** officials in the Department of Defense. To date we have not received any response. Officials in the public affairs offices of the Pentagon and CENTCOM told Human Rights Watch in October 2003 and again in January 2004 that such requests would not be granted. Human Rights Watch has also made written requests to George Tenet, the Director of Central Intelligence, regarding concerns about CIA operations in Afghanistan; a response from the General Counsel of the CIA indicated that CIA officials **would** not be available to discuss operations **in** Afghanistan.

Afghans detained at Bagram airbase in 2002 have described being held in detention for weeks, continuously shackled, intentionally kept awake for extended periods of time, and forced to kneel or stand in painful positions for extended periods. Some say they were kicked and beaten when arrested, or later as part of efforts to keep them awake. Some say they were doused with freezing water in the winter. Similar allegations have been made about treatment in 2002 and 2003 at U.S. military bases in Kandahar and in U.S. detention facilities in the eastern cities of Jalalabad and Asadabad.

In December 2002 **two** Afghan detainees died at Bagram. Both of their deaths were ruled homicides by U.S. military doctors who performed autopsies. Department of Defense officials claim to have launched an investigation into the deaths in March 2003. In June 2003, another Afghan died at a detention site near Asadabad, in Kunar province. The Department of Defense has yet to explain adequately the circumstances of any of these deaths. Human Rights Watch is concerned that the results of any investigations may never be publicized, and that appropriate criminal and disciplinary action may never take place.

Concerns about conditions at Bagram persist. The Afghan Independent Human Rights Commission has collected complaints alleging torture and mistreatment made by recently released detainees and families of persons still detained.

Human Rights Watch is also deeply concerned about the lack of legal process for detainees. The United States has set up a system in Afghanistan that does not provide detainees a process whereby they can contest their detention and obtain their release. Ordinary civilians caught up in military operations and arrested are left in a hopeless situation. Once in custody, they have no way of challenging the legal basis for their detention or obtaining a hearing before an adjudicative body. They have no access to legal counsel. **Their** release is wholly dependent on decisions of the U.S. military command, with little apparent regard for the requirements of international law—whether the treatment of civilians under international humanitarian law or the due process requirements of human rights law.

Not a single person detained in Afghanistan since the start of U.S. operations in 2001 has been afforded prisoner-of-war status or other legal status under the **1949** Geneva Conventions.⁴ No one held by the United States since the start of hostilities to the

⁴ Belligerents captured during the international armed conflict between the United States and the Taliban should have been afforded the status of prisoners of war under the Third Geneva Convention unless and ~~until~~ a “competent tribunal” under article 5 determined otherwise. The U.S. did not

present has been charged or tried for any crime (with the single exception of John Walker Lindh, a U.S. citizen) nor has the United States or the present Afghan government set up any tribunals or other legal mechanisms to process detainees captured in connection with military operations. The United States continues to treat *all* detainees it has captured in Afghanistan as “unlawful combatants” it considers not entitled to the full protections of the Geneva Conventions or of human rights law.

The Afghan government also has obligations to protect the rights of persons within its borders. President Hamid Karzai has complained to U.S. authorities on occasion about abuses by U.S. troops. The Afghan government and the Afghan Ministry of Defense have limited influence over U.S. military strategies and policies, but they can do more to insist that U.S. forces operating in Afghanistan uphold international humanitarian law and human rights law.

* * * * *

The violations of detainees’ rights documented in this report are exacerbated by the almost complete opacity maintained by U.S. officials about the Bagram facility and other detention facilities in Afghanistan. The United States refuses to **allow** access to detainees’ *families*, lawyers, or advocates, or to journalists or representatives of non-governmental organizations (other than the ICRC). **And** it is not evident that the detention system maintained by the United States in Afghanistan is conducive to the security of U.S. forces. The routine arrests and indefinite detention of persons who have no genuine connection to armed opposition groups has angered many Afghan communities and lessened their willingness to cooperate with U.S. forces.

Almost nothing is known about U.S. investigations or prosecutions of **U.S.** military personnel for **alleged** violations of international humanitarian law. (**This** is in sharp contrast with **Iraq**, where a number of cases involving U.S. soldiers have been publicly reported.) Simply put, the United States operates its detention facilities in Afghanistan in a **climate** of almost total impunity. As noted, the Department of Defense has not even released the results of its investigations into the deaths of Afghan detainees at Bagram and Asadabad and has yet to explain adequately the circumstances of these deaths. Nor have U.S. officials adequately responded to inquiries about alleged

convene a single article 5 tribunal in Afghanistan, though it has held hundreds during **the** 2003 Iraq war and in previous conflicts. Afghan nationals found not to be prisoners of war would be entitled to “protected person” status under **the** Fourth Geneva Convention.

mistreatment and torture by U.S. forces in Afghanistan made by human rights groups and members of the U.S. Congress.⁵

There is little doubt that U.S. policies on the detention of terrorism suspects—both in Afghanistan and elsewhere—have harmed public opinion of the United States around the world, and have damaged some of its efforts in building a coalition to combat international terrorism.

These policies are also making it more difficult for the United States to criticize other governments for violating international human rights and humanitarian law standards in maintaining detention facilities. Every year, the U.S. State Department publishes “Country Reports on Human Rights Practices,” which contain criticisms of abuses similar to those documented in this report, such as beatings, use of sleep deprivation, continuous shackling, and long-term isolation.⁶ The United States is undermining the effectiveness of these reports by committing the same abuses it has rightly criticized elsewhere.

The U.S. detention policy in Afghanistan serves as a poor example for other nations around the world, and for Afghanistan itself. Afghan warlords whose troops are deployed alongside U.S. forces in Afghanistan have done little to improve their horrific records with regard to the treatment of detained persons. Instead of setting a positive example for them, the behavior of the United States sends the message that the U.S. operates on a set of double standards. And worldwide, it is now all too easy for governments to justify their failures to uphold human rights by pointing to U.S. violations in Afghanistan.

It doesn't have to be this way. Human Rights Watch believes that the protections provided under international humanitarian and human rights law do not conflict with the security of states. The U.S. and Afghan governments have both a duty and a responsibility to provide for the security of their populations and to take appropriate actions against those who threaten state security or violate the law. But in Afghanistan, the United States appears to have allowed its single-minded pursuit of security to obscure the obligation to protect individual rights, rights deeply ingrained in U.S.

⁵ See, e.g., Letter from Senator Patrick Leahy to National Security Advisor Condoleezza Rice, June 2, 2003, available at <http://www.hrw.org/press/2003/06/letter-to-rice.pdf>; Response to Senator Leahy from Department of Defense General Counsel William Haynes, June 25, 2003, available at <http://www.hmv.org/press/2003/06/letter-to-leahy.pdf>

⁶ See Appendix.

constitutional law and reflected in international law (as well as in the former and current Afghan constitutions). This course of action is shortsighted and damaging to the rule of law, not **only** in Afghanistan but across the world.

A list of recommendations to the United States, the Afghan government, and other countries involved in Afghanistan begins on **page 51**.

II. Background “Operation Enduring Freedom”

The ongoing U.S.-led military operations in Afghanistan discussed in this report fall under a larger campaign referred to by the United States and its coalition partners in Afghanistan as “Operation Enduring Freedom.”

Operation Enduring Freedom as originally planned was a response to the September 11, 2001 attacks on the United States. It was, in its first manifestation, a military operation against the Taliban government of Afghanistan and the network of foreign groups, including al-Qaeda, believed responsible for the September 11 attacks.⁷

The U.S.-led coalition's initial military operations in Afghanistan, from September through December 2001, were directed at the Taliban forces and their foreign allies. In late September, CIA forces entered Afghanistan to organize existing Afghan anti-Taliban forces (primarily the loose coalition of groups called the Northern Alliance) and assist covert U.S. Army and Air Force units to transport equipment into the country. Throughout the first phase of the conflict, millions of dollars in cash and significant amounts of weapons, communications equipment, and other military supplies were ferried into Afghanistan and given to anti-Taliban forces. As the war progressed, the U.S. advance teams were joined by Army Special Forces and Special Forces units from the Navy and Air Force, and ultimately, regular army ground troops and units from coalition partners such as the United Kingdom and Australia. Over the next two months, the U.S.-led coalition carried out an extensive **air** campaign against the Taliban and its allies. Anti-Taliban forces on the ground initially assisted in identifying targets for the **air** campaign and later advanced and seized areas held by Taliban and al-Qaeda forces.

Since December 2001, the U.S.-led coalition's primary military focus has been on locating remnants of the Taliban and al-Qaeda which did not surrender and fled into remote areas of the country.

However, there was and is more to Operation Enduring Freedom than military operations against Taliban and al-Qaeda remnants. **Coalition** operations have included

⁷ For more information on the diverse characteristics and composition of non-Afghan armed groups operating in Afghanistan before and after the **U.S.-led** attack in 2001, including al-Qaeda, see Jason Burke, *Al-Qaeda: Casting a Shadow of Terror*, (B. Taunton : September 2003). See also Ahmed Rashid, *Taliban: Militant Islam, Oil & Fundamentalism in Central Asia* (New Haven: Yale University Press, 2000).

investigative and intelligence-gathering components aimed at locating or uncovering threats to the United States and other coalition members, and disrupting or eliminating those threats. Operations have also included efforts to capture terrorist suspects and gather intelligence in Afghanistan as part of the global campaign to disrupt the worldwide operations of al-Qaeda.

U.S. and Coalition forces have also increasingly broadened the scope of their activities in Afghanistan to include peacekeeping and peacebuilding efforts, delivery of humanitarian aid, counter-narcotics work, and general intelligence gathering. As in other post-conflict situations where the United States has taken the leadership role, it has deployed significant numbers of personnel from the CIA and other intelligence services: the State Department, and the U.S. Agency for International Development, in addition to the armed forces.

Since the fall of the Taliban government in late 2001, U.S. and coalition military operations under Operation Enduring Freedom have largely consisted of small- and medium-scale operations whose overall ~~aim~~ is to destroy ~~or~~ **disrupt** the remaining Taliban, al-Qaeda, and other hostile forces in the country. Some of these operations have focused on fixed Taliban or al-Qaeda military positions, such as caves, bunkers, and other fortified positions, usually in remote rural areas. Others have been directed at residential compounds, usually in small villages, in which anti-coalition suspects are thought to be hiding. These operations can be divided into those where the primary intent appears to be to destroy the target, such as through bombing raids and other direct attacks, and those where the intention is to take into custody particular individuals and collect intelligence information, either from local residents or seized materials.

⁸ The office of the Director of Central Intelligence officially oversees not only the CIA but also the "U.S. Intelligence Community," which consists of at least fourteen different government agencies, including Department of Defense intelligence offices and several non-military agencies.

III. Violations by U.S. Forces

This chapter is divided into three sections addressing, respectively, use of excessive force by U.S. forces during arrests; arbitrary arrests and indefinite detention; and mistreatment in detention.

As the cases in the first section show, U.S. forces repeatedly have used military means and methods during arrest operations in residential areas where law enforcement tactics were more appropriate. This has resulted in unnecessary civilian casualties and in some cases may have involved indiscriminate or disproportionate force in violation of international humanitarian law.

Cases in the second section of this chapter raise serious questions about the intelligence gathering and processing that leads to coalition arrests. Members of the U.S. armed forces have arrested many civilians not directly participating in hostilities and persons whom U.S. authorities have no legal basis for taking into custody. The cases in the second section also make clear that persons detained by U.S. forces in Afghanistan are held without regard to the requirements of international humanitarian or human rights law and are not provided reasons for their arrest or detention. Detainees are held **virtually** incommunicado without any legal basis for challenging **their** detention or seeking their release.

The final set of cases presented here raise serious concerns regarding the treatment of detainees at U.S. detention facilities in Afghanistan, particularly in light of the **failure** of the United States to investigate and publicly report **on** several unexplained deaths in detention. There is credible evidence of beatings and other physical assaults on detainees, as well as evidence that the United States has used shackling, exposure to cold, and sleep deprivation amounting to torture or other mistreatment in violation of international law. To date neither the Department of Defense nor the CIA has adequately responded to allegations of mistreatment.

Indiscriminate and Excessive Force Used During Arrests

As this section shows, U.S. forces routinely use military force when carrying out arrests in Afghanistan, sometimes with insufficient regard to the requirements of applicable international humanitarian and human rights law. U.S. military Rules of Engagement designed for combat situations seem to be applied where law enforcement protocols are required.⁹ In addition, it appears that faulty and inadequate intelligence has resulted in targeting of civilians who were not taking a part in the hostilities, unnecessary civilian deaths and injuries during arrest operations, and needless destruction of civilian homes and property.¹⁰ There are also credible reports that U.S. forces have beaten and abused persons during arrest operations, and that Afghan troops accompanying U.S. forces have abused local residents and looted the homes of those detained.

According to U.N. officials in Kabul, numerous complaints have been made to their offices about U.S.-led operations in southern, southeastern, and eastern areas of Afghanistan alleging excessive use of force by coalition troops.¹¹ Complaints often state that U.S. forces have been manipulated by local Afghan forces, including local Afghan “fixers” and interpreters; that U.S. military forces have unwittingly been used as proxies in local rivalries; and that the presence of U.S. forces has been the backdrop for Afghans to extort money from local residents or intimidate opponents.

Government officials in the Karzai government, along with local government officials, have also repeatedly raised concerns with U.S. officials about excessive military force being used during operations.¹²

One U.N. official who collected complaints about U.S. operations in 2002 said many of the complaints concerned the “use of cowboy-like excessive force” against residents

⁹ The Department of Defense was unwilling to provide Human Rights Watch with copies of current Rules of Engagement (ROE) Cards for their personnel in Afghanistan, or a copy of Afghanistan-specific ROE.

¹⁰ The consequences of mistaken attacks on Afghan civilians and civilian objects during air strikes is a large issue of concern but is not discussed in this report. Human Rights Watch has raised this issue elsewhere. See, e.g., Human Rights Watch, “Afghanistan: U.S. Military Should Investigate Civilian Deaths,” press release, December 13, 2003.

¹¹ Human Rights Watch interviews with U.N. officials, Kabul, December 16, 2003. Human Rights Watch telephone interviews with a former senior U.N. official, December 5, 2003 and February 6, 2004.

¹² Paul Watson, “Afghan Leader Told U.S. About Abuses, Aide Says,” October 31, 2003; Patrick Quinn, “U.S. raids, cultural problems lead to rising resentment in southern Afghanistan,” Associated Press, June 24, 2002.

“who generally turn out to be law abiding citizens.” The official noted cases of U.S. forces “blowing doors open with grenades, rather than knocking,” and roughly treating women and children.¹³

Human Rights Watch is particularly concerned about the use of suppressing fire during arrest operations—that is, the indiscriminate firing of weapons to immobilize possible enemy forces. As noted below, Human Rights Watch believes that the use of suppressing fire in the first resort (not in response to enemy fire) is inappropriate during arrest operations in residential areas where no combat is taking place or underway.

The case of Ahmed Khan and his sons

On a night in late July 2002, U.S. forces raided the home of Ahmed Khan, a resident of Zurmat district in Paktia province. Zurmat district, while not completely stable, is firmly under the control of Afghan forces allied with the United States and was under such control in July 2002. During the raid, Ahmed Khan was arrested along with his two sons, aged 17 and 18 years.¹⁴ A local farmer died from gunfire during the arrest operation, and a woman in a neighboring house was wounded. Human Rights Watch spoke with several neighbors and other witnesses to the raid. Ahmed Khan described the attack:

It was around harvest time. The farmers were sleeping by the harvests. . . . It was about nine at night. We were lying in bed, but we were not yet asleep. . . . Suddenly, there was a lot of noise. Some helicopters were flying over. Then there were large explosions. The house shook; the

¹³ Human Rights Watch e-mail exchange with former U.N. official in Afghanistan, February 2004.

¹⁴ There were conflicting reports by reporters who visited the site of the attack about what the target of the raid was and whether other men in the area were taken into custody during the raid. One news report about the incident suggested that five other persons were arrested on the same night. “US troops kill Afghan, take away six in raid: False report misled soldiers: governor,” Agence France Presse, August 1, 2002. Another report suggests that the arrest was aimed at a man called Haji Uddin, who was alleged to have given shelter to anti-U.S. forces in the area. Liz Sly, “U.S. grabs at shadows in hunt for Al-Qaeda,” *Chicago Tribune*, September 3, 2002. The same report stated that five persons were arrested during the raid two relatives of Haji Uddin, including a 14-year-old boy, and three farm workers. But Human Rights Watch interviews with residents and local officials in Zurmat shed no light on the reason for the U.S. forces raid on Ahmed Khan’s home. The governor of Paktia, Raz hiohammad Dalili, who was familiar with the incident, could not explain why the attack took place. Human Rights Watch interview with Raz Mohammad Dalili, governor of Paktia, March 9, 2003. See also Pamela Constable, *Frustrated hunt for Bin Laden: al-Qaeda leader elusive, but U.S. sees success in Afghan raids*, Washington Post, September 11, 2002.

towers [corners of the house] had been hit. . . . The operations started. Some helicopters came, we could hear them circling and firing machine guns. It was a lot of noise. There were also explosions. They rocketed one of the towers, and they rocketed a hole through the wall.¹⁵

During the shooting, Ahmed Khan said he and his family hid on the floor in their bedroom on the second floor of the house. Gunfire shattered their windows and doors.¹⁶ Neighbors said they saw helicopters shooting at the house and at areas around it.¹⁷ Ahmed Khan described how U.S. forces entered his house, firing their weapons:

I looked out the broken windows here, and saw that there were many soldiers in the compound. They shot at the door [front door of the house], and opened it, and came up these stairs. They came through the windows. . . . They entered the house, through the windows, which had been broken by the shooting and the explosions. They came **up** to our room, and they kicked the door open and entered with torches and machine guns. They signaled for us to put up **our** hands, there were no Afghans with them, no Pashto speakers, although later [we saw] interpreters in the yard. . . . Then they fastened the men's hands and told the women to go into the yard. And they took us into the yard too.¹⁸

Troops, including Afghan soldiers, then searched the house, occasionally using gunfire to open locks.

They [U.S. soldiers] made the women go to the other house [across the yard]. Then they searched the house. They broke **all** the windows, and

¹⁵ ~~Human~~ Rights Watch interview with Ahmed Khan, Zurmat, Paktia, March 10, 2003. A neighbor of Ahmed Khan's described the attack in similar terms: "I heard a lot of noise, which came from helicopters. So I got up, and I crept up to my **roof**. I looked around. There were helicopters circling his [Ahmed Khan's] house. There was a lot of shooting and it was difficult to look thoroughly at what was happening. There were many, many helicopters. We did not dare to **go** near that house." Human Rights Watch interview with H.M., Zurmat, Paktia, March 10, 2003.

¹⁶ "There were a lot of bullets. The glass broke **in** all the windows . . ." Human Rights Watch interview with Ahmed Khan, Zurmat, Paktia, March 10, 2003.

¹⁷ Human Rights Watch interview with H.M., Zurmat, Paktia, March 10, 2003, Human Rights Watch interview with brother of Niaz hiohammad, Zurmat, Pakda, March 10, 2003.

¹⁸ Human Rights Watch interview with Ahmed Khan, Zurmat, Paktia, March 10, 2003.

tore the doors off cupboards, and shot open the boxes, and turned them over. . . . [Later,] they put hoods over ~~our~~ heads, and walked us out. We were lifted up, into a helicopter. I could hear the rotors. We were in the helicopter for a long time. . . . I don't know how long. Later I learned I was in Bagram.¹⁹

The body of a local laborer and farmer, Niaz Mohammad, was found after the raid. A neighbor told Human Rights Watch:

[Later, we] found the corpse of the man who was killed. It was Niaz Mohammad. He had a bullet in his foot, and a bullet in his back. It had entered in his back, and come out right where his heart is. He was found near to the mill.²⁰

Ahmed Khan and his neighbors told Human Rights Watch that Niaz Mohammad had been sleeping outside, near piles of harvested wheat, in order to keep watch so that no one would steal the grain.²¹

According to neighbors, a local woman was also wounded in the attack. She received a bullet wound that was ~~not~~ considered to be serious. The homes in the vicinity of Ahmed Khan's house received considerable damage from bullets and other weapons, indicating that the U.S. forces used considerable firepower even though there was no evidence of any armed opposition. A U.N. local staff person visited the site the day after the attack: "There were bullet shells **all** around the house, everywhere, many shells. There was a big hole in the wall and bullet holes in the windows; the glass was **all** broken and had fallen into the yard. Household items were scattered **all** about—all around the compound."²² Human Rights Watch visited Ahmed Khan's compound in March 2003

¹⁹ Human Rights Watch interview with Ahmed Khan, Zurmat, Paktia, March 10, 2003.

²⁰ Human Rights Watch interview with H.M., Zurmat, Paktia, March 10, 2003.

²¹ Human Rights Watch interview with Ahmed Khan, Zurmat, Paktia, March 10, 2003.

²² Human Rights Watch interview with H.M., Zurmat, Paktia, March 10, 2003. Human Rights Watch interview with G.A.U., local U.N. staff, Gardez, Paktia, March 10, 2003. One of the neighbors described the house after the attack: "After all the noise ended and the helicopters left, I went to the house to see what happened. I went with some neighbors. We went inside. The first thing **is** that the women were very scared. Boxes from the house were thrown around the yard, and there were possessions scattered about. . . . About ten minutes later, we walked outside. We were walking around to ask people what happened." Human Rights Watch interview with H.M., Zurmat, Paktia, March 10, 2003.

and observed scores of bullet holes in the window frames and doors of the house, bullet slugs, and destroyed farm equipment.²³

Ahmed Khan's family said they lost many of their most valuable possessions on the night of the raid. U.S. forces confiscated some books and four automatic weapons, which they later returned to Ahmed Khan, when he and his teenage sons were released. But the family said that other possessions were missing. Said Ahmed Khan:

They stole all my possessions. . . . I don't know who it was. The Americans returned some things to us, but a lot of jewelry disappeared. The women were in the other room. They didn't see anything. . . . The Americans may have taken the jewelry, or the Afghans. I don't know. I lost a lot of property. I don't know what was lost that night. A lot of jewelry was taken.²⁴

Ahmed Khan's frustration was manifest months later:

They killed a farmer, Niaz Mohammed. He was just guarding his harvest and was killed. He had four children, two boys and two girls. What will I do for these children? I take care of them now. We will forgive America when they pay for his life, at least to help me with these children.²⁵

²³ Human Rights Watch researchers also saw that newly laid mud and brick had been used to fill in a large hole in the compound's wall, approximately three meters in diameter, where a rocket was said to have hit. Scores of bullet holes in the house's walls and window frames indicated that gunfire had come from two directions: the hole in the wall, and the door of the compound. Bullets in the window frames were embedded in two trajectories: some were clearly driven in perpendicularly (at 90 degrees), coming from the direction of the hole in the wall; others were driven in much more obliquely (less than 10 degrees off the surfaces flush with the house) starting from the direction of the house's door.

²⁴ Human Rights Watch interview with Ahmed Khan, Zurmat, Paktia, March 10, 2003.

²⁵ Human Rights Watch interview with Ahmed Khan, Zurmat, Paktia, March 10, 2003.

Other cases

Human Rights Watch documented a case in February 2003 in the southern province of Uruzgon in which U.S. troops assaulted **two** children during a raid **on** a civilian house.²⁶ The owner of the house, a low-level military commander in Uruzgon province, cooperated with U.S. forces during coalition attacks on Taliban forces in southern Afghanistan in late 2001 and early 2002. But one night in February **2003**, U.S. forces raided the man's home, entering by force and tying up him and one of his older sons. Through local interpreters and Afghan soldiers accompanying them, the U.S. troops accused the man of holding weapons and cooperating with the Taliban. A Farsi-speaker, the man was baffled why the soldiers believed he was cooperating with the Pashtun-speaking Taliban.

According to the man, the soldiers pushed him and his older son against a wall, and seized the man's young son and nephew:

In front of my eyes, **two** Americans laid down both the boys on the ground and pressed their boots into the children's backs. And they were yelling: 'Where is the ammunition? Where is the ammunition?'

These boys were aged **only** eleven and thirteen. The children were shrieking and shouting. I was saying, "**Look** over **all** my house – I have nothing!" But they kept asking this, as the children screamed.²⁷

The soldiers subsequently searched the house, but **only** found **two** weapons, both of them registered with the authorities. Still, the man was arrested by the local Afghan forces and taken to a neighboring province. He was released a few days later.

On December 5, 2003, U.S. forces conducted an operation in the village of Kosween, in Sayed **Karam** district of Paktia, near Gardez in southeast Afghanistan.²⁸ According to U.S. military officials, the **aim** of the operation was to arrest a man named Mullah Jalani, alleged to be a Hezb-e Islami leader involved in anti-U.S. military operations. As a result of the operation, a couple and their **six** children were killed: Ikhtari Gul, **35** (a farmer),

²⁶ Information about this incident is taken from a Human Rights Watch interview with man from Uruzgon, Kabul, March 2003.

²⁷ Human Rights Watch interview with man from Uruzgon, Kabul, March 2003.

²⁸ Information about this case is based on interviews in December 2003 and January 2004 with several journalists who visited the site of the raid in the weeks after it occurred.

and his wife, Khela; their four daughters, Khela, Daulat Zai, Anara and Kadran; and **two** sons, Asif and Nematullah.²⁹ The use of military methods and tactics during the operation may have violated international legal obligations to minimize harm to civilians and prohibitions against disproportionate attacks.

The U.S. military gave inconsistent accounts of the operation after it occurred. On December 6, Lieutenant Colonel Bryan Hilferty told several reporters at Bagram airbase that U.S. forces the previous night had raided the home of Mdah Jalani in Sayed Karam.³⁰ He said that U.S. forces had detained “several persons” during the raid, but had not captured Jalani.³¹ The village was sealed off in the week after the raid several journalists who attempted to visit the site of the operation during the week of December 7 - 12 were turned back by Afghan forces cooperating with a Special Forces unit in the village.³²

On December 10, Hilferty admitted that the Sayed Karam raid had involved close **air** support and bombing, and said that on December 7 U.S. forces found eight civilians who had died during the operations.³³ Hilferty indicated that the dead civilians were in another compound than the one attacked and were buried by a **wall** that collapsed because of “secondary and tertiary **explosions**” from stored ammunition in Jalani’s compound.³⁴ He suggested that U.S. forces were not “completely responsible” for the deaths because the civilians (presumably including the children) had “surrounded

²⁹ Ikhtari’s brother, Naser, told a reporter that the children’s ages ranged from one to twelve. Pamela Constable, “Deadly U.S. Raid Leaves Some Afghans Bewildered; Villagers Say Target Was **Not** a Terrorist,” Washington Post, December 12, 2003.

³⁰ “Troops In Afghanistan **Raid** Insurgent Base, Destroy Weapons,” Associated Press, December 6, 2003.

³¹ Ibid. The next day, December 7, the military announced that nine children had been killed in a separate incident—an **air** attack on a building in Ghazni, Afghanistan. Aijaz Rahi, “Afghan Village Angry After Gunship Attack,” Associated Press, December 8, 2003. For more information about these **two** attacks, see also Human Rights Watch, “Afghanistan: U.S. Military Should Investigate Civilian Deaths,” press release, December 13, 2003. There was **no** indication that the Ghazni incident was **an** arrest operation.

³² Human Rights Watch telephone interview with an international journalist who attempted **to** visit Sayed Karam, February 6, 2004.

³³ Paul Watson, “Civilian Toll Not U.S. Fault, Afghans Say,” Los Angeles Times, December 11, 2003. U.S. Secretary of Defense Donald Rumsfeld gave **a** press briefing in Washington on December 9 but did not reveal the civilian deaths in Gardez. Why this information was withheld by the military for three days was not explained.

³⁴ Watson, “Civilian Toll Not U.S. Fault, Afghans Say.”

themselves” with weapons and ordinance—a puzzling claim, since the dead civilians were not in Jalani’s compound.³⁵ A foreign correspondent visiting the village the same week found a large concave crater at the compound where the civilians were killed, suggesting that an errant bomb had hit the compound.³⁶

Hilferty said that the aim of the operation had been to arrest M d a h Jalani, whom he described as a suspected associate of Gulbuddin Hekmatyar, the leader of Hezb-e Islami: “We try very hard not to kill anyone. We would prefer to capture the terrorists rather than kill them.”³⁷ But he gave no adequate explanation as to why U.S. forces on the ground ultimately used bombs in an operation in a residential area.

There are conflicting reports from different sources as to how many people were arrested in the operation, varying from five to fourteen.³⁸ A reporter from the *Washington Post* visited the village a week after the attack and was told by villagers that Jalani was a local **military** leader who had cooperated with Taliban forces during the Taliban era, but who had changed sides and cooperated with U.S. forces at times and sat on a local governmental council.³⁹ Villagers said that Jalani had been involved in several tribal disputes in the area and was living openly in the village before the attack, but had left before it took place.

Human Rights Watch received a complaint from government officials in Paktia about an operation in Zurnat district in February 2003 in which Abdul Gehafouz Akhundzada, a cleric, was arrested in his home after a firefight. (Akhundzada’s detention is discussed in more detail in the section on arbitrary arrests and detention below). Among other

³⁵ Ibid.

³⁶ Human Rights Watch interview with a journalist who wished to remain anonymous, Kabul, December 12, 2003.

³⁷ Watson, “Civilian **Toll** Not U.S. Fault, Afghans Say.”

³⁸ Officials in the Afghan Independent Human Rights Commission told Human Rights Watch that eleven persons were arrested during the operation, and had not been released. Human Rights Watch interview with **AIHRC** official, Kabul, December 16, 2003. A local Afghan governmental official in Paktia, Faiz Mohammed Zalan, told a reporter: “There were five people arrested during the whole operation, but they were innocent, so they were released the next day.” See Watson, “Civilian **Toll** Not U.S. Fault, Afghans Say.” The Washington Post reporter who visited the village was told by residents that possibly as many as fourteen people had been arrested during the raid.

³⁹ Pamela Constable, “Deadly U.S. Raid Leaves Some Afghans Bewildered; Villagers Say Target Was Not a Terrorist,” Washington Post, December 12, 2003. U.S. Special Forces in the village refused to talk to the reporter.

things, officials complained of U.S. forces coming for Akhundzada in the middle of the night, a course of action which they believe set off a dangerous firefight.

According to Akhundzada's family and neighbors, the arrest took place on or around February 20, 2003. Afghan and U.S. soldiers gathered outside his home late at night and knocked on his door.⁴⁰ Akhundzada reportedly thought they were Afghan troops who had come to rob him—a common occurrence in Zurmat district.⁴¹ He fired a weapon from his rooftop, either in the air or directed at the troops. The troops outside returned fire, and soon thereafter, U.S. helicopters flew toward the house, reportedly firing weapons. According to his family and neighbors, Akhundzada then realized that the Afghan troops were working with U.S. forces, and surrendered. Before this happened, however, U.S. and Afghan forces fired hundreds of rounds of ammunition into Akhundzada's home, where there were two women—Akhundzada's mother and wife—and his two children. The women and children told Human Rights Watch that they lay on the floor of the home during the attack, and were not wounded.

After Akhundzada was arrested, U.S. troops entered the home and searched it, shooting open steel trunks with their weapons and breaking doors and windows.⁴² Human Rights Watch researchers inspected the house in March and saw hundreds of bullet holes in the compound's external and internal walls. Two bullet slugs dug out of the compound's internal walls appeared to be from an M-60 machine gun, a more powerful weapon than the standard assault rifles carried by U.S. and Afghan troops (M-16s and Russian AK-47s).

Local officials maintained that Akhundzada was a civilian, living openly in Zurmat, who could have been peacefully approached and taken into custody during the day.

Kandahar officials also complained to U.S. forces in 2002 about a raid involving U.S. Army and Special Forces troops that took place on May 24, 2002, in the village of Band

⁴⁰ Information about this case is based on interviews in Zurmat with family members of Abdul Gehafouz Akhundzada, March 10, 2003; interviews with villagers in Zurmat district on March 10, 2003; and interviews with governmental officials in Gardez on March 9, 2003.

⁴¹ Human Rights Watch documented in 2003 that home robberies by Afghan soldiers and police were common in southeastern Afghanistan in 2002 and 2003, including in Paktia province and Zurmat district in particular. See Human Rights Watch, "Killing You Is a Very Easy Thing For Us: Human Rights Abuses in Southeast Afghanistan," *A Human Rights Watch Short Report*, vol. 15, no. 5(c), July 2003, available at <http://www.hrw.org/reports/2003/afghanistan0703/>.

⁴² Sometime during the operation, the family's copy of the Koran was shot through with a bullet, a fact which later and understandably caused anger in the local community.

Taimore, in Kandahar province. Accounts of the operation are not clear, but according to journalists who interviewed villagers, a tribal leader in his 80s was shot dead in a mosque and a 3-year-old girl drowned after she fell into a well trying to run away from U.S. forces.⁴³

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Through 2003, the Afghan Independent Human Rights Commission office in Gardez city has received numerous complaints from the Gardez area, including allegations that U.S. forces or Afghan forces working with them used excessive force and destroyed property during operations. According to the complaints:

- November 9, 2003, Central Gardez: G.K.⁴⁴ claims he “was arrested without cause and his house was damaged by coalition forces. Women and children were kept in the yard in the cold weather and the locks of the women’s boxes were broken, money and jewels were taken.”
- November 8, 2003, Gardez, Shekar Kheil village: H.M.K. complains that “house was damaged by the coalition forces and the named person was taken along with property deeds and other things.”
- August 22, 2003, Central Gardez, Khajeh village: Dr. B, Dr. J, Engineer T.B claim that “In the middle of the night, their house was damaged and coalition forces entered the women’s rooms without permission. Due to fear and terror one woman lost her fetus [spontaneously aborted]. [Dr. B] was taken, along with some money and jewelry.”
- July 28, 2003, Central Gardez: N.G. claims he “was arrested by coalition forces without cause in the middle of the night from his house, and money and jewels were taken.”
- July 13, 2003, Central Gardez, Shaykhan village: J.M.M. complains that: “Coalition forces arrested, beat, harassed and insulted him.”

⁴³ See Michael Ware, “We Were Better Off Under the Russians,” *Time Magazine*, June 10, 2002; Patrick Quinn, “U.S. raids, cultural problems lead to rising resentment in southern Afghanistan,” *Associated Press*, June 24, 2002.

⁴⁴ Names have been replaced with initials to protect the confidentiality of the complainants.

- May 2003, Khost province, Lelamy Koli district: H.I.K. complains that “compound bombed by coalition forces: **two** killed, four injured, four others were taken [arrested] by coalition forces.”

UNAMA local offices and UNAMA headquarters in Kabul have also received numerous complaints over 2002 and 2003 about U.S. forces using excessive or “culturally insensitive” force during operations in the south and southeast of the country.⁴⁵ (Complaints about culturally insensitive force usually refer to allegations of male troops touching or looking at women during searches, which in some areas violate local norms even if there is no sexual intent. Local leaders have requested, among other things, that the U.S. military use more women soldiers during search operations.)

Abuses by Afghan forces

Afghan forces deployed alongside U.S. forces have been implicated in abuses during military operations. As noted elsewhere in this report, persons arrested by U.S. forces routinely complain about local Afghan forces looting their homes in the wake of U.S. military operations.

An Afghan journalist in Kandahar city told Human Rights Watch in November 2003 that he received several complaints in 2003 from residents in Zabul and Helmand about local forces operating with U.S. troops extorting money from villagers by threatening to tell U.S. forces that local residents are “with the Taliban,” claiming that the villagers will be targeted for arrest by the United States if they fail to pay certain sums of money—typically around 10,000 Pakistani rupees (approximately U.S.\$175).⁴⁶

In October 2003, a reporter from the *Los Angeles Times* documented that local troops from Kandahar, working as guides for U.S. forces, looted homes and beat and tortured civilians during a week-long military operation in Zabul province, which lies directly to the east of Kandahar.⁴⁷ Residents showed the journalist **two** young men who had been

⁴⁵ Human Rights Watch interview with U.N. officials, Kabul, December 13 and 16, 2003. Human Rights Watch telephone interview with former U.N. official, February 6, 2004.

⁴⁶ Human Rights Watch interviews with A.G.S., Afghan journalist, October 5 and 9, 2003.

⁴⁷ Paul Watson, “Afghans Tell of Torture During Security Sweep,” *Los Angeles Times*, October 30, 2003; Paul Watson, “Afghan Leader Told U.S. About Abuses, Aide Says,” October 31, 2003. See also transcript of interview with Paul Watson by *Los Angeles Times* Online editor, on documenting abuses and interviewing witnesses, available at: <http://www.latimes.com/>

beaten by the troops; one described being severely beaten and blacking out, the other was still unconscious days after the attack. According to other residents, U.S. forces did not witness the abuses, but the Afghan troops allegedly stole “cash, jewelry, watches, radios, three motorcycles-even the mud-brick school’s windows and doors” before leaving when U.S. and Afghan troops moved on to other areas. Said one elder: “These people are robbing us, torturing us and beating us They are also taking innocent people to jail.”

In late October 2003, a spokesman for President Hamid Karzai said publicly that Karzai’s office had been receiving information about similar abuses by local troops for more than a year; that Karzai had told U.S. military commanders in Kabul that Afghan militias accompanying U.S. troops were committing abuses; that Karzai had suggested to U.S. commanders they not use Afghan militias in non-combat situations; and that the U.S. actions with local militias were undermining the overall effort to combat terrorism in Afghanistan.⁴⁸

Legal standard applicable to use of force during arrest operations

International humanitarian law seeks to protect civilians from unnecessary harm during armed conflict. Central to this protection is the imperative that military forces differentiate between combatants and civilians during military operations and when they take persons into custody.

Rules applicable to the current conflict in Afghanistan⁴⁹ require a military force to “take all feasible precautions in the choice of means and methods of attack with a view to avoiding, and in any event minimizing, incidental loss of civilian life, injury to civilians and damage to civilian objects.”⁵⁰ Attackers must refrain from an attack that may be expected to cause disproportionate civilian casualties and damage.⁵¹ Also prohibited are indiscriminate attacks, which include those not directed at a specific military objective

⁴⁸ Watson, “Afghan Leader Told U.S. About Abuses, Aide Says,” October 31, 2003.

⁴⁹ See section on “International Legal Context,” below.

⁵⁰ Protocol I (1977) Additional to the Geneva Conventions of 1949 (“Protocol I”), art. 57(2)(a)(ii). Many of the provisions of Protocol I of the Geneva Conventions, including those applying to methods and means of attack, are accepted as customary international law applicable to international and non-international armed conflict. See section on “International Legal Context,” below.

⁵¹ Protocol I, art. 57(2)(a)(iii).

and consequently of a nature to strike military objectives and civilians or civilian objects without distinction.⁵²

In situations where forces are conducting essentially law enforcement operations—for instance, arrests of civilians wanted for questioning—basic rules of international human rights law also apply, including standards applicable to the use of force by law enforcement personnel. Applicable law enforcement standards are typically more stringent than those under international humanitarian law, and narrowly prescribe the contexts in which deadly force and firearms may be used.

Human Rights Watch believes that the use of military tactics and military rules of engagement in operations that otherwise bear the characteristics of civilian law enforcement, particularly the arrest of suspects in residential areas, raises legal concerns and in Afghanistan likely has led to avoidable casualties and destruction of civilian property. The United States has an obligation to investigate such incidents, take disciplinary or other legal action as appropriate, scrutinize its arrest methods and rules of engagement, and adopt necessary policy changes to prevent further unnecessary loss of life and property.

⁵² Protocol I, art. 51(4). Among indiscriminate attacks are those expected to cause incidental loss of civilian life and property that would be excessive in relation to the concrete and direct military advantage anticipated. Id. art. 51(5).

Arbitrary or Mistaken Arrests and Indefinite Detention

U.S. forces in Afghanistan regularly capture combatants and civilians who have taken up arms against U.S., Afghan, and coalition forces, during both combat and search and arrest operations. However, as shown here, U.S. forces also routinely arrest civilians taking no direct part in hostilities, sometimes in contexts in which the arrests seem arbitrary or based on poor or faulty intelligence.

As shown in this section, U.S. forces sometimes take into custody **all** men of military age found within the vicinity of an operation. Other times, it seems persons are targeted for arrest because U.S. officials have determined they are a security risk or are useful for intelligence purposes—for instance, clerics or local tribal leaders who might be politically involved with the Taliban, or civilians spotted near the site of a recent attack. Human Rights Watch has interviewed many Afghans who were arrested for simply being at the wrong place at the wrong time.

For many of these men, arrest is the start of an ordeal in which they may be beaten or otherwise mistreated during arrest or detention, repeatedly and seemingly randomly interrogated, held for weeks or months without family visits, and eventually released only to find that their homes were looted by Afghan troops. (Negations of beatings and mistreatment are not discussed here but in the “Mistreatment in Detention” section below.)

In late May 2002, U.S. forces raided **two** homes in the village of Kirmati, near Gardez city, and arrested five Afghan men, all of whom were later released and returned to Gardez. During the raid, U.S. forces reportedly used helicopters and airplanes to patrol the area and lay down suppressing fire. The raid took place in an entirely residential area, and there is no evidence that U.S. forces met any resistance. Kirmati is **firmly** under the control of Afghan forces allied with the United States and was so at **the** time of this attack.

U.S. forces took five people into custody: Mohammad Naim and his brother Sherbat, Ahmaddullah and his brother Amanullah, and Khoja Mohammad. Mohammad Naim described the raid as follows:

It was late at night. It was after midnight. Suddenly, there were a lot of noises, very loud, confusing . . . I went into the yard. Suddenly, there was someone in my house with a gun on me. So I surrendered.⁵³

⁵³ Human Rights Watch interview with hfohammad Naim, Gardez, Paktia, March 10, 2003.

Mohammad Naim's brother told a similar story.⁵⁴ Ahmaddullah and Amanullah, who are brothers, were arrested in a house nearby. Another villager, Khoja Mohammad, was arrested when he came out of his house to investigate what was happening in the other houses.⁵⁵ Amanullah described the arrests as follows:

I awoke, there were helicopters **all** around the house. And I looked out and there were people in my house [in the compound]. There was a man I could see, I thought he was a thief. He had a gun. But he spoke English, and I realized he was **an American**. I don't speak much English, but I said, "How are you?" But then he said, "shut up" in Pashto – "Chopsha."

My brother was there too, and he was arrested. They tied his hands, and they were pointing their guns at me **all** the time. Then they arrested me too, and tied my hands.⁵⁶

The five men were taken to Bagram. Mohammad Naim described what happened after they landed:

They threw us in a room, face down. We were there for a while. Then they stood me up and led me somewhere, and then they took off my blindfold. I saw that I was alone. I saw that there were some other people in the room, but I was the **only** prisoner.

I was on the ground, and a man stood over me, and he had a foot on my back. **An** interpreter **was** there **at** this point. He asked me, "**What** is your name?" and I told them.

They made me take off my clothes, so that I was naked. They took pictures of us, naked. And then they gave us new clothes, which were dark blue.

⁵⁴ **Human** Rights Watch interview with Sherbat, Gardez, Paktia, March 10, 2003.

⁵⁵ **Human** Rights Watch interview with Khoja Mohammad, Gardez, Paktia, March 10, 2003.

⁵⁶ Human Rights Watch interview with Amanullah, Gardez, Paktia, March 10, 2003.

A man came, and he had some plastic bag, and he ran his hands through my hair, shaking my hair. And then he pulled out some of my hair, some hair from my beard, and he put it in a bag. . . . The most awful thing about the whole experience was how they were taking **our** pictures, and we were completely naked. Completely naked. It was completely humiliating.⁵⁷

According to Mohammad Naim and Sherbat, the questioning at Bagram over the next few days was exceedingly general, and indicated that the U.S. investigators had **no** idea who the brothers were:

In the interrogations they asked us, “Who are you? What do you do?” I told them, “I am butcher. I am just a butcher with a shop in the village.” They showed me Khoja Mohammad’s picture [one of the other villagers arrested] and asked me if I knew him. “Obviously I know **him—he** is my neighbor,” I said.⁵⁸

U.S. forces also asked very general questions of Ahmaddullah, Amanullah, and Khoja Mohammad, suggesting the U.S. **knew** very little about them as **well**. Amanullah described his interrogation at Bagram as follows:

During the interrogations, they were asking me, “Do you know Jalaludid? [A suspected Taliban commander.] Do **you** know Mullah Omar?” And they were asking about some other Taliban ministers. But I was telling them, “I am only a laborer.” But then they would ask me [again]: “Do you know Ali Jan, Jalaludin’s deputy?”

There was one Afghan translator, one American, and **two** others [nationalities unknown].⁵⁹

Khoja Mohammad, meanwhile, was asked about Sherbat, one of the brothers arrested in another house. “During the interrogations, they showed me Sherbat’s picture, and they asked me if I knew him. I said, laughing, ‘Of course I know him: he is a butcher in my village. I buy my meat from him.’”

⁵⁷ Human Rights Watch interview with Mohammad Naim, Gardez, Paktia, March 10, 2003.

⁵⁸ Human Rights Watch interview with Sherbat (last name withheld), Gardez, Paktia, March 10, 2003.

⁵⁹ Ibid.

After sixteen days of detention, including **six** days of interrogations, the U.S. released 'the five men. Said Sherbat:

When they released us, an American came and said, through the translator, 'We apologize to you. We apologize on behalf of America and even on behalf of President Bush. We apologize.' They said that they would help us by giving us compensation for what they did. They said we would receive assistance. **But** we never did.

They covered our heads again, and put us in the helicopter, and took us to Gardez. We landed in Gardez, and they took us in truck. We told them to stop before we got to **our** village, and that we would **walk**. The interpreter gave us about thirty-thousand [old] Afghanis each [approximately 70 cents U.S.], so that at least we could get some **tea**.⁶⁰

The five men returned home to find that their houses had been looted and most of their possessions of value gone. Said Mohammad Naim: "I think that night [of the raid] **my** house was looted. . . . After that, **no** one helped **us**, **no** government, no NGO, no **one**."⁶¹ The brothers **said** that they were told later that the Afghan forces working with the Americans had searched and looted **their** houses.

Ahmaddullah says he suffered mental health difficulties after the arrest:

When we were there [to Bagram], I was so afraid they were going to kill me. Even now, having come back, I worry they will come and kill me. We are innocent people, we have nothing. We were punished by the Taliban: we were Persian speakers [i.e., not native Pashtuns like the Taliban.] We thought they [the U.S. forces at Bagram] would **kill** us for sure. I have to take medication now just to sleep. . . . Afghanistan has had so many governments in the last **thirty** years, and under **all** of these governments I have suffered. Under **all** of them I have been mistreated. They **all** ask for forgiveness. What's the good of forgiveness if they don't give you anything?⁶²

⁶⁰ Human Rights Watch interview with Sherbat, Gardez, Paktia, March 10, 2003.

⁶¹ Human Rights Watch interview with Mohammad Naim, Gardez, Paktia, March 10, 2003.

⁶² Human Rights Watch interview with Ahmaddullah, Gardez, Paktia, March 10, 2003.

Human Rights Watch received information about various other persons detained for extended periods by U.S. forces after being taken into custody.

Human Rights Watch interviewed **two** civilian men who were arrested in Paktia in early 2002 and held at Bagram for over a month before being flown to Guantanamo Bay Naval Base in Cuba.⁶³ Both were released in May 2003. The fact that the two were released from Guantanamo and were not held by Afghan authorities after their release makes it clear that insufficient evidence existed that they committed any crime. Neither of them had any idea why they were arrested. One of the detainees said that a close friend of his was still in custody, either in Bagram or Guantanamo. The detainee's family and residents of his village told the detainee that his friend was arrested when he (the friend) approached a U.S. military base near Khost asking for information about him.

Human Rights Watch received a report about two persons in Khost city, Paktia, arrested by U.S. forces in August 2003.⁶⁴ The **two** men were arrested after their brother was killed in an explosion that local authorities believed was the result of a premature detonation of a car bomb. According to the **two** men, who spoke with local journalists in Khost, they were taken to Bagram airbase and interrogated by U.S. forces there. They said they were released after two months, when U.S. forces determined that they were not involved in the explosion or affiliated with anti-Coalition forces. During this whole time, their family was unable to receive news of them. The two said they received compensation from the United States and were flown back to Khost.

In Jalalabad in May 2003, four persons were taken into custody by U.S. forces operating out of Jalalabad airport.⁶⁵ After interrogation, the men were then turned over to Afghan authorities. The detainees, who according to some residents were merely civilians, had no criminal charges pending against them, and were being held seemingly at the request

⁶³ The information here is gathered from interviews by Human Rights Watch with the **two** detainees in July 2003 and several interviews with a journalist who interviewed these detainees earlier. For security reasons, the names of the detainees are withheld. The **two** detainees were severely mistreated by U.S. forces while at Bagram; their case is discussed in more detail in the *Mistreatment in Detention* section, below.

⁶⁴ Information about this case is based on a Human Rights Watch telephone interview with a local journalist, Paktia province, November 4, 2003.

⁶⁵ The information about this case is based on a Human Rights Watch interview with AIHRC official, Jalalabad, May 7, 2003.

of the U.S. forces. They were released a few weeks later after AIHRC officials pressured the local authorities.

One case discussed above involved the February 2003 arrest of Abdul Gehafouz Akhundzada, a cleric from Zurmat district. After the arrest, described earlier, Akhundzada was taken away in a helicopter, presumably to Bagram airbase, but his family was not informed of the location or reason for his arrest over the following months. As of late 2003, there was no response to appeals made through local government officials to both the U.S. and the Afghan authorities for an explanation as to his whereabouts. According to local residents, the U.S. government released no information as to the reasons for Akhundzada's arrest to his family or made such information public. Local U.N. staff in Paktia suggested that coalition forces focused operations in Zurmat district in 2003 in part because several senior Taliban Officials were born there.⁶⁶ It is possible U.S. forces arrested Akhundzada in order to question him, believing that since he is a cleric he might have information about the location of Taliban officials. U.N. staff, however (as well as local officials), do not believe that Akhundzada had any meaningful or high-level connections with the Taliban.⁶⁷

Ahmed Khan and his *two* sons (discussed above) also told Human Rights Watch that they were arrested in Zurmat and taken to Bagram airbase after their arrest. They said they were questioned about their identities, and whether they knew certain people—various names were given, people whom they did not know.⁶⁸ They were held for over **two** weeks, and then **flown** back to Zurmat. Ahmed Khan told Human Rights Watch that U.S. officials at Bagram Air Base apologized to him before releasing him, and asked him “for forgiveness.”

Naim Kuchi, an elder and tribal leader of nomads from Paktika province, was arrested in late December 2002, while traveling on a road outside of Kabul.⁶⁹ U.S. personnel in civilian vehicles, accompanied by Afghan forces, reportedly took him into custody.

⁶⁶ Human Rights Watch interviews with local U.N. staff, Gardez, March 11, 2003.

⁶⁷ Human Rights Watch interviews with local U.N. staff, Gardez, March 11, 2003. Human Rights Watch interview with **Raz** Mohammad Dalili, governor of Paktia, and other government officials, Gardez, March 9, 2003.

⁶⁸ Human Rights Watch interview with Ahmed Khan and his **sons**, Zurmat, Paktia, March 10, 2003.

⁶⁹ Information about this case is based on Human Rights Watch interviews with Naim Kuchi's brother, Kabul, March 8 and 29, 2003. See also Marc Kaufman, “Afghans Protest Clan Leader's Detention,” Washington Post, January 12, 2003; Marc Kaufman, “Afghan Figure Sent to U.S. Facility in Cuba,” Washington Post, March 29, 2003.

Kuchi's family told Human Rights Watch that Kuchi had no involvement with anti-Coalition activities and said they had received no information about the basis for his arrest, nor were they able to meet with him after his arrest. In March 2003, Kuchi was transferred to the Guantanamo Bay detention facility, where he remains. A former U.N. official told Human Rights Watch that Kuchi was allied with the Taliban and with the former mujahidin government in Kabul from 1992-1996, and that he had represented the Ahmadzai nomad tribe in meetings with the Karzai government and the United Nations in 2002.⁷⁰ In April 2003, U.S. Department of Defense officials told Human Rights Watch that Kuchi was a former Taliban official and a "scumbag" involved in smuggling arms over the Pakistani border.⁷¹ Whatever the case, Kuchi remains detained without charge or trial.

Rohullah Wakil, a local leader from Kunar province who was elected to the 2002 loya jirga in Kabul, was arrested in a raid in Kunar in August 2002 and remains in custody—possibly at Bagram. Local representatives from Kunar have made repeated pleas to the United States and U.N. in Kabul, complaining that Wakil should either be tried for a crime or released. No charges have been filed against him.

Human Rights Watch estimates that at least 1,000 persons have been detained in the course of coalition operations in Afghanistan from early 2002 to the present, most of whom have been released within days or weeks of their capture. This estimate is based on the average number of weekly new detainees who arrive at Bagram—approximately ten—according to journalists and human rights monitors who have been following the Bagram process. The number of new detainees obviously fluctuates: In December 2003, according to a U.S. military spokesman in Kabul, U.S. forces detained over 100 people.⁷²

CIA Detention Facilities

As noted above, CIA agents have operated throughout Afghanistan since soon after September 11, 2001, conducting military and intelligence operations. The CIA maintains a large heavily guarded compound in Kabul, in the Ariana Chowk neighborhood, surrounded by forty foot walls, razor wire, and guard towers. The CIA also controls a separate detention and interrogation facility at Bagram airbase, though this has never

⁷⁰ E-mail correspondence with former U.N. official, February 2004.

⁷¹ Human Rights Watch meeting with U.S. Department of Defense officials, Washington D.C., April 24, 2003.

⁷² Stephen Graham, "U.S. Kills 10, Arrests 100 in Afghanistan," Associated Press, December 30, 2003.

been officially acknowledged by the United States. Little is known about who is detained there, for how long, conditions of detention, or grounds for release or transfer to other U.S.-controlled facilities.

Human Rights Watch interviewed one former detainee, a former high-level Taliban official, who was held in an unknown facility near Kabul for eight months, guarded by Afghan troops but interrogated by U.S. personnel in plainclothes.⁷³ Since all U.S. military personnel are under orders to wear uniforms in Afghanistan, it is possible that the government personnel in question were from the CIA. The former official said that there were other detainees held in the same facility: he heard their voices and heard guards discussing other prisoners in the hallway outside his cell. He said he cooperated with the U.S. personnel and was not mistreated. He believes he was held in an Afghan detention center in the Shashdarak area of Kabul or at the Ariana Chowk CIA facility.

There is also some evidence that the United States detains people in Afghanistan who have been captured outside of the country. Pakistani officials told a reporter with *Time* that Khalid Shaikh Mohammed, an alleged al-Qaeda leader, was taken to Bagram air base after his arrest in Pakistan in March 2003.⁷⁴ Saifullah Paracha, a Pakistani man who was alleged to have connections to Shaikh Mohammed, was also taken to Afghanistan after he was arrested in Pakistan in July 2003, according to his wife, who received a letter from him delivered by the International Committee of the Red Cross.⁷⁵ (His son was also arrested by authorities in the United States.⁷⁶) Part of the letter from Saifullah read:

I am in Kabul with U.S. authorities. My health is OK. My blood pressure and sugar is controlled. Tell relatives about my welfare. . . . The Red Cross people do visit me [every] seven to 10 days. Reply me soon. You can send me fax. Get the number from Internet or ICRC.⁷⁷

Saifullah reportedly remains in custody without charge.

⁷³ The information presented here is based on a Human Rights Watch interview with a former detainee on July 18, 2003, in Kabul. For security reasons, the person's name is withheld here.

⁷⁴ See "The Biggest Fish of Them All," *Time* Magazine, March 17, 2003.

⁷⁵ Zarar Khan, "Missing businessman in U.S. custody, wife says," Associated Press, September 4, 2003.

⁷⁶ Ibid.

⁷⁷ Ibid.

Legal standard applicable to detention of civilians and combatants in Afghanistan

International humanitarian law and human rights law provide protections to all persons taken into custody during situations of armed conflict. As discussed in the section “International Legal Context” below, since the establishment of the Karzai government, the ongoing fighting in Afghanistan is considered to be a non-international (internal) armed conflict under the Geneva Conventions. Persons arrested and detained during internal armed conflicts must be treated in accordance with Article 3 common to the 1949 Geneva Conventions, customary international humanitarian law, and the due process requirements of human rights law.

During an internal conflict, persons apprehended for taking part in armed conflict may be prosecuted for taking up arms against the government. This is different from the situation of an international armed conflict, where soldiers are normally entitled to the “combatant’s privilege,” which protects them from being prosecuted for taking part in the hostilities. This means that the Afghan government may prosecute persons apprehended during the current fighting for violations of Afghan law. But such prosecutions must be carried out by tribunals that meet international due process standards.⁷⁸

Persons taken into custody who have not taken a direct part in the hostilities must be charged with a criminal offense or released. The protections of human rights law, in particular the rights to be charged with a criminal offense, have access to legal counsel, and be tried before an impartial and independent court, apply.⁷⁹ In a declared state of emergency, some due process requirements may be derogated, but such derogations must be “limited to the extent strictly required by the exigencies of the situation.”⁸⁰ The

⁷⁸ Common article 3 of the Geneva Conventions provides that criminal sentences may not be imposed except by regularly constituted courts that afford “all the judicial guarantees which are recognized as indispensable by civilized people.” Geneva Conventions of 1949, art. 3. Customary international humanitarian law incorporates many of the fair trial protections found in human rights law. Persons must be presumed innocent, be prosecuted by an independent and impartial court, be informed without delay of the charges against them, and they shall have the right and means of defense. See Protocol I, art. 75. See also International Covenant on Civil and Political Rights (“ICCPR”), opened for signature December 16, 1966, 999 U.N.T.S. 171 (entered into force March 23, 1976, and acceded to by Afghanistan January 24, 1983 and ratified by the United States on June 8, 1992), art. 14.

⁷⁹ ICCPR, arts. 9 and 14.

⁸⁰ The U.N. Human Rights Committee, the body that monitors compliance with the International Covenant on Civil and Political Rights, states in its commentary to article 4 on states of emergency, that limitations to derogation “relates to the duration, geographical coverage and material scope of the state of emergency and any measures of derogation resorted to because of the emergency. . . . [T]he

right to a fair trial by an independent and impartial court, for instance, may never be violated.⁸¹

Even if the United States maintains that an international armed conflict persists in Afghanistan (see International Legal Context section below), U.S. actions with regard to its detainees would remain contrary to international law. During international armed conflict, civilians may be detained for “imperative reasons of security,” but they may not be held indefinitely without review. The Fourth Geneva Convention permits detention “only if the security of the Detaining Power makes it absolutely necessary.”⁸² Even then, the internee is entitled to have his internment reconsidered “as soon as possible” before an appropriate court or administrative board set up by the Detaining Power for that purpose. Thus, most of the standards applicable to non-international conflict are applicable even to international conflicts. By flaunting these standards, the United States is violating international law.

obligation to limit any derogations to those strictly required by the exigencies of the situation reflects the principle of proportionality which is common to derogation and limitation powers. Moreover, the mere fact that a permissible derogation from a specific provision may, of itself, be justified by the exigencies of the situation does not obviate the requirement that specific measures taken pursuant to the derogation must also be shown to be required by the exigencies of the situation.” Human Rights Committee, General Comment 29, States of Emergency (art. 4), U.N. Doc. CCPR/C/21/Rev.1/Add.11 (2001), para. 4.

⁸¹ Human Rights Committee, General Comment 29, para. 11.

⁸² Fourth Geneva, art. 42.

Mistreatment in Detention

Bagram airbase

Human Rights Watch has received credible and consistent information about mistreatment of detainees at the Bagram detention facility. It also appears that during the first months after the United States set up the Bagram facility in late 2001, the treatment of detainees there was especially harsh.

Two detainees held in Bagram in March 2002 (who were later sent to the Guantanamo facility and ultimately released and repatriated) described to Human Rights Watch being held in a cell for several weeks, in a group, stripped to their undershirts and underwear.⁸³ According to the two men, bright lights were set up outside their cells, shining in, and U.S. military personnel took shifts, keeping the detainees awake by banging on the metal walls of their cells with batons. The detainees said they were terrified and disoriented by sleep deprivation, which they said lasted for several weeks. During interrogations, they said, they were made to stand upright for lengthy periods of time with a bright spotlight shining directly into their eyes. They were told that they would not be questioned until they remained motionless for one hour, and that they were not entitled even to turn their heads. If they did move, the interrogators said the “clock was reset.” U.S. personnel, through interpreters, yelled at the detainees from behind the light, asking questions.⁸⁴

Two more detainees held at Bagram in late 2002 told a *New York Times* reporter of being painfully shackled in standing positions, naked, for weeks at a time, forcibly deprived of sleep and occasionally beaten.⁸⁵

A reporter with the *Associated Press* interviewed two detainees who were held in Bagram in late 2002 and early 2003: Saif-ur Rahman and Abdul Qayyum.⁸⁶ Qayyum was

⁸³ The information here is gathered from interviews by Human Rights Watch with the two detainees in July 2003 and several interviews with a journalist who interviewed these detainees earlier. For security reasons, the names of the detainees are withheld.

⁸⁴ A journalist with a British Broadcasting Corporation Panorama program interviewed these two detainees in July 2003 about their experiences at Bagram and Guantanamo. See “Inside Guantanamo,” BBC-One program broadcast on October 5, 2003, transcript available at: <http://news.bbc.co.uk/1/1/shared/sp1/hi/programmes/panorama/transcripts/insideguantanamo.txt>

⁸⁵ See Carlotta Gall, “U.S. Military Investigating Death of Afghan in Custody,” *New York Times*, March 4, 2003.

⁸⁶ Information about these cases is based on an article by an Associated Press journalist who interviewed the two in March 2003. See Kathy Gannon, “Prisoners released from Bagram forced to

arrested in August 2002; Rahman in December 2002. Both were held for more than **two** months. Interviewed separately, they described similar experiences in detention: sleep deprivation, being forced to stand for long periods of time, and humiliating taunts from women soldiers. Rahman said that on his first night of detention he was kept in a freezing cell for part of his detention, stripped naked, and doused with cold water. He believes he was at a military base in Jalalabad at this point. Later, at Bagram, he said U.S. troops made him lie on the ground at one point, naked, and pinned him down with a chair. He also said he was shackled continuously, even when sleeping, and forbidden from talking with other detainees. Qayyum and Rahman were linked with a local commander in Kunar province, Rohullah Wakil, a local and national leader who was elected to the 2002 loya jirga in Kabul, and who was arrested in August 2002 and remains in custody.

According to detainees who have been released, U.S. personnel punish detainees at Bagram when they break rules—for instance, talking to another prisoner or yelling at guards. Detainees are taken, in shackles, and made to hold their arms over their heads; their shackles are then draped over the top of a door, so that they can not lower their arms. They are ordered to stand with their hands up, in this manner, for two-hour intervals. According to one detainee interviewed who was punished in this manner, the punishment caused pain in the arms.⁸⁷

In March 2003, Roger King, a **U.S.** military spokesman at Bagram, denied that mistreatment had occurred, but admitted the following:

We do force people to stand for an extended period of time. . . . Disruption of sleep has been reported as an effective way of reducing people's inhibition about talking or their resistance to questioning. . . . They are not allowed to speak to each other. If they do, they can plan together or rely on the comfort of one another. If they're caught speaking out of turn, they can be forced to do things, like stand for a period of time—as payment for speaking out.⁸⁸

strip naked, deprived of sleep, ordered to stand for hours," Associated Press, March **14**, 2003. Human Rights Watch interviewed Gannon to confirm the accounts given here.

⁸⁷ Human Rights Watch interview with Ahmed Khan, Zurmat, Paktia, March 10, 2003.

⁸⁸ Gannon, "Prisoners released from Bagram forced to strip naked, deprived of sleep, ordered to stand for hours," March **14**, 2003.

King also said that a “common technique” for disrupting sleep was to keep the lights on constantly or to wake detainees every fifteen minutes to disorient them.⁸⁹

Several U.S. officials, speaking anonymously to the media, have admitted that U.S. military and CIA interrogators use sleep deprivation as a technique, and that detainees are sometimes kept standing or kneeling for hours in black hoods or spray-painted goggles, and held in awkward, painful positions.⁹⁰

In March 2003, a U.S. official told a *New York Times* reporter that Omar Faruq, a detainee at Bagram who was allegedly close to Osama bin Laden, was subjected to interrogations at Bagram that were “not quite torture, but about as close as you can get.” The official said that Faruq was fed very little and subjected to sleep and light deprivation and prolonged isolation and room temperatures ranging from 100 degrees to 10 degrees Fahrenheit (38 to -12 centigrade).⁹¹ The same month, U.S. officials told another *New York Times* reporter about interrogations of Abu Zubaydah, allegedly a senior al-Qaeda leader who was arrested in March 2003 and possibly held at Bagram. Abu Zubaydah was shot in the chest, groin, and thigh when he was captured in Pakistan in March, and, according to one official, interrogators later manipulated levels of pain medication for Abu Zubaydah while they were interrogating him.⁹² Military interrogators told the *Wall Street Journal*:

“Interrogators can also play on their prisoners’ phobias, such as fear of rats or dogs, or disguise themselves as interrogators from a country known to use torture or threaten to send the prisoners to such a place. Prisoners can be stripped, forcibly shaved and deprived of **religious items and toiletries.**”⁹³

⁸⁹ Ibid.

⁹⁰ See, e.g., Dana Priest and Barton Gellman, “U.S. Decries Abuse but Defends Interrogations: ‘Stress and Duress’ Tactics Used on Terrorism Suspects Held in Secret Overseas Facilities,” *Washington Post*, December 26, 2002.; Eric Lichtblau and Adam Liptak, “Questioning to Be **Legal**, Humane and Aggressive the White House Says,” *New York Times*, March 4, 2003.

⁹¹ Don Van Natta Jr. “Adark jail for Qaeda suspects; captives are deprived of sleep and sometimes chilled,” *The New York Times*, March 10, 2003.

⁹² Eric Lichtblau and Adam Liptak, “Questioning of Accused Expected to Be Humane, Legal and Aggressive,” *New York Times*, March 4, 2003.

⁹³ Jess Bravin and Gary Fields, “How do Interrogators Make A Captured Terrorist Talk?,” *Wall Street Journal*, March 4, 2003.

Mistreatment in other facilities

Human Rights Watch interviewed a Pakistani fighter with the Taliban who was held at the Kandahar airport in early 2002 and later taken to Guantanamo. He said he was beaten and kicked by U.S. troops in transport to Kandahar and while there.⁹⁴ He was released from Guantanamo in July 2003.

[On the plane to Kandahar:] We were shackled and our eyes were covered so that we could not see anything. . . . [A]ll the handcuffed prisoners were forced to sit with their legs stretched and hands behind them and the whole body bent onto the legs all the way. [Demonstrates: kneeling but essentially sitting on top of his calves and feet, with torso bent down over the knees.]

It was very difficult to remain in that position and if we fell to the side or moved, the armed men standing over ~~our~~ heads would beat us mercilessly with their army boots, kicking us in ~~our~~ back and kidneys. We were all beaten, without exception.

The man also said that he and other prisoners were beaten when they arrived in Kandahar:

Our eyes were closed [blindfolded] while we were getting out of the helicopter at the Kandahar airbase. One man pulled me up by my arm and threw me down the stairs, and then made me to lie down on the ground with my face upward.

We did not have the right to move, and if we did we were beaten. Other people were beaten. . . .

When we were in Kandahar, we were not allowed to talk with each other and if we did, we were beaten and we were not allowed to sleep. For instance, if we were sleeping we were waken up ~~or~~ if we were covering our head with our bed cover we were beaten strongly.

⁹⁴ Human Rights Watch interview with M.S.M. (name withheld), Malakand district, Pakistan, January 3, 2004.

They would kick and punch us. To tell you precisely they were behaving rudely with us.

The man also said that he and other prisoners were occasionally taken outside and forced to lie on the frozen ground until they were numb with cold.⁹⁵

Another Pakistani man, who was arrested in Pakistan by U.S. forces and taken to Kandahar in early 2002 (he was later sent to Guantanamo and was released in 2003), said he was beaten during an interrogation at Kandahar:

My hands were handcuffed in my back. There I was beaten for the first time by the Americans. They made me lie down on a table with my face down, while two persons held me, one at my neck and the second at my feet. Both pressed me down hard on the table, and two others beat me on my back, my thighs and my arms with punches and their elbows. The beating lasted five or six minutes. Then the interrogations started and lasted for half an hour. I was standing the whole time.⁹⁶

The man said he was beaten again at Kandahar in a holding cell, along with other prisoners, before being taken to Guantanamo.

Persons taken into custody after a raid in January 2002 provided other details of mistreatment at the Kandahar airbase. On the night of January 24, 2002, U.S. forces attacked two government buildings in Khas Uruzgon, a small village in eastern Uruzgon province, and mistakenly killed several anti-Taliban fighters who were assisting U.S. forces.⁹⁷ U.S. forces destroyed a school in the attack, killing 19 soldiers and Afghan

⁹⁵ James Meek, a reporter with the Guardian (U.K.), interviewed this detainee and others held in Kandahar at the same time. Their stories were consistent, including being beaten and forced to lie on the frozen earth. See James Meek, "People The Law Forgot," The Guardian, December 3, 2003. See also Gannon, "Prisoners released from Bagram forced to strip naked, deprived of sleep, ordered to stand for hours," March 14, 2003 (including allegations by a detainee at Jalalabad who was forced to lie outside in a puddle of frozen water).

⁹⁶ Human Rights Watch interview with A.Z. (name withheld), North West Frontier Province, Pakistan, February 6, 2004.

⁹⁷ The information about this account is based on the following interviews: Human Rights Watch interview with A.M.S., resident of Khas Uruzgon, Kabul, February 23, 2003. Human Rights Watch interview with R.H.M., resident of Khas Uruzgon; Kabul, February 23, 2003; Human Rights Watch telephone interview with an international journalist who visited Uruzgon village on January 27, 2002, February 20, 2003; Human Rights Watch interview with international journalist who visited Uruzgon

government employees who were with them. U.S. forces took into custody twenty-seven anti-Taliban fighters and government workers and transferred them to Kandahar airbase, where they were held for several days.

Several of these detainees said that they were kicked and punched repeatedly by U.S. forces after they arrived, and suffered broken bones that went untreated. Several were beaten until they were unconscious. Among those beaten was an elderly man, who had his hand broken. Others reported being kicked in their ribs and heads.⁹⁸

At the scene of the attack, local residents found **two** dead Afghan soldiers with their hands bound with plastic ties similar to those commonly used by U.S. troops. They had apparently died from gunshot wounds to the torso. Residents were unable to determine whether they had been bound before they were killed or whether they were wounded, bound, and then subsequently died. The deaths raise serious issues that the U.S. military should **fully** investigate. If the men were intentionally killed after their capture, the killing would amount to an extrajudicial execution and violation of the laws of war. If the men received their injuries before being captured, then it may have been unlawful for the U.S. forces to leave them bound without providing them proper medical attention.⁹⁹ That the U.S. forces were able to take some **two** dozen persons into custody suggests that they would have been fully capable of taking the other two for medical treatment.

After the Khas Uruzgon detainees were released, U.S. officials visited Uruzgon and apologized to elders there, and gave out **\$1,000** to the families of persons who had been killed in the raid. Those who were mistreated by **U.S.** forces received nothing.¹⁰⁰

village in early February **2002**, February **5, 2004**. See also Craig Smith, "U.S. Account Of a Battle with Taliban is Disputed," New York Times, January **27, 2002**; Eric Schmitt and Thom Shanker, "U.S. Releasing **27** Captured in Raid," New York Times, February **7, 2002**.

⁹⁸ See preceding note. See also Carlotta Gall, "Released Afghans Tell of Beatings," New York Times, February **11, 2002**; Ellen Knickmeyer, "Survivors of raid by U.S. forces say victims were among America's best friends," Associated Press, February **6, 2002**; Molly Moore, "Villagers Released by American Troops Say They Were Beaten, Kept in 'Cage,'" Washington Post, February **11, 2002**; Eric Slater, "U.S. Forces Beat Afghans After Deadly Assault, Ex-Prisoners Say," Los Angeles Times, February **11, 2002**.

⁹⁹ See Second Geneva Convention, art. **3** ("The wounded. . . shall be collected and cared for"); art. **12** (Wounded belligerents who fall into enemy hands "shall be treated humanely and cared for. . . . Only urgent medical reasons will authorize priority in the order of treatment to be administered").

¹⁰⁰ A CIA spokesman acknowledged to CNN that the agency sent its personnel to Uruzgon to provide payment. See "CIA pays victims of commando raid," February **6, 2002**, available at: <http://www.cnn.com/2002/US/02/06/ret.detainees.released/>

On March 17, 2002, U.S. forces raided a compound in Sangesar, a village near Kandahar, and arrested more than thirty anti-Taliban fighters, apparently by mistake.¹⁰¹ The detainees were taken to the Kandahar airport.¹⁰² According to the detainees, hoods were placed over their heads and they were “thrown down,” face first, onto rocky ground. Many said they were kicked in the back by U.S. forces. One witness, with a bruised arm, said he was held by the feet and head and kicked repeatedly in the back. Another man, who still had a black eye when he was interviewed three days after being released, said, “They picked me up and threw me down on the rocks. It was painful. I couldn’t rest on my chest. When I moved they kicked me.”¹⁰³ The detainees also said they were punished for talking to each other, by being made to kneel with their hands behind their heads for extended periods, and were kicked when they moved.

A photojournalist who accompanied Special Forces and soldiers from the U.S. 82nd Airborne during operations in eastern Afghanistan in July 2002 told Human Rights Watch that Special Forces referred to the Kandahar airbase as “Camp Slappy,” and that U.S. forces would threaten uncooperative persons encountered during raids, suggesting that they might be sent there: “We tell them they can either cooperate or go to Camp Slappy,” a Special Forces soldier told the journalist.”

Recent complaints received by the Gardez office of the AIHRC about U.S. forces in the Gardez area include the following, from Zurmat district in Paktia province, alleging that

¹⁰¹ Information about this case is based on a telephone interview with a journalist who interviewed the detained men, February 4, 2004, and the news story that journalist filed. See Charles J. Hanley, “Finally freed, Afghans say they were kicked and abused in U.S. hands,” Associated Press, March 23, 2002.

¹⁰² This case was discussed in a Department of Defense briefing on March 20, 2002 in Washington D.C. At that briefing, a military spokesman, Brig. Gen. John W. Rosa Jr., said “We went to the compound—no shots were fired—found out who these folks were, temporarily detained them. We never processed them and they never became detainees. But no shots were fired, and those folks were released.” This statement was false. Several journalists were told by officials in Afghanistan that the men were still in custody, and were not released until March 21. See Hanley, “Finally freed, Afghans say they were kicked and abused in U.S. hands,” March 23, 2002.

¹⁰³ See Hanley, “Finally freed, Afghans say they were kicked and abused in U.S. hands,” March 23, 2002.

¹⁰⁴ Human Rights Watch telephone interview with Tomas van Houtryve, February 3, 2004. See also Tomas van Houtryve, “Prisoners of America,” International Relations Journal, San Francisco State University, Spring 2003.

five residents there were arrested and tortured by U.S. forces (this case is currently being investigated by the AIHRC):

November 29, 2003, Ezzat Kheil village: “The compound was bombarded by coalition forces from Bagram at 2 a.m., damaging the compound and terrifying and frightening women and children in the middle of the night. . . . Five residents of the village were arrested and released after ~~six~~ days; they had been subjected to torture and ~~two~~ of them were injured.”

Human Rights Watch has learned that U.S. forces routinely hold Afghans at the local airport in the eastern city of Jalalabad. However, former detainees there refused to speak in detail with Human Rights Watch about their experiences in U.S. detention. One told Human Rights Watch:

We were treated absolutely terribly there. They did terrible things to us, things we'll never forget. It was absolutely awful what they did. . . . We absolutely cannot talk about it. We don't want to talk about it with you. We have made our agreements not to talk, and we won't talk about it.¹⁰⁵

* * * * *

The treatment of detainees at Bagram seems to have become more standardized and professional since 2002, though the absence of access to detainees makes it difficult to determine whether conditions have significantly improved. Human Rights Watch interviewed several persons detained at the military facility at Bagram in 2003. According to these accounts, persons arrested are usually blindfolded, hooded, and shackled during the ~~trip~~ to Bagram, which is normally by helicopter.¹⁰⁶ Once at Bagram, detainees are taken to a room, separated from other persons who were detained with them, and then stripped and photographed. Samples of hair and skin flakes are taken, presumably to collect for a DNA database. Detainees are then instructed, through interpreters, about the rules of Bagram, which include restrictions on talking with other detainees. They are then shackled and taken to cells, where they are held during the

¹⁰⁵ Human Rights Watch interview with ~~two~~ Afghan men (names withheld), Jalalabad, May 8, 2003.

¹⁰⁶ International law permits security forces to use measures during transportation of arrested persons, such as blindfolds and shackling, that would not normally be permitted once a detainee is at a detention facility. However, these measures can amount to cruel, inhumane ~~or~~ degrading treatment—especially if they are used intentionally to cause ~~pain or~~ suffering.

periods they are not being interrogated. They are given bottles of water and fed in the cells. Except during interrogations, the detainees are shackled, even while sleeping.

Human Rights Watch has not been able to locate or interview anyone who has been held at the Bagram CIA facility. Human Rights Watch researchers spoke with one detainee held in Kabul city who was interrogated by U.S. officials who were likely CIA personnel (as mentioned in the Arbitrary Detention section above).

Detainees held by Afghan forces

Human Rights Watch is extremely concerned about the treatment of the hundreds of Afghans alleged to be from Taliban, Hezb-e Islami, or other anti-Coalition forces held under the auspices of the Afghan military and intelligence authorities. In past reports Human Rights Watch has documented numerous cases of torture, beatings, and other mistreatment of persons in the custody of local Afghan military officials.¹⁰⁷ Recently, for instance, there have been credible reports from human rights monitors in Kandahar that “Taliban prisoners” are repeatedly and severely beaten by the Afghan soldiers holding them. A monitor who met with some prisoners there said: “We have come across this repeatedly. It is an ordinary thing. We know about this. We visit the prisons.”¹⁰⁸

In the northern city of Shiberghan, approximately one thousand detainees—alleged Taliban combatants and foreign fighters captured with them—are being held at a facility under the control of Afghan General Abdul Rashid Dostum, a member of the Karzai government and the commander of a predominately Uzbek militia, Junbish-e Milli. According to human rights monitors in Kabul, CIA and U.S. military interrogators have access to these detainees and others held by Afghan forces across the country.¹⁰⁹ According to officials in the Pakistan government, the United States has resisted efforts by the Afghan and Pakistani governments to screen the detainees for release.

¹⁰⁷ Human Rights Watch, “All Our Hopes are Crushed: Violence and Repression in Western Afghanistan,” *A Human Rights Watch Short Report*, vol. 14, no. 7(C), October 2002, available at http://hrw.org/reports/2002/afghan3/herat1002-06.htm#P997_155129, section IV entitled “Torture and Arbitrary Arrests”; Human Rights Watch, “Killing You Is a Very Easy Thing For Us: Human Rights Abuses in Southeast Afghanistan,” *A Human Rights Watch Short Report*, vol. 15, no. 5(c), July 2003, available at <http://www.hrw.org/reports/2003/afghanistan0703/>.

¹⁰⁸ Human Rights Watch telephone interview with human rights monitor in Kandahar, October 15, 2003.

¹⁰⁹ Human Rights Watch interview with a human rights monitor, Kabul, December 17, 2003.

Officials with **UNAMA** and the Afghan Human Rights Commission have visited Afghan military detention facilities in several provinces and expressed concerns to Human Rights Watch about the treatment of prisoners, including their belief that prisoners have, in some cases, been subjected to torture.¹¹⁰ U.S. military and **CIA** in Afghanistan are aware of these facilities' existence: U.S. forces regularly **work** with local forces during military operations that result in the arrests of persons who are put in Afghan military custody.

Death in U.S. custody

Two Afghans died while in detention at Bagram airbase in December 2002.¹¹¹ Both deaths were ruled homicides by U.S. military doctors who performed autopsies.

One of the prisoners, Dilawar, aged 22 and from near Khost **city** in southeastern Afghanistan, died on December 10, 2002 from "blunt force injuries to lower extremities complicating coronary artery disease," according to his death certificate prepared by a military pathologist, which was obtained by the *New York Times*.¹¹² The other detainee, Mullah Habibullah, aged approximately 30 years and from the southern province of Oruzgan, died earlier, on December 3, 2002. A military spokesman at Bagram confirmed to reporters from the *New York Times* that Mullah Habibullah's death was ruled a homicide by a **military** pathologist, the cause being "pulmonary embolism [**blood** clot in the lungs] due to blunt force injury to the **legs**."¹¹³ Both *military* pathologists, when contacted by Human Rights Watch in November and December 2003, turned down requests to be interviewed.

¹¹⁰ These concerns have been cited in correspondence and telephone conversations between Human Rights Watch and staff from the United Nations Mission in Afghanistan and the Afghan Independent Human Rights Commission. For a more detailed description of military detention sites and ordinary criminal **jails** and prisons in Afghanistan see Human Rights Watch, "Killing **You** Is a Very Easy Thing For Us," n. 9 and accompanying text.

¹¹¹ See Carlotta **Gall**, "U.S. Military Investigating Death of Afghan in Custody," *New York Times*, March 4, 2003. Information about these cases is also based on extensive conversations with journalists who have researched the cases and requested information from U.S. military spokespeople in Kabul during 2003.

¹¹² The death certificate was signed by a military pathologist named Dr. Elizabeth A. Rouse. Dilawar's family have insisted to reporters from the BBC and the *New York Times* that Dilawar was a civilian—a taxi driver and farmer. See **Gall**, "U.S. Military Investigating Death of Afghan in Custody," March 4, 2003; and "Inside Guantanamo," BBC-One program, October 5, 2003.

¹¹³ The spokesman told reporters that the military pathologist who performed the autopsy was named Dr. Kathleen Ingwersen.

Military officials at Bagram said in March 2003 that the military had launched an investigation into the deaths. But as of this Writing in February 2004, they have not announced any results.

In June 2003, another Afghan died at a detention site near Asadabad, in Kunar province.¹¹⁴ U.S. military officials in Afghanistan and in the United States have refused to provide any details about this death.

Human Rights Watch has written repeatedly in 2003 and 2004 to officials in the U.S. Central Command (CENTCOM) and the U.S. Army Criminal Investigation Command (which CENTCOM officials have said is responsible for the Bagram investigation) asking for information about all three of the detainee deaths. Officials from both offices have replied and stated that the investigation into the Bagram deaths is ongoing and that no information is available. As for the Asadabad death, both offices have refused to release any information at all—not even a statement that an investigation is ongoing.

Legal standard applicable to physical treatment of detainees

The prohibition against the ill treatment and torture of detainees is fundamental to both international humanitarian and human rights law. Common article 3 to the 1949 Geneva Conventions prohibits torture, cruel treatment, and “outrages upon personal dignity, in particular humiliating and degrading treatment.” The “Fundamental Guarantees” under Protocol I of 1977 to the Geneva Conventions, generally accepted as customary international law in non-international as well as international armed conflicts, likewise prohibit “at any time and in any place whatsoever . . . torture of all kinds, whether physical or mental.”¹¹⁵ Human rights law similarly prohibits torture and other cruel, inhuman, or degrading treatment or punishment.¹¹⁶ The prohibition against torture and other mistreatment is in effect at all times, and cannot be derogated from during a state of emergency.¹¹⁷

¹¹⁴ April Witt, “U.S. Probes Death of Prisoner in Afghanistan,” Washington Post, June 24, 2003.

¹¹⁵ Protocol I (1977) Additional to the Geneva Conventions of 1949 (“Protocol I”), art. 75.

¹¹⁶ See generally the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (“Convention against Torture”), G.A. Res. 39/46, annex, 39, U.N. Doc. A/39/51 (entered into force June 26, 1987; ratified by Afghanistan April 1, 1987 and by the United States on October 21, 1994). See also ICCPR, art. 7.

¹¹⁷ ICCPR, art. 4(2).

While international law permits the discipline and punishment of prisoners who break reasonable rules, such punishment must be determined by law or imposed by a competent administrative authority, and may not amount to torture or other mistreatment.¹¹⁸

There is no clear line separating some types of permissible interrogation techniques from unlawful mistreatment.¹¹⁹ Each case must be assessed on its own merits. To conform to the letter and spirit of international law, detaining forces should err on the side of caution and constantly evaluate their methods. A practice that is acceptable in one context can be abusive in other circumstances; for instance, allowable day-long questioning of a detainee, when continued overnight and into the following day, can become impermissible sleep deprivation.

Prolonged shackling of detainees violates international law prohibitions against mistreatment, and can amount to torture. The Special Rapporteur on Torture has repeatedly and in various contexts identified shackling for lengthy periods as an example of a torture practice.¹²⁰ The U.N. Secretary General has also referred to shackling as an example of a prohibited method of torture.¹²¹

¹¹⁸ ICCPR, art. 10 ("All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person"); United Nations Standard Minimum Rules for the Treatment of Prisoners, adopted August 30, 1955, by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, U.N. Doc. A/CONF/611, annex I, E.S.C. res. 663C, 24 U.N. ESCOR Supp. (No. 1) at 11, U.N. Doc. E/3048 (1957), amended E.S.C. res. 2076, 62 U.N. ESCOR Supp. (No. 1) at 35, U.N. Doc. E/5988 (1977), paragraphs 28-32

¹¹⁹ See Nigel Rodley, *The Treatment of Prisoners Under International Law* (Clarendon Press, Oxford 1999), p. 105 ("[T]he borderline between 'other ill-treatment' and treatment falling outside the prohibition altogether cannot be precisely drawn.").

¹²⁰ Report of the Special Rapporteur on Torture, Mr. Nigel S. Rodley, "Question of the Human Rights of All Persons Subjected to Any Form of Detention or Imprisonment, in Particular: Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment," U.N. Doc. E/CN.4/1998/38, submitted 24 December 1997 pursuant to Commission on Human Rights resolution 1997/38, (Yemen, para. 200) ("The methods of torture reported included...shackling for lengthy periods..."); Report of the Special Rapporteur on Torture, Mr. Nigel S. Rodley, "Question of the Human Rights of All Persons Subjected to Any Form of Detention or Imprisonment, in Particular: Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment," U.N. Doc. E/CN.4/1996/35/Add.1, submitted 16 January 1996 pursuant to Commission on Human Rights Resolution 1995/37, (China, para. 104) ("The methods of... torture reportedly include handcuffing or shackling for long periods..."); Report of the Special Rapporteur on Torture, Mr. Nigel S. Rodley, "Question of the Human Rights of All Persons Subjected to Any Form of Detention or Imprisonment, in Particular: Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment," U.N. Doc. E/CN.4/1995/34, submitted 12 January 1995 pursuant to Commission on

Prolonged sleep deprivation and exposure to cold may also violate international law prohibitions against mistreatment, and can amount to torture. The U.S. State Department, in its “Country Reports on Human Rights Practices,” **has** repeatedly listed prolonged sleep deprivation and exposure to cold as examples of practices amounting to mistreatment and torture. (See Appendix.)

Human Rights Resolution 1992/32, (China, para. 91) (“Among the most **common** methods of torture reported were . . . shackling with handcuffs or leg-irons, often tightly and with the victim’s body **in a painful position.**”).

¹²¹ See, e.g., United Nations Secretary-General, “Human Rights Questions: Human Rights Situations and Reports of Special Rapporteurs and Representatives, Situation of human rights in Myanmar; Note by the Secretary-General,” (1994), A/49/594, para. 13 (“Numerous allegations . . . have been received from various sources alleging that forces of the Myanmar military, intelligence and security services and police continue to torture persons in detention or otherwise subject them to cruel, **inhuman** or degrading treatments and punishments. . . . Allegations include subjection to . . . shackling. . .”).

IV. International Legal Context

International humanitarian law binds **all** of the parties to the **military** conflict in Afghanistan, including non-state armed groups, Afghan government forces, and the United States and coalition forces. Fundamentally, it imposes upon these warring parties legal obligations to reduce unnecessary suffering and protect civilians and other non-combatants. However, the specific legal context of conflict in Afghanistan and the specific applicable rules of international humanitarian law have changed over time.

The war between the United States and Afghanistan started at least by October 6, 2001, when **U.S. air** attacks on Afghanistan began. This war was an *international* armed conflict—a conflict between opposing states. The law applicable to international conflicts includes the four Geneva Conventions of 1949, to which Afghanistan and the United States are party,¹²² and the Hague Regulations of 1907, which are **commonly** accepted as customary international law.¹²³

On December 22, 2001, power was transferred to an Interim Authority as the sovereign power of Afghanistan, chaired by Hamid **Karzai** and established by the December 5, 2001 Bonn Agreement, endorsed by U.N. Resolution 1383 (2001).¹²⁴ **Six months** later, Hamid **Kamini** was elected by an Afghan loya jirga to the presidency **of** the transitional administration of Afghanistan; he was inaugurated on June 19, 2002.

As of June 19, 2002, and possibly as early as December 22, 2001, the international armed conflict between the United States and Afghanistan concluded. Since the end of the international conflict, hostilities have been part of a *non-international* (also referred to as an

¹²² Geneva Convention for the Amelioration of the Condition of the Wounded and Sick **m** Armed Forces in the Field (First Geneva Convention), 75 U.N.T.S. 31, entered into force Oct. 21, 1950; Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea (Second Geneva Convention), 75 U.N.T.S. 85, entered into force Oct. 21, 1950; Geneva Convention relative to the Treatment of Prisoners of War (**Third** Geneva Convention), 75 U.N.T.S. 135, entered into force Oct. 21, 1950; Geneva Convention relative to the Protection of Civilian Persons in Time of War (Third Geneva Convention), 75 U.N.T.S. 287, entered into force Oct. 21, 1950.

¹²³ Convention (IV) respecting the Laws and Customs of War **on** Land of 1907 (Hague Regulations), 3 *Martens Nouveau Recueil* (ser. 3) 461, 187 *Consol. T.S.* 227, entered into force Jan. 26, 1910.

¹²⁴ According to the Bonn Agreement, art. 1: “An Interim Authority shall be established upon the official transfer of power on 22 December 2001. . . .” Art. 3: “Upon the official transfer of power, the Interim Authority shall be the repository of Afghan sovereignty, with immediate effect.” See Agreement on Provisional Arrangements in Afghanistan Pending the Re-Establishment of Permanent Government Institutions, Bonn, Germany, signed December 5, 2001.

internal) armed conflict. U.S. forces in Afghanistan are now operating in the country with the acquiescence of the Karzai government, and hostilities fall under provisions of the Geneva Conventions applicable to non-international armed conflict. The primary law applicable to non-international armed conflicts is article 3 common to the Geneva Conventions. Protocol II to the Geneva Conventions, applicable to non-international conflicts, has not been ratified by Afghanistan or the United States, but most if not *all* of its provisions are recognized as customary international law and are therefore also applicable.¹²⁵ In addition, certain provisions of Protocol I, including many of those concerned with the protection of the civilian population, are also recognized as reflective of customary international law and are also applicable.¹²⁶

During a non-international armed conflict, international humanitarian law as the *lex specialis* (specialized law) takes precedence, but does not replace, human rights law. Persons under the control of a party to an internal armed conflict must be treated in accordance with international humanitarian law. But where that law is absent, vague, or inapplicable, human rights law standards still apply. Human rights law includes, among other things, the International Covenant on Civil and Political Rights¹²⁷ and the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment,¹²⁸ both of which have been ratified by the United States and Afghanistan.

Human rights standards applicable to military and police forces who are carrying out law enforcement or investigative operations—including arrests and searches—include the U.N. Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and the U.N. Code of Conduct for Law Enforcement Officials.¹²⁹ These standards apply to military forces when they are operating in a law enforcement context.¹³⁰

¹²⁵ Protocol II (1977) Additional to the Geneva Conventions of 1949 (“Protocol II”).

¹²⁶ Protocol I (1977) Additional to the Geneva Conventions of 1949 (“Protocol I”).

¹²⁷ International Covenant on Civil and Political Rights (ICCPR), opened for signature December 16, 1966, 999 U.N.T.S. 171 (entered into force March 23, 1976, and acceded to by Afghanistan January 24, 1983 and ratified by the United States on June 8, 1992).

¹²⁸ Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, G.A. Res. 39/46, annex, 39, U.N. Doc. A/39/51 (entered into force June 26, 1987; ratified by Afghanistan April 1, 1987 and by the United States on October 21, 1994).

¹²⁹ U.N. Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, U.N. Doc. A/CONF.144/28/Rev.1 (1990); U.N. Code of Conduct for Law Enforcement Officials, G.A. res. 34/169, annex, 34 U.N. GAOR Supp. (No. 46) at 186, U.N. Doc. A/34/46 (1979), adopted by the U.N. General Assembly on December 17, 1979.

¹³⁰ Ibid. In accordance with the commentary to article 1 of the Code of Conduct for Law Enforcement Officials, in countries where police powers are exercised by military authorities, whether

V. Conclusions

This report raises serious concerns regarding the actions of U.S. forces in Afghanistan, specifically with regard to the use of excessive force during arrests; arbitrary or mistaken arrests and indefinite detention; and mistreatment in detention:

- U.S. forces regularly use military means and methods during arrest operations in residential areas where law enforcement techniques would be more appropriate. This has resulted in unnecessary civilian casualties and may in some cases have involved indiscriminate or disproportionate force in violation of international humanitarian law.
- Members of the U.S. armed forces have arrested numerous civilians not directly participating in the hostilities and numerous persons whom U.S. authorities have no legal basis for taking into custody. These cases raise serious questions about the intelligence gathering and processing that leads to arrests and call into question the practice of arresting any and sometimes all Afghan men found in the vicinity of U.S. military operations.
- Persons detained by U.S. forces in Afghanistan are held without regard to the requirements of international humanitarian law or human rights law. They are not provided reasons for their arrest or detention. They are held virtually incommunicado without any legal basis for challenging their detention or seeking their release. They are held at the apparent whim of U.S. authorities, in some cases for more than a year.
- The general lack of due process within the U.S. detention system violates both international humanitarian law and basic standards of human rights law. The United States, as a detaining power in Afghanistan, is essentially applying no legal principles to the persons whom they detain in Afghanistan. Simply put, the United States is acting outside the rule of law. There are no judicial processes restraining their actions in arresting persons in Afghanistan. The only real legal limits on their activities are self-imposed, and there is little evidence that the Department of Defense has seriously investigated allegations of abuses or mistreatment at Bagram, and the department has most certainly not sought on its own to correct the legal deficiencies of its detention regime.

uniformed or not, or by state security forces, the definition of law enforcement officials shall be regarded as including officers of such services.

- There are serious concerns regarding the treatment of detainees at Bagram airbase, particularly in light of the failure of the United States to investigate and publicly report on several unexplained deaths in detention. There is credible evidence of beatings and other physical assaults of detainees, as well as evidence that the United States has used prolonged shackling, exposure to cold, and sleep deprivation amounting to torture or other mistreatment in violation of international law. Neither the **U.S. Department of Defense** nor the **CIA** has adequately responded to allegations of mistreatment at U.S. detention facilities in Afghanistan.

VI. Recommendations

To the United States Government:

Detention

- Publicly identify all places in Afghanistan where the United States, including the CIA, is holding persons in detention. The CIA should transfer **all** detainees under its control to U.S. military or Afghan detention facilities or release them. In the event that the International Committee of the Red Cross does not have access to all detainees under U.S. control, permit **full** access immediately.
- Ensure that **all** detainees are treated in accordance with international human rights law and international humanitarian law applicable to non-international armed conflicts. As the sovereign authority, the Afghan government is ultimately responsible for protecting the legal rights of those detained by the United States. The United States must take **immediate** measures in conjunction with the Afghan **Ministry** of the Interior to ensure that detainees at Bagram airbase and other U.S. detention sites are charged and prosecuted, or released, in accordance with international due process standards. **This** includes access to counsel, and the right to a fair and public trial before a competent, impartial, and independent court.
- Permit families of detainees, and those providing legal assistance, to visit detainees.
- Abide fully with U.S. obligations as a party to the Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment. Prohibit **all** interrogation techniques that cause physical or mental suffering. Cease practices, such as shackling and sleep deprivation, if they rise to the level of mistreatment. End incommunicado detention practices that facilitate mistreatment.
- Fully and impartially investigate allegations of mistreatment of detainees in detention at all U.S. facilities in Afghanistan and make public the results of those investigations.
- In particular, release the results of investigations into detainee deaths at Bagram and Asadabad military bases. Take disciplinary or criminal action as appropriate against all personnel responsible for mistreating or otherwise violating the rights of detainees.

Military Operations and Law Enforcement

- In all circumstances comply with international humanitarian law standards to protect civilians against the dangers arising from military operations. These include prohibitions on attacks against civilians and civilian objects, indiscriminate attacks, and attacks that cause harm to civilians or civilian objects that are excessive in relation to the anticipated military advantage.
- Take all precautionary measures during military operations, including: taking all feasible steps to verify that objectives to be attacked are not civilian but military; taking all feasible precautions in the choice of means and methods of attack to avoid or minimize harm to civilians and civilian objects; and canceling or postponing an attack where it becomes apparent the objective or target is not a military one or where civilian loss would be disproportionate. The United States must give particular attention to these standards during operations carried out in residential areas that have not been the scene of military action.
- Revise as necessary standing Rules of Engagement for Afghanistan to ensure that in law enforcement situations, the U.S. armed forces and CIA forces abide by international standards on the use of force by law enforcement officials. For instance, indiscriminate suppressing fire should not be used in law-enforcement type operations.
- In law enforcement situations, military forces should abide by the standards set forth in the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and the U.N. Code of Conduct for Law Enforcement Officials. U.S. forces deployed in such situations must be provided with the equipment and training necessary for this purpose. It is also necessary to have sufficient and appropriate interpreters to communicate with the local population. Applicable standards provide in part:
 - In law enforcement operations, non-violent means shall be applied, as far as possible, before resorting to the use of force and firearms. Force and firearms may only be used if other means remain ineffective or without any promise of achieving the intended result.
 - Whenever the lawful use of force and firearms is unavoidable, restraint must be exercised in their use and in proportion to the seriousness of the offence and the legitimate objective to be achieved. Force used

must minimize damage and injury, and respect and preserve human life. Injured persons must receive medical aid and have their family notified at the earliest possible moment.

- Firearms shall not be used against persons except: in self-defense or defense 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 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.
 - It must be ensured that firearms are used **only** in appropriate circumstances and in a manner likely to decrease the risk of unnecessary harm. Prohibited are the use of those firearms and ammunition that cause unwarranted injury or present an unwarranted risk.
- US. forces should, in all instances, take all appropriate steps to prevent or stop Afghan forces deployed with or under the command of U.S. forces from committing violations of international human rights and humanitarian law. Those who do should be turned over to the proper Afghan authorities for disciplinary action or criminal prosecution.

T ○ President Hamid Karzai and the Afghan Government:

- Ensure, through the Ministry of the Interior, that the Afghan justice system applies to all persons detained in the country, including those held by U.S. forces at Bagram airbase and other detention facilities. Work with the United States to ensure that the fundamental rights of all detainees are respected.
- Thoroughly and impartially investigate all allegations of criminal offenses and violations of the laws of war by Afghan military forces and militias, and take appropriate disciplinary and criminal action against those responsible.
- Pressure the United States government to ensure that all forces operating in Afghanistan uphold international humanitarian law and human rights law.

Appendix: U.S. Criticisms of Mistreatment and Torture Practices

The U.S. State Department has condemned as torture or other inhuman treatment many of the treatments and techniques described in this report and used by U.S. personnel in Afghanistan. Listed below are reports from 2000, 2001, and 2002 in the U.S. State Department's annual "Country Reports on Human Rights Practices."

Country	Methods Used:
Burma	According to a State Department country report, the Burmese military "routinely subjected detainees to harsh interrogation techniques designed to intimidate and disorient ." ¹³¹ Techniques listed include being forced to squat or remain in uncomfortable periods for long periods of time, sleep and food deprivation, confinement in leg clamps, and prolonged questioning under bright lights. ¹³²
Cambodia	The State Department reported that "torture, beatings, and other forms of physical mistreatment of persons held in police or military custody continued to be a serious problem throughout the country ." ¹³³ In particular, the State Department noted that "there were credible reports that both military police and police officials used physical and psychological torture and severely beat criminal detainees, particularly during interrogation ." ¹³⁴ It also noted reports of shackling of prisoners.
Cameroon	The State Department reported that "security forces continued to subject prisoners and detainees to degrading treatment," which included stripping of inmates. ¹³⁵
China	The State Department reported that "police and other elements of the security apparatus employed torture and degrading treatment in dealing with some detainees and prisoners" including prolonged periods of solitary confinement, incommunicado detention, beatings, and shackling. ¹³⁶ Reports noted that the practice of shackling hands and feet constituted torture. ¹³⁷

¹³¹ U.S. State Department, *2001 Country Reports on Human Rights Practices* (Burma), Sect. 1(c).

¹³² Ibid.

¹³³ U.S. State Department, *2002 Country Reports on Human Rights Practices* (Cambodia), Sect. 1(c).

¹³⁴ Ibid.

¹³⁵ U.S. State Department, *2000 Country Reports on Human Rights Practices* (Cameroon), Sect. 1(c); U.S. State Department, *2001 Country Reports on Human Rights Practices* (Cameroon), Sect. 1(c); U.S. State Department, *2002 Country Reports on Human Rights Practices* (Cameroon), Sect. 1(c).

¹³⁶ U.S. State Department, *2002 Country Reports on Human Rights Practices* (China (including Tibet, Macau and Hong Kong), Sect. 1(c).

Country	Methods Used:
Egypt	The State Department noted that “there were numerous, credible reports that security forces tortured and mistreated citizens .” ¹³⁸ The country reports cite the stripping, handcuffing, being doused with cold water, and blindfolding of prisoners among the principal methods of torture used by Egyptian authorities. ¹³⁹
Greece	In a 2002 report, the State Department described kicks, blows the hands, fists, batons or other objects and excessive force at the time of arrest as “ ill treatment .” ¹⁴⁰
Iran	According to the State Department “there were numerous credible reports that security forces and prison personnel continued to torture detainees and prisoners .” ¹⁴¹ Common methods of torture include sleep deprivation and “suspension for long periods in contorted positions .” ¹⁴² The State Department further noted that systematic abuses included “prolonged and incommunicado detention .” ¹⁴³
Iraq	Iraqi security services used extended solitary confinement in small dark compartments as a form of torture, according to 2001 and 2002 reports.’’ Reports from 2000,2001, and 2002 also cite the use of prolonged and incommunicado detention and the continual denial of citizens’ “basic right to due process .” ¹⁴⁵

¹³⁷ Ibid.

¹³⁸ U.S. State Department, *2002 Country Reports on Human Rights Practices* (Egypt), Sect. 1(c).

¹³⁹ U.S. State Department, *2000 Country Reports on Human Rights Practices* (Egypt), Sect. 1(c); U.S. State Department, *2007 Country Reports on Human Rights Practices* (Egypt), Sect. 1(c); U.S. State Department, *2002 Country Reports on Human Rights Practices* (Egypt), Sect. 1(c).

¹⁴⁰ U.S. State Department, *2002 Country Reports on Human Rights Practices* (Greece), Sect. 1(c).

¹⁴¹ U.S. State Department, *2001 Country Reports on Human Rights Practices* (Iran), Sect. 1(c); U.S. state Department, *2002 Country Reports on Human Rights Practices* (Iran), Sect. 1(c).

¹⁴² U.S. State Department, *2000 Country Reports on Human Rights Practices* (Iran), Sect. 1(c); U.S. State Department, *2007 Country Reports on Human Rights Practices* (Iran), Sect. 1(c); U.S. State Department, *2002 Country Reports on Human Rights Practices* (Iran), Sect. 1(c).

¹⁴³ U.S. State Department, *2000 Country Reports on Human Rights Practices* (Iran), Sect. 1(d). The practice of incommunicado detentions was continued in 2001 and 2002. U.S. State Department, *2007 Country Reports on Human Rights Practices* (Iran), Sect. 1(d); *2002 Country Reports on Human Rights Practices* (Iran), Sect. 1(d).

¹⁴⁴ U.S. State Department, *2001 Country Reports on Human Rights Practices* (Iraq), Sect. 1(c); U.S. State Department, *2002 Country Reports on Human Rights Practices* (Iraq), Sect. 1(c).

¹⁴⁵ U.S. State Department, *2000 Country Reports on Human Rights Practices* (Iraq), Sect. 1(d). The practice of incommunicado detentions was continued in 2001 and 2002. U.S. State Department, *2007 Country Reports on Human Rights Practices* (Iraq), Sect. 1(d); U.S. State Department, *2002 Country Reports on Human Rights Practices* (Iraq), Sect. 1(d).

Country	Methods Used:
Jordan	The State Department reports that Jordanian police and security forces were alleged to engage in acts of torture, including the use of sleep deprivation, solitary confinement, and prolonged suspension with ropes in contorted positions. ¹⁴⁶
North Korea	The State Department stated that methods of torture “routinely” employed in North Korea include “severe beatings . . . prolonged periods of exposure, humiliations such as public nakedness, and confinement to small ‘punishment cells’, in which prisoners were unable to stand upright or lie down, where they could be held for several weeks.” ¹⁴⁷ The State Department characterized the use of leg irons, metal collars, and shackles as “harsh”. ¹⁴⁸
Kuwait	According to the State Department reports, “there continued to be credible reports that some police and members of the security forces abused detainees during interrogation.” ¹⁴⁹ Abusive treatment included blindfolding and verbal threats. ¹⁵⁰
	The State Department reported that prisoners were subjected to “torture and other abuses” including “beatings, long-term solitary confinement in completely darkened rooms In some cases detainees were held in leg chains or wooden stocks”. ¹⁵¹
Libya	According to the State Department, Libyan authorities commonly chain detainees to a wall or hang them by their wrists for hours and deprive them of food and water. ¹⁵² The State Department stated that “[t]he Government’s human rights record remained poor, and it continued to commit numerous serious abuses,” examples of which included holding prisoners incommunicado. ¹⁵³

¹⁴⁶ U.S. State Department, 2000 *Country Reports on Human Rights Practices (Jordan)*, Sect. 1(c); U.S. State Department, 2002 *Country Reports on Human Rights Practices (Jordan)*, Sect. 1(c).

¹⁴⁷ U.S. State Department, 2002 *Country Reports on Human Rights Practices (Democratic People’s Republic of Korea)*, Sect. 1(c).

¹⁴⁸ Ibid.

¹⁴⁹ U.S. State Department, 2000 *Country Reports on Human Rights Practices (Kuwait)*, Sect. 1(c); U.S. State Department, 2001 *Country Reports on Human Rights Practices (Kuwait)*, Sect. 1(c); U.S. State Department, 2002 *Country Reports on Human Rights Practices (Kuwait)*, Sect. 1(c).

¹⁵⁰ U.S. State Department, 2002 *Country Reports on Human Rights Practices (Kuwait)*, Sect. 1(c); U.S. State Department, 2001 *Country Reports on Human Rights Practices (Kuwait)*, Sect. 1(c).

¹⁵¹ U.S. State Department, 2002 *Country Reports on Human Rights Practices (Laos)*, Sect. 1(c).

¹⁵² U.S. State Department, 2000 *Country Reports on Human Rights Practices (Libya)*, Sect. 1(c); U.S. State Department, 2001 *Country Reports on Human Rights Practices (Libya)*, Sect. 1(c); U.S. State Department, 2002 *Country Reports on Human Rights Practices (Libya)*, Sect. 1(c).

¹⁵³ U.S. State Department, 2000 *Country Reports on Human Rights Practices (Libya)*, Sect. 1(d). The practice of incommunicado detentions was continued in 2001 and 2002. U.S. State Department, 2001

country	Methods Used
Pakistan	The State Department reports that prolonged isolation, being chained to a cell wall, and denial of food or sleep are common torture methods. ¹⁵⁴
Philippines	The State Department reported that “members of the security forces and police continued to use torture and to abuse suspects and detainees.” The State Department cited reports by a non-governmental organization stating that “torture remained an ingrained part of the arrest and detention process.” The State Department noted that common forms of torture and abuse reported during the arrest and detention process included striking detainees and threatening them with guns. The State Department also cited reports of detainees being tied up, blindfolded and punched during interrogations as cases of torture. ¹⁵⁵
Russia	The State Department described forms of “torture” by police officers including beating with fists, batons or other objects. ¹⁵⁶
Saudi Arabia	The State Department noted that Ministry of Interior officials use sleep deprivation and suspension from bars with handcuffs as interrogation tactics. ¹⁵⁷
Sri Lanka	According to State Department reports, “torture continues with relative impunity.” ¹⁵⁸ Reported methods of torture include suspension by the wrists or feet in contorted positions and being forced to remain in unnatural positions for extended periods. ¹⁵⁹

Country Reports on Human Rights Practices (Libya), Sect. 1(d); U.S. State Department, 2002 *Country Reports on Human Rights Practices* (Libya), Sect. 1(d).

¹⁵⁴ U.S. State Department, 2000 *Country Reports on Human Rights Practices* (Pakistan), Sect. 1(c); U.S. State Department, 2007 *Country Reports on Human Rights Practices* (Pakistan) Sect. 1(c); U.S. State Department, 2002 *Country Reports on Human Rights Practices* (Pakistan), Sect. 1(c).

¹⁵⁵ U.S. State Department, 2002 *Country Reports on Human Rights Practices* (Philippines), Sect. 1(c).

¹⁵⁶ U.S. State Department, 2002 *Country Reports on Human Rights Practices* (Russia), Sect. 1(c).

¹⁵⁷ U.S. State Department, 2000 *Country Reports on Human Rights Practices* (Saudi Arabia), Sect. 1(c); U.S. State Department, 2001 *Country Reports on Human Rights Practices* (Saudi Arabia), Sect. 1(c); U.S. State Department, 2002 *Country Reports on Human Rights Practices* (Saudi Arabia), Sect. 1(c).

¹⁵⁸ U.S. State Department, 2000 *Country Reports on Human Rights Practices* (Sri Lanka), Sect. 1(c); U.S. State Department, 2001 *Country Reports on Human Rights Practices* (Sri Lanka), Sect. 1(c).

¹⁵⁹ U.S. State Department, 2007 *Country Reports on Human Rights Practices* (Sri Lanka), Sect. 1(c); U.S. State Department, 2007 *Country Reports on Human Rights Practices* (Sri Lanka), Sect. 1(c); U.S. State Department, 2002 *Country Reports on Human Rights Practices* (Sri Lanka), Sect. 1(c).

Country	Methods Used:
Tunisia	Tactics such as food and sleep deprivation or confinement to a tiny, unlit cell are commonly used in Tunisia. ¹⁶⁰ In addition, the State Department notes that despite the shortening by Tunisian government of the maximum allowable period of pre-arraignment incommunicado detention from 10 to 6 days, “credible sources claimed that the Government rarely enforces the new provisions and that appeals to the court for enforcement are routinely <i>denied</i> .” ¹⁶¹
Turkey	According to the 2001 and 2002 country reports, some of the many methods of torture employed by Turkish security forces and recognized by the State Department included repeated beatings; forced prolonged standing, isolation; exposure to loud music; stripping and blindfolding; food and sleep deprivation; and psychological torture including verbal threats and deception of a detainee, for example, instilling a false belief that the detainee is to be <i>killed</i> . ¹⁶²
Yemen	According to the State Department, detainees in Yemen have been confined in leg irons and shackles despite a 1998 law banning the practice. ¹⁶³

¹⁶⁰ U.S. State Department, *2001 Country Reports on Human Rights Practices* (Tunisia), Sect. 1(c); U.S. State Department, *2002 Country Reports on Human Rights Practices* (Tunisia), Sect. 1(c).

¹⁶¹ U.S. State Department, *2001 Country Reports on Human Rights Practices* (Tunisia), Sect. 1(c), (d). The practice of incommunicado detentions was continued in 2002. U.S. State Department, *2002 Country Reports on Human Rights Practices* (Tunisia), Sect. 1(c), (d).

¹⁶² U.S. State Department, *2001 Country Reports on Human Rights Practices* (Turkey), Sect. 1(c); U.S. State Department, *2002 Country Reports on Human Rights Practices* (Turkey), Sect. 1(c).

¹⁶³ U.S. State Department, *2002 Country Reports on Human Rights Practices* (Yemen), Sect. 1(c).

Acknowledgments

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Asia Division

Human Rights Watch is dedicated to protecting the human rights of people around the world.

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We enlist the public and the international community to support the cause of human rights for **all**.

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March 15, 2004

TO: Larry Di Rita
CC: Paul Wolfowitz
FROM: Donald Rumsfeld *DR*
SUBJECT: Brit GTMO Detainee Allegations

My understanding on this detainee beating allegation is that it is flat untrue, that we have had many people check it, that they are lying and that they are trained to lie and say these things.

It seems to me we ought to knock it down hard and expose them for following their training.

Thanks.

Attach.
3/13/04 AFP (FBIS OW43484535)

DHR:dh
031504-21

.....
Please respond by 3/9/04

3/15

✓
3/16

To Def-

We have knocked down quite hard. Surprisingly, the allegations have not gotten a lot of play over here, because the allegation(s) are so fantastic and not believable. D. R.

OSD 10788-04

11-L-0559/OSD/36010

383.6

UNCLASSIFIED

DOCUMENT-ID: OW43484534
DOCST: ACTIVE
LANGUAGE: ENGLISH
VENDOR: AGENCE FRANCE PRESSE
PUBNAME: AGENCE FRANCE PRESSE
ORIGDATE: 200403132340
PUBLISHR: AGENCE FRANCE PRESSE
PUBNO: e0562
DOR: 20040313
TOR: 184115
CLASS: UNCLASSIFIED
TITLE: More Guantanamo Bay Britons allege beatings and abuse
ATTENTION - ADDS quotes, details, background ///

TOPLINES:

LONDON, March 13 (AFP) - Three British friends released this week from the United States' Guantanamo Bay centre for terrorism suspects have said they were regularly beaten while in US custody, TEXT:

More Guantanamo Bay Britons allege beatings and abuse
ATTENTION - ADDS quotes, details, background ///

LONDON, March 13 (AFP) - Three British friends released this week from the United States' Guantanamo Bay centre for terrorism suspects have said they were regularly beaten while in US custody, backing similar allegations by two other British detainees.

Asif Iqbal, Ruhai Ahmed and Shafiq Rasul, all from the town of Tipton in central England, said they were regularly mistreated from the moment they were handed over to US forces in Afghanistan in late 2001.

After being taken to a US detention centre in the Afghan city of Kandahar, they were forced to kneel bent forwards for hours with their foreheads touching the ground, Rasul told The Observer, a British Sunday newspaper.

"I lifted my head up slightly because I was really in pain. The sergeant came up behind me, kicked my legs from underneath me, then knelt on my back," he said.

"They took me outside and searched me while one man was sitting on me, kicking and punching."

The three childhood friends, aged between 22 and 26, said they had gone to Pakistan for Iqbal's planned wedding, arranged by his family, before going into Afghanistan to help arrange humanitarian aid.

There they were captured by the US-backed Northern Alliance, and almost died after hundreds of prisoners were forced into lorry containers, the majority of whom suffocated.

The trio's allegations of US mistreatment follow similar claims made earlier this week by two other British returnees.

Tarek Dergoul, a 26-year-old former care worker from east London, said in a statement issued through his lawyer on Friday that he had endured "botched medical treatment, interrogation at gunpoint, beatings and inhuman conditions".

Earlier that day another released Briton, 37-year-old website designer Jamal al-Harith, said in a newspaper interview that he had experienced beatings and degrading treatment during his two years at the jail.

US Secretary of State Colin Powell told a British television programme which also interviewed Harith that the charges were "unlikely".

The five British men flew home on Tuesday from Camp Delta, the high-security camp in Guantanamo Bay, Cuba where the United States is holding about 650 suspected Al-Qaeda and Taliban fighters.

Despite their lengthy detention and although four of the men were briefly held by British police when they returned, none has been charged with any crimes.

The three friends recounted being repeatedly interrogated by both US and British intelligence officials who falsely claimed to have incontrovertible evidence linking them to the Al-Qaeda terrorist group.

The trio said that last year they were moved to an isolation block at the Cuban camp after interrogators said they had been seen on a video tape made in August 2000 standing behind Al-Qaeda leader Osama bin Laden.

Rasul told the newspaper that he had pointed out that at the time he was allegedly with bin Laden, he had been enrolled at a British university and working at a local electrical goods shop -- both facts that could be easily checked.

On being told he could have falsified these, Rasul made a false confession along with his friends.

"I got to the point where I just couldn't take it any more. Do what you have to do, I told them.

"I'd been sitting there for three months in isolation so I said yes, it's me. Go ahead and put me on trial," Rasul said.

Although Britain has been the United States' closest ally in its "war on terrorism", there has been considerable disquiet in the country over the treatment of the Britons detained at Guantanamo Bay.

Washington says that those held at the base are "illegal combatants", and thus not subject to rules governing either civilian or military prisoners.

pw/gk

Britain-US-attacks-Guantanamo
AFP 132340 GMT 03 04

March 15, 2004

TO: Larry Di Rita
FROM: Donald Rumsfeld *DR*
SUBJECT: TV Programs on Anniversary

*Advanced
copy sent
3/15 103*

Please have someone pull up what are going to be the best programs on the one-year anniversary of Iraq.

Let's make sure we get them put on my calendar and taped. If I can, I will watch them; if not, I can watch them later on tape.

Thanks.

DHR:dh
031504-15

.....
Please respond by 3/16/04

*DB
3/16*

11-L-0559/OSD/36013

OSD 10789-04

March 15, 2004

TO: *MIRA RICARDO*
~~Peter Rodman~~

c c : Paul Wolfowitz
Doug Feith

FROM: Donald Rumsfeld *DR*

SUBJECT: Condolence Letter to Spain

*Advance
copy sent
3/15 1015*

Please draft a note to Aznar about the terrorist act in Spain, and get it to me to sign by tomorrow.

Joyce had dinner with him at the White House recently. You might include her and say that we are both thinking of him, the people of his country and the loved ones of those who were killed.

Thanks.

DHR:dh
031504-7

.....
Please respond by 3/16/04

OSD 10790-04

11-L-0559/OSD/36014

March 15, 2004

TO: Doug Feith
CC: Paul Wolfowitz
FROM: Donald Rumsfeld *DR*
SUBJECT: Oil-for-Food

IRAO

Here is the material from Newt Gingrich on the Oil-for-Food program. Let's push ahead.

Thanks.

Attach.
3/10/04 Gingrich memo to SecState

DHR:dh
031504-4

.....
Please respond by

3/26/04

15 MAR 04

11-L-0559/OSD/36015

OSD 10791-04 *g*

**American Enterprise
Institute**✓
3/15**Fax****To:** Secretary Colin Powell**From:** Newt Gingrich**Fax:** (b)(6)**Pages:** TEN (including this one)**Phone:****Date:** 3/10/2004

from newt
3/10/04

Claude Hanks-Drielsma (the man who uncovered the Nobel scandal in Sweden and negotiated the South African debt crisis) is convinced the UN oil for food program was the largest financial scandal in history.

he is also convinced it reaches into France, the UN, Jordan, and a host of other countries.

finally he is convinced it will inevitably show up as corruption in our efforts to modernize Iraq because the depth and habit of corruption are so deep.

it is vital that we get ahead of this corruption scandal by appointing a special investigative task force both to help uncover past corruption and to root out current corruption.

Given the scale of corruption KPMG is uncovering it is almost certain a lot of very clever experts in bribery and false accounting are doing business with CPA.

former Deputy Attorney General Ed Schmuts (sp?) is in Iraq now as Advisor to the Justice Ministry. He could be reassigned immediately to head an anti-corruption task force with a counterpart from Iraq.

Either we will be the people rooting out corruption or we will be the people presiding over corruption.

This could explode this summer and fall and be very much to our disadvantage unless we get ahead of the curve and very loudly meet it head on.

I am forwarding a few of the number of already published articles which make clear how big this is. Hanks-Drielsma is back in town next week and I am certain this will get bigger. Someone fairly senior should be assigned to work with him. Please have him or her contact Bill Sanders at the American Enterprise Institute (WSanders@aei.org, ph. (202) 862-5948) for Hanks-Drielsma's contact and scheduling information.

your friend, newt

11-L-0559/OSD/36016

Copyright 2004 The Financial Times Limited
Financial Times (London, England)
February 21, 2004 Saturday

Two firms named to probe Iraq graft claim

By THOMAS CATAN

Iraq's Governing Council has appointed KPMG accountants and Freshfields, the international law firm, to investigate allegations of corruption under the United Nations' oil-for-food programme - set up to alleviate the impact on ordinary Iraqis of sanctions against Saddam Hussein.

The IGC opened the investigation last month after compiling a list of some 270 people from 45 countries who allegedly received crude oil contracts from Mr Hussein's regime under the UN programme.

The Iraqi oil minister, Ibrahim Bahr al-Uloun, said last week that his ministry would sue anyone found to have taken bribes from Mr Hussein's regime.

The UN has strongly denied accusations of corruption within its operations and said it was requesting documentary evidence.

Claude Hanks-Drielsma, a British adviser to the IGC, said yesterday: "The concerns and questions put to the UN are serious and warrant an independent investigation by the UN ... I think what will shock everybody is the extent of it (the corruption) ...

"The amounts involved and the blatancy of it is beyond anything that certainly I've seen," he added.

Some former weapons inspectors in Iraq have made similar allegations.

David Kay, former head of the US Iraq Survey Group, told the AP news agency last week that his team had found widespread corruption in the oil-for-food programme.

"There are going to be red faces among a lot of our allies and friends as to this," he said.

The US Treasury and the customs service are also investigating whether international sanctions against Iraq were violated.

###

Copyright 2004 News World Communications, Inc.
The Washington Times
February 20, 2004

Saddam's fan club

By Ariel Cohen

SPECIAL TO THE WASHINGTON TIMES

The latest revelations that the deposed Iraqi dictator Saddam Hussein used oil sales under the U.N. oil-for-food program to buy friends and influence policy around the world should turn on an alarm in Washington, New York, Paris and other capitals. Saddam's influence buying is only a part of a broader phenomenon. Other oil-producing countries are engaged in similar activities on an even larger scale.

Several important lessons arise from discovery of Saddam's buddy list. First, this is just the beginning: There are thousands of documents in Baghdad that American and Iraqi intelligence officers need to catalog, translate, analyze and investigate. The precedent - the Eastern German intelligence service STASI archives, which exposed hundreds of spies in Europe and America.

Second, the U.N. may have done more damage than good in Iraq - and may do so again. The U.N. oil-for-food officials knew about the global bribery effort and did nothing to stop it. Moreover, it is possible the officials in that august body facilitated and benefited from at least some of the transactions.

A key question is whether a "Mr. Sevan" who allegedly received oil export vouchers in Panama is the same person as the U.N. Assistant Secretary General Benon V. Sevan, who ran the oil-for-food program. So far, U.N. Secretary General Koffi Annan has refused an internal investigation, and the U.N. bureaucracy has stonewalled and resisted an external investigation of the oil-for-food program.

This is not the first time the U.N. has bungled major policy undertakings: The U.N. aid effort in the West Bank and Gaza called United Nations Relief and Works Agency for Palestine Refugees in the Near East [UNRWA] only perpetuated the refugee problem and has been thoroughly penetrated by Hamas and other terrorist organizations.

Third, persistent rumors are worth checking. Stories about Saddam's global payola have been in circulation for years, with nobody investigating. Similar stories are in circulation about Saudi and Chinese influence-buying. It is high time the law-enforcement and intelligence agencies in the U.S. and Europe cooperated in investigating.

The documents uncovered in Baghdad by the Iraqi Oil Ministry and published in Al Mada, an independent Iraqi newspaper, are a jackpot of embarrassing information. Their veracity is confirmed by Naseer al-Chaderji, a senior member of the Iraqi Governing Counsel [IGC], and by **Claude Hanks-Drielsma**, the British chairman of Roland Berger Strategy Consultants and an adviser to the IGC.

The documents list dozens of organizations and individuals in more than 50 countries who were instrumental in orchestrating pro-Saddam policies, and point to a spider web of allies, from the pro-Saddam British back-bencher Member of Parliament George Gallaway to President Jaques Chirac's friend Patrick Maugein, an oil trader, and to highly influential former French Interior Minister Charles Pasqua, who has denied any connection to Iraq. While Bernarde Merimee - France's ambassador to the United Nations - who is on Saddam's buddy list, denied accusations, can banking details available in Baghdad exculpate the French diplomat?

The list includes Indonesian President Megawati Sukarnoputri, the Bulgarian Socialist Party, the highly influential Russian Orthodox Church, Yasser Arafat's Palestine Liberation Organization and Jordanian Islamic radical leader Layth Shbeilat. Some of those fingered have denied the accusations. Others, like Mr. Maugein, have announced they "did nothing wrong."

There are a few surprises on the list. The extent to which Russia benefited from doing business with Saddam is mind-boggling. While others received several millions of barrels, Russia got the lion's share of 1.3 billion barrels.

Vladimir Zhirinovsky's "Liberal Democratic Party" is listed as receiving a whopping 80 million barrels. A senior official in that extremist party complained to the author in a 2002 meeting at the Duma that Washington's military action against Saddam would "destroy the most lucrative business" they ever had.

President Putin's United Russia party was equally well-oiled. Russian politically influential oil companies received close to a billion barrels with market value of more than \$20 billion. "Our Foreign Ministry is for sale as far as the Russian oil companies are concerned. A department chief receives about \$200 a month - you do the math," a Moscow-based Russian Middle Eastern expert told me.

Many names and positions on the list require further investigation and clarification: Who is the anonymous "director" of the Russian Presidential Administration? The recently retired Alexander Voloshin, Mr. Putin's chief of staff, or a lower-level official, possibly still in place? Undeniably, Moscow's resistance to the war against Saddam was as implacable as it was shrill.

Did the millions of barrels earmarked for the "Ukrainian Social Democrat Party" benefit President Leonid Kuchma's Chief of Staff Alexander Medvedchuk, the leader of that party or go directly to the president who allegedly sold arms to Baghdad?

Just as Saddam's oily revenues corrupted presidential chancelleries and newsrooms, funds from other major Middle Eastern oil suppliers with ambitious religious and political agendas may wreak even more havoc.

At stake is the integrity of the foreign policy process, which is supposed to, but often does not, reflect national interests - not the size of bribes in ministers' bank accounts. However, an ugly reality is emerging, one that should be investigated by U.S. intelligence and law-enforcement agencies.

Consumer countries have to strive to turn oil suppliers into what they should be: commodity providers, not power peddlers corrupting global political systems, media and academia. National agendas should be set at the ballot box and in legislatures, not in desert tents. Global bribery may be as dangerous to the West as global terrorism. Saddam's buddy list is just the tip of the iceberg.

Ariel Cohen is a research fellow at the Heritage Foundation. His expertise is in international energy security.

###

Copyright 2004 The Financial Times Limited
Financial Times (London, England)
February 6, 2004

Saddam oil bribe claims probed in US

By THOMAS CATAN, CAROLA HOYOS and MARK TURNER

US authorities are investigating claims that hundreds of people received oil contracts from Saddam Hussein when US sanctions were in force in return for supporting his regime.

The US Treasury's office of foreign assets control and immigrations and customs enforcement are examining whether any oil contracts violated international sanctions. Iraq's Governing Council (IGC) has also launched an investigation since a local newspaper listed 270 people from more than 40 countries alleged to have received oil contracts, including foreign politicians, officials, companies and activists.

Senior United Nations officials will shortly discuss a response to related charges of corruption in connection with the oil-for-food programme, which the UN administered for Iraq during Mr Hussein's rule.

The UN meeting will also study a series of allegations made by members of the Governing Council, a UN official said.

In a letter this week to the UN, obtained by the FT, IGC adviser **Claude Hanks-Drielsma** detailed "serious transgressions" in the oil-for-food programme. He said the original list of oil contracts "demonstrates beyond any doubt that Saddam Hussein bought political and other support under the aegis of the UN". Kofi Annan, the UN secretary-general, has said the programme was satisfactorily audited many times.

According to Mr Hanks-Drielsma, the UK chairman of Roland Berger Strategy Consultants and a former chairman of the management committee at Price Waterhouse and Partners, at least 10 per cent was added to the value of all invoices under the UN-run programme.

He calculated that the scheme would have provided Mr Hussein's regime with more than Dollars 4bn (Pounds 2.2bn).

UN officials said they were aware that Mr Hussein's regime had found ways to circumvent the sanctions and raise cash through kickbacks.

"Everybody knew this was going on but it was not going on under our noses because it was not part of the procedures we were involved in," said a UN official. "Certainly a lot of people and companies got involved in illicit transactions but these were not part of the oil-for-food programme."

Mr Hanks-Drielsma said he was "absolutely certain" the document was legitimate. "I know how it was compiled and I'm totally satisfied that it's genuine." He said the list was compiled on IGC orders mainly from existing oil ministry records.

Mr Hanks-Drielsma has long known Mr Chalabi, head of the Iraqi National Congress (INC) and chairman of the IGC finance committee, which is investigating the allegations. Mr Chalabi began pursuing the charges against the UN at least eight months ago, according to a person who spoke to him last summer.

"There are many indications there's a huge amount of corruption as regards this programme," said a spokesman for Mr Chalabi.

Additional reporting by Mark Turner and Carola Hoyos

###

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Financial Times (London, England)
February 5, 2004

Monitoring panel for Iraq spending yet to start work

By THOMAS CATAN

An independent watchdog set up by the United Nations nine months ago to monitor spending of Iraqi revenues by occupying powers has yet to begin work, plagued by long disagreements over its scope.

In the meantime, the occupying powers continue to spend billions of dollars in Iraqi funds without the independent oversight ordered by the UN Security Council last year.

"There's been all of this time, all these revenues, without any independent verification - which is in breach of UN resolutions," said John Davison of UK charity Christian Aid.

The Coalition Provisional Authority (CPA) is due to be dissolved in around five months' time, when it is scheduled to hand over power to an Iraqi government. It is unclear what will happen to both the fund and the international panel supposed to monitor it after that time.

The situation has fuelled suspicions that the CPA is deliberately dragging out the process to avoid independent scrutiny of its spending in its final months of existence - something it strongly denies.

"One is never quite sure what the actual hold-up is," said Claude Hanks-Drielsma, a British adviser to Iraq's Governing Council. "The lack of transparency and adequate consultation has at times contributed to that perception. It's quite disgraceful and unnecessary that it hasn't started work yet."

The UN Security Council set up the International Advisory and Monitoring Board (IAMB) last May to oversee spending from the Development Fund for Iraq (DFI) - a newly created account containing Iraqi oil revenues, frozen assets and funds left over from the UN's oil-for-food programme.

Under the terms of the UN resolution, the watchdog is made up by representatives of the International Monetary Fund, the World Bank and the Arab Fund for Social and Economic Development. They spent much of last year engaged in disagreements over the watchdog's remit.

"One of the issues that held it up is that the US didn't want it to have any real teeth," said an official from one of the watchdog's member organisations. "(The members) said wait a second, we are not in the business of rubber-stamping things here."

After months of wrangling, the IAMB was finally set up in October, and has held two procedural meetings since then. But it is still waiting for the CPA to nominate accountants, which the IAMB is meant to then approve or reject.

"The institutions presented a work programme to the CPA in December and are still waiting for a final commitment by CPA," said the official from an IAMB member organisation.

A CPA official, however, said they were waiting for the "statement of work" to be finalised before any accountants could be selected. According to CPA figures, Dollars 10.5bn has flowed into the DFI account in New York, of which just over Dollars 3bn has been spent. The CPA says it has used funds from the account to, among other things, buy wheat, pay Iraqi salaries, rebuild essential services and print the new currency.

As time goes by, there is a growing sense among critics that they will simply have to take occupying forces at their word.

"Five months from now, the CPA is supposed to dissolve," said Nathaniel Hurd, who is preparing a report on spending by the occupying powers for Iraq Revenue Watch, a watchdog funded by financier George Soros. "So this whole thing may have been some giant window-dressing exercise and all of this money may be spent with minimal external oversight," said Mr Hurd.

###

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THE DAILY TELEGRAPH(LONDON)
October 16, 2003

Taylor Nelson creates new role for Lowden

ROLAND Berger Strategy Consultants have appointed **Claude Hanks-Drielsma** as chairman. He is chairman of the Windsor Leadership Trust.

###

Copyright 2003 The Financial Times Limited
Financial Times (London,England)
October 15, 2003

And finally... Claude Hanks-Drielsma

By RUTH SULLIVANBODY:

* Roland Berger Strategy Consultants has appointed **Claude Hanks-Drielsma**, former chairman of Price Waterhouse's management committee, as chairman.

###

Copyright 2003 Times Newspapers Limited
The Times (London)
October 7, 2003

The College of St George Windsor Castle

Mr **Claude Hanks-Drielsma** was elected Honorary Fellow and Special Adviser, The College of St George, at the meeting of the General Chapter on September 29, 2003.

###



OpinionJournal

from THE WALL STREET JOURNAL Editorial Page


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WEASEL ALERT

Saddam's Global Payroll

It's time to take a serious look at the U.N.'s oil-for-food program.

BY THERSE RAPHAEL

Monday, February 9, 2004 8:00 a.m. EST

On Dec. 5, during a trip to Baghdad, Claude Hankes-Drielsma faxed an urgent letter to U.N. Secretary-General Kofi Annan. Mr. Drielsma, the U.K. Chairman of Roland Berger Strategy Consultants, had recently been appointed to advise Iraqi Governing Council. What he saw in Baghdad left him shocked. "As a result of my findings here, combined with earlier information," he wrote, "I most strongly urge the U.N. to consider appointing an independent commission to review and investigate the 'Oil for Food Programme.' Failure to do so might bring into question the U.N.'s credibility and the public's perception of it. . . . My belief is that serious transgressions have taken place and may still be taking place."

Just how serious these transgressions were became clear late last month, when the Iraqi daily Al Mada published a partial list of names, compiled by Iraq's ministry, of those whom Saddam Hussein rewarded with allocations of Iraqi oil. Mr. Hankes-Drielsma, who says he was among the first to see the list in early December, says it is based on numerous contracts and other detailed documents and was compiled at the request of the Iraqi Governing Council.

The list, a copy of which has been seen by the Journal's editorial page, is in spreadsheet format and details (in Arabic) individuals, companies and organizations, grouped by country, who oil ministry and Governing Council officials believe received vouchers from the Iraqi regime for the purchase of oil under the oil-for-food program. Mr. Hankes-Drielsma said the recipients would have been given allocations at below-market prices and then been able to pocket the difference when a middleman sold the oil on to a refinery; 13 time periods are designated and with indications of how much crude, in millions of barrels, each recipient allegedly received.

The list reads like an official registry of Friends of Saddam across some 50 countries. It's clear where his best, best friends were. There are 11 entries under France (totaling 150.8 million barrels of crude), 14 names under Syria

11-L-0559/OSD/36026

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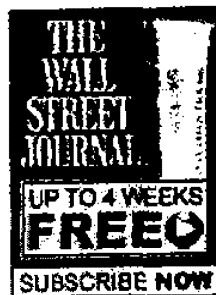
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(totaling 116.9 million barrels) and four pages detailing Russian recipients, voucher allocations of over one billion barrels. Many of the names, transliterated phonetically from Arabic, are not well-known or are difficult to identify from the information given. Others stand out. There's George Gallo, the Saddam-supporting British MP recently expelled from the Labour Party, has always denied receiving any form of payment from Saddam. Other notable include Indonesian President Megawati Sukarnoputri (also listed separately as the "daughter of President Sukarno"), the PLO, the Popular Front for the Liberation of Palestine, the Russian Orthodox Church, the "director of the Russian President's office" and former French Interior Minister Charles Pasqua. Some--including Mr. Pasqua, the Russian Church and Ms. Megawati--have denied receiving anything from Saddam. Patrick Maugein, a close friend of Jacques Chirac and head of Soco International oil company, says his dealings were all within "the framework of the oil-for-food program and there was nothing illegal about it."

The list's breadth, and the difficulty in reading and interpreting it, has slowed its exposure. There's also the question of authentication. Mr. Hanks-Driels (who is not an Arabic speaker) is convinced it is authentic and will be followed by more detailed evidence as the Iraqi oil ministry and Governing Council conduct further investigations. "I've seen the documents that have satisfied beyond any doubt that we're dealing with a genuine situation," he told me.

One of the most eye-catching names on the list is easy to miss as it's the only entry under a country one would not normally associate with Iraq--Panama. The entry says: "Mr. Sevan." That's the same name as that of the U.N. Assistant Secretary-General Benon V. Sevan, a Cyprus-born, New York-educated career U.N. officer who was tapped by Kofi Annan in October 1997 to run the oil-for-food program.

When I tried Mr. Sevan for comment, a U.N. spokesman wouldn't put me through to him directly but offered to pass on e-mailed questions. In an e-reply to questions about Mr. Sevan's apparent inclusion on the list and interest in the Panama-based business that allegedly received the discounted oil, the spokesman quoted Kofi Annan's statement Friday: "As far as I know, nobody at the Secretariat has committed any wrongdoing. If there is evidence, we will investigate it very seriously, and I want those who are making the charges to give the material they have to me so that we can follow up to determine if there has been any wrongdoing and I would take necessary action. So far, statements are being made but we need to get facts." The pro forma U.N. response certainly seems inadequate. Mr. Sevan should take the opportunity to defend himself against the inference that the presence of his name on this list could help explain how Saddam was able to get by with so much influence-buying around the world with little apparent objection from the U.N.

In the seven years that Oil-for-Food was operational, (it was shut down in November and its obligations are being wound up) Saddam was able to skim funds for his personal use, while at the same time doing favors for those who supported the lifting of sanctions, supplied him with his vast arsenal of weapons, and opposed military action in Iraq. Indeed, it was clear from the outset that Saddam would be able to use the program to benefit his friends. The 1995 U.N. resolution setting out the program--Resolution 986--bends backwards to reassure Iraq that Oil-for-Food would not "infringe the

11-L-0559/OSD/36027

sovereignty or territorial integrity" of Iraq. And to that end it gave Saddam power to decide on trading partners. "A contract for the purchase of petroleum and petroleum products will only be considered for approval if it has been endorsed by the Government of Iraq," states the program's procedures. Predictably, Saddam exploited the program for influence-buying and kickbacks and filled his coffers by smuggling oil through Syria and elsewhere. With Oil for-Food and smuggling, he was able to sustain his domestic power base and maintain a lavish lifestyle for his inner circle.

The system was ripe for abuse, in part because a divided Security Council gave Saddam far too much flexibility within the program. Oil-for-Food not only gave Iraq the power to decide with whom to deal, but also freedom to determine the official price of Iraqi oil, revenues from which went legally into the U.N.'s Oil for-Food account. U.N. rules did not allow it to order Iraq to deal directly with end-users and bypass all those lucky middlemen who got deals from Saddam. Nor was the U.N. allowed to view contracts other than those between the oil ministry and the first purchaser, so it had no way of verifying that surcharges were being imposed by the middlemen on end-users. That enabled him to add surcharges to finance his own schemes while still making the final price competitive.

U.N. rules were ostensibly devised to prevent pricing abuses, but in one of many indications of administrative failure, those safeguards appear not to have been enforced. In response, the U.S. and Britain tried often from 2001 to impose stricter financial standards, but Russia blocked changes. Then the U.S. and Britain instituted a system of retroactive pricing--delaying approval of the Iraqi selling price so that they could take account of the market price when giving their approval. This too met with grumbling from Friends of Saddam while it reduced oil exports, it didn't end the corruption.

Throughout most of the program's life, Mr. Sevan's office seemed to see no evil. When overwhelming evidence finally surfaced that Oil-for-Food had become a gravy-train for the Iraqi regime, U.N. officials acknowledged some of the abuses but refused any of the blame. Criticism is routinely portrayed as politically motivated. "The [program] has existed in a highly politicized environment from day one," explains the U.N. Web site. "The scale of these operations has also made it a rather large target." Its last line of defense was to punt to the Security Council, whose sanctions committee (authorized by 1990 sanctions resolution and composed of Council members) was meant to oversee the program, receive reports and review audits.

The record of systemic abuse of the program lends credence to claims that the oil-ministry list is genuine and should be investigated. The Iraqi Governing Council says it's considering legal action against anyone found to have profited illegally from Oil-for-Food. The U.S. Treasury's Bureau of Immigration and Customs Enforcement is investigating possible violations of U.S. law. But the U.N. has resisted calls for an independent investigation into abuses. Says M. Hankes-Drielsma: "I would urge the U.N. to take the high moral ground and instigate a truly independent investigation."

To this end, he wrote a second letter to the U.N. secretariat on Feb. 1, this one addressed to Hans Correll, Under Secretary for Legal Affairs and Legal Counsel of the U.N., with a copy to British Foreign Secretary Jack Straw. He cataloged

11-L-0559/OSD/36028

questions on areas "which need urgent investigation," e.g. "Why did the U.I approve oil contracts to non-end users?" His letter alleges that "not less than 10% was added to the value of all invoices to provide cash to Saddam . . . was this not identified and prevented?" The letter also asks "What controls in place to monitor BNP [the French bank] who handled the bulk of the LCs, total value of which may have [been] in the region of \$47 billion?"

In a June 2000 statement on Oil-for-Food, Mr. Sevan said, "As [Mr. Annan] it recently, we, as international civil servants, take our marching orders from the Security Council." It might have been more accurate to acknowledge that the U.N. took its marching orders from Saddam.

Ms. Raphael is editorial page editor of The Wall Street Journal Europe.

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March 15, 2004

TO: Doug Feith
Jim Haynes

CC: Gen. Dick Myers
Paul Wolfowitz

FROM: Donald Rumsfeld *DR*

SUBJECT: Transitional Arrangements for Coalition Forces

Please take a look at this note to Secretary Powell on the situation in Iraq legally.

Please get back to me with a proposal – fast.

Thanks.

Attach.

3/10/04 Jack Straw memo to SecState

DHR:dh
031504-3

.....
Please respond by 3/17/04

OSD 10792-04

11-L-0559/OSD/36030

IRAA

13 APR 2004

FROM SITE 4A STATE

(FRI) MAR 12 2004 9:58/ST. 9:57/NO. (b)(6) P



British Embassy
Washington

From the Ambassador
Sir David Manning KCMG

10 March 2004

The Honorable Colin Powell, KCB
Secretary of State
Department of State
Room 7226
2201 C Street NW
Washington DC 20520

By fax: (b)(6)

3100 Massachusetts Avenue, N.W.
Washington, D.C. 20008-3600

Telephone: (b)(6)
Facsimile: (b)(6)

www.BritainUSA.com

LETTER TASKED

CC TO NSC
1 Pentagon

See Mr Secretary

I have been asked by the Foreign Secretary, Jack Straw, to forward to you the attached paper on transitional arrangements in Iraq.

Best wishes,

Yours faithfully

David Manning

2004 MAR 11 PM 3 01

11-L-0559/OSD/36031

arrangements and thus address many of the issues highlighted above. If we can get the IGC to issue an invitation to the MNF to remain beyond 30 June, a new UNSCR should then

- note this as representing Iraqi consent until such time as the new sovereign Transitional government addresses the matter;
- re-authorises the MNF on that basis; and
- give UNSC recognition/endorsement to other arrangements set out in an IGC invitation, including eg the type of operations the MNF would conduct, and the relationship between the MNF and Iraqis as set out in the IGC invitation.

Status of forces provisions

7. With the disappearance of the CPA on 30 June, the privileges and immunities set out for coalition forces under CPA Order 17 will cease to exist, notwithstanding Article 26(C) of the TAL. UNSCR 1511 does not confer P&I on the MNF, and it would be unusual and awkward to write them into a new UNSCR. These issues need to be provided for in some other form. This is important to the UK military, who have a duty of care requiring them to ensure that their personnel are legally protected for the activities they are likely to be involved in. Coalition partners also feel strongly about this, and will find it difficult to secure continuing approval from their parliaments in the absence of clarity on such issues. The continuation of CPA Order 17 would fill part of this gap, although there would be a need to find some legally watertight way of effecting this – such as amending Order 17 so that it does not cease to apply with the demise of the CPA. But CPA Order 17 anyway covers only some of the issues relevant to the status of forces – namely jurisdiction, immunities and claims. It does not cover issues such as:


- freedom of entry into, exit from and movement within Iraqi territory, airspace and waters
- the right to use such bases and facilities as the MNF deems appropriate, including the retention of property currently being used.
- the right to use utilities and other services, etc

8. It is widely accepted now that a formal SOFA could probably not be negotiated with the IGC nor would it be likely to be seen as a legitimate bilateral agreement. But the IGC could express a view which would establish a working interim basis for MNF forces pending any negotiation of a formal SOFA agreement with the Transitional Government. This could be in the form of an annex to the letter of invitation from the IGC. An possible alternative option would be for the IGC letter simply to state that until a sovereign Iraqi Government concludes a binding international agreement on the status of forces, as provided for in the TAL, the provisions of the UN's generic model SOFA should apply, *mutatis mutandis* (though this options needs further analysis and might not provide all the protections we need). This would save the IGC having to negotiate on some politically very sensitive issues. Subsequent UNSCR recognition of this arrangement would also go a long way to solving the IGC legitimacy problem.

March 15, 2004

TO: Larry Di Rita
David Chu

CC: Paul Wolfowitz

FROM: Donald Rumsfeld 

SUBJECT: Mandatory Retirement

Please get together and tell me how I am supposed to speak out on this mandatory retirement problem. Please get me some anecdotes and some examples, and let's get some action going on it.

Thanks.

Attach.

3/8/04 USD(P&R) memo to SecDef re: Mandatory Retirement (OSD 03360-04)

DHR:dh
031504-2

.....
Please *respond* by

4/2/04

OSD 10793704

11-L-0559/OSD/36033

210 Navy

11-L-0559



PERSONNEL AND
READINESS

UNDER SECRETARY OF DEFENSE
4000 DEFENSE PENTAGON
WASHINGTON, D. C. 20301-4000

SEC 1
201 MAR -0 11:54
3/K
②

INFO MEMO

March 8, 2004 - 11:00 AM

FOR: SECRETARY OF DEFENSE

FROM: David S. C. Chu, Under Secretary of Defense (P&R)

David S. C. Chu
Signature & Date

SUBJECT: Mandatory Retirement--SNOWFLAKE(Tab A)

- There are several remedies applicable to Captain Jenkins and others like him:
 - He can be recalled to active duty. The Secretary of a Military Department may order most retired officers to active duty (10 U.S.C. 9688). No more than 25 officers can serve concurrently and they cannot serve more than 12 months in a 24-month period. (During periods of national emergency these restrictions are lifted, which is the current situation.)
 - If selected by a selection board, an officer who would otherwise be required to retire following completion of 30 years service may have retirement deferred and be continued on active duty for up to 5 years or until age 62, whichever is sooner (10 U.S.C. §637).
- The real problem is that officers like Captain Jenkins may not wish to be retained, because there is little financial incentive to stay. Indeed, it could be argued the current incentive is negative, since delayed retirement may damage second career earnings.
- We are pursuing a set of legislative remedies to this dilemma for flag officers (raising maximum age to 68, and providing for an increased pension if they serve beyond 30 years). Your speaking out in support will help us, since we failed to win their acceptance last year.
- RAND is helping us evaluate alternatives for officers below flag rank. To enable us to try these out without having to justify each in advance, we are seeking military personnel demonstration authority. OMB has not yet cleared this, but I am hopeful they will soon do so. (I will let you know if by the end of next week we have not yet succeeded.)

COORDINATION: TAB B.

Attachments:

As stated

Prepared by: Lt Col Francine Blackmon, ODUSD(MPP/OEPM) (b)(6)



11-L-0559/OSD/36034

SPL ASSISTANT DIR RMA	3/10
SR MA CRADUOKA	3/17
MA BUCCI	
EXECEL MARR	033 610 04 3/9

12/12/03

December 11, 2003

TO: David Chu

CC: Paul Wolfowitz

Larry Di Rita
3/11

FROM: Donald Rumsfeld *DR*

SUBJECT: Incentives

Yesterday I met the Executive Assistant to Reuben Jeffery. He is a Navy Captain with 30 years of service. He is 51 years old, and he is retiring. He is first-rate.

All the incentives in our system are wrong. Why don't we get them fixed?

Please come back to me with a proposal by January 5.

Thanks.

DHR:dh
121103-18

MRP
Please respond by 1/5/04

✓ 3/15

"Jan 5 -"
Response attached.
D. R.

Larry Di Rita
3/11

11-L-0559/OSD/36035

U22224 / 03

3/16/1730



15
March 12, 2004

TO: Powell Moore
CC: Larry Di Rita
FROM: Donald Rumsfeld *DR*
SUBJECT: Voting Record

IRAG

Larry Di Rita
3/25

I would like to know how Ted Kennedy, John Kerry and Carl Levin voted on the regime change legislation in 1998.

Thanks.

DHR:dh
031204-4

.....
Please respond by 3/19/04

✓
3/26

Response attached
C 3/25

15 MAR 04

OSD 10794-04

11-L-0559/OSD/36036



LEGISLATIVE
AFFAIRS

THE ASSISTANT SECRETARY OF DEFENSE
WASHINGTON, DC 20301-1300

✓
3/24

March 16, 2004 4:00 PM

FOR: SECRETARY OF DEFENSE

FROM: Powell A. Moore, Assistant Secretary of Defense
for Legislative Affairs, (b)(6)

SUBJECT: Response to SECDEF Snowflake regarding Voting Record

- You wanted to know how Senators Ted Kennedy, John Kerry and Carl Levin voted on the regime change legislation in 1998.
- On October 7, 1998, the Senate passed H.R. 4655 by unanimous consent. There was no recorded vote. ||

Attachments:

SECDEF Snowflake # 031204-4

H.R. 4655 Bill Summary and Status

11-L-0559/OSD/36037

Bill Summary & Status for the 105th Congress

Item 1 of 1

PREVIOUS:ALL | NEXT:ALL
NEW SEARCH | HOME | HELP

H.R.4655

Title: To establish a program to support a transition to democracy in Iraq.

Sponsor: Rep Gilman, Benjamin A. [NY-20] (introduced 9/29/1998) **Cosponsors:** 1

Related Bills: H.R.4664, S.2525

Latest Major Action: 10/31/1998 Became Public Law No: 105-338.

[Jump to: Titles, Status, Committees, Related Bill Details, Amendments, Cosponsors, Summary](#)

TITLE(S): *(italics indicate a title for a portion of a bill)*

- **SHORT TITLE(S) AS INTRODUCED:**
Iraq Liberation Act of 1998
 - **SHORT TITLE(S) AS PASSED HOUSE:**
Iraq Liberation Act of 1998
 - **SHORT TITLE(S) AS ENACTED:**
Iraq Liberation Act of 1998
 - **OFFICIAL TITLE AS INTRODUCED:**
To establish a program to support a transition to democracy in Iraq.
-

STATUS: *(color indicates Senate actions)* (Floor Actions/Congressional Record Page References)

See also: [Related House Committee Documents](#)

9/29/1998:

Referred to the House Committee on International Relations.

10/2/1998:

Committee Consideration and Mark-up Session Held.

10/2/1998:

Committee Agreed to Seek Consideration Under Suspension of the Rules, (Amended) by Voice Vote.

10/5/1998 6:12pm:

Mr. Gilman moved to suspend the rules and pass the bill, as amended.

10/5/1998 6:12pm:

Considered under suspension of the rules.

10/5/1998 6:54pm:

At the conclusion of debate, the Yeas and Nays were demanded and ordered. Pursuant to the provisions of clause 5, rule I, the Chair announced that further proceedings on the motion would be postponed.

10/5/1998 7:26pm:

11-L-0559/OSD/36038

Considered as unfinished business.

10/5/1998 7:33pm:

On motion to suspend the rules and pass the bill, as amended Agreed to by the Yeas and Nays:
(2/3 required): 360 - 38 (Roll No. 482).

10/5/1998 7:33pm:

Motion to reconsider laid on the table Agreed to without objection.

10/6/1998:

Received in the Senate, read twice.

10/7/1998:

Passed Senate without amendment by Unanimous Consent.

10/7/1998:

Cleared for White House.

10/8/1998:

Message on Senate action sent to the House.

10/20/1998:

Presented to President.

10/31/1998:

Signed by President.

10/31/1998:

Became Public Law No: 105-338.

COMMITTEE(S):

Committee/Subcommittee:	Activity:
<u>House International Relations</u>	Referral, Markup

RELATED BILL DETAILS: (additional related bills may be identified in Status)

Bill:	Relationship:
<u>H.R.4664</u>	Identical bill identified by CRS
<u>S.2525</u>	Identical bill identified by CRS

AMENDMENT(S):

NONE

COSPONSORS(1), ALPHABETICAL [followed by Cosponsors withdrawn]: (Sort: by date)

Rep Cox, Christopher - 9/29/1998 [CA-47]

SUMMARY AS OF:

10/5/1998--Passed House, amended. (There is 1 other summary)

Iraq Liberation Act of 1998 - Declares that it should be the policy of the United States to seek to remove the Saddam Hussein regime from power in Iraq and to replace it with a democratic government.

Authorizes the President, after notifying specified congressional committees, to provide to the Iraqi democratic opposition organizations: (1) grant assistance for radio and television broadcasting to Iraq; (2) Department of Defense (DOD) defense articles and services and military education and training (IMET); and (3) humanitarian assistance, with emphasis on addressing the needs of individuals who have fled from areas under the control of the Hussein regime. Prohibits assistance to any group or organization that is engaged in military cooperation with the Hussein regime. Authorizes appropriations.

Directs the President to designate: (1) one or more Iraqi democratic opposition organizations that meet specified criteria as eligible to receive assistance under this Act; and (2) additional such organizations which satisfy the President's criteria.

Urges the President to call upon the United Nations to establish an international criminal tribunal for the purpose of indicting, prosecuting, and imprisoning Saddam Hussein and other Iraqi officials who are responsible for crimes against humanity, genocide, and other criminal violations of international law.

Expresses the sense of the Congress that once the Saddam Hussein regime is removed from power in Iraq, the United States should support Iraq's transition to democracy by providing humanitarian assistance to the Iraqi people and democracy transition assistance to Iraqi parties and movements with democratic goals, including convening Iraq's foreign creditors to develop a multilateral response to the foreign debt incurred by the Hussein regime.



UNDER SECRETARY OF DEFENSE
4000 DEFENSE PENTAGON
WASHINGTON, D.C. 20301-4000

INFO MEMO

PERSONNEL AND
READINESS

July 20, 2004 11:00 AM

FOR: SECRETARY OF DEFENSE

FROM: David S. C. Chu, USD(P&R) *David S. C. Chu* July 20, 2004

SUBJECT: Update on the Federal Voting Assistance Program--SNOWFLAKE

- You signed memos on March 17, 2004, to the Service Secretaries and Combatant Commanders directing that they give the voting program command attention and emphasizing quality officers as their Unit Voting Officers. We wrote all Governors on March 10, 2004, requesting voting assistance for Guard and Reserve units.
- We have worked with the Postal Service to implement special expedited handling procedures for election materials sent to and from Service members outside the U.S. during the 45 day period preceding the November election. Separate expedited postal handling procedures have been implemented for members serving in Iraq and Afghanistan.
- The Department and the Department of Justice have written state chief election officials urging election officials to use every available means to help ensure Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) voters may receive and return absentee ballots by fax or electronic mail methods.
- We have been visiting mobilization sites and major installations to inform commanders on voting program requirements and to train Voting Assistance Officers. As of July 15, 2004, 113 Voting Assistance Officer Training workshops have been completed at military sites and 30 workshops have been presented to overseas citizen audiences at U.S. Embassies and Consulates. A total of 157 workshops are scheduled through August 2004. In addition, Voting Assistance Officer Training is offered On-Line.
- We have an aggressive public affairs campaign, which includes television, radio, billboards, posters, pre-recorded messages from leaders, slogan contests, and emphasis through the Overseas Citizen Voters Week (July 4-10, 2004), Armed Forces Voters Week (September 3-11, 2004), and Absentee Voting Week (October 11-15, 2004).
- We are monitoring voting during the Primaries to detect problems and implement necessary corrective actions before the General Election.
- We look forward to briefing you at your convenience to review these and other steps being taken.

Prepared By: J. Scott Wiedmann, (b)(6)



11-L-0559/OSD/36041

OSD 10801-04

March 11, 2004

TO: LTG John Craddock

FROM: Donald Rumsfeld *DR*

SUBJECT: "Bumper Sticker"

You are going to get back to me with a "bumper sticker" on accomplishments.

Thanks.

DHR:dh
031104-11

.....
Please respond by 3/19/04

DR 4/19

SecDef —

- From the list provided by Gen Handy, propose 4 "bumper sticker" accomplishments be added to DoD Accomplishments
- These "adds" are high-lighted on the attached draft list.

C 3/18

OSD 10869-04

11-L-0559/OSD/36042

The First 3 Years—1/01-3/04—Highlights

DoD Accomplishments

- **Global War on Terrorism—**
 - Developed global offensive strategy
 - Removed Taliban and Al Qaeda power base
 - Removed Iraqi regime from power—Saddam Hussein and top Ba'athist leaders in custody
 - Executed the largest troop movement since WW II
 - Degrading/damaging worldwide terrorist networks
 - Innovative approaches—to high value, time-sensitive targets; maritime interdiction
 - Transforming mindset—more flexible and agile
 - Delegated authorities to capture/kill high value targets
 - Sense of urgency
- **Improved Military Readiness**
 - Funding increases to support tempo
 - Joint combat capability strengthened
 - Targeted pay raises
 - Budget supplementals to sustain readiness
 - Implemented single focal point for air mobility operations
- **Nuclear Posture Review**
 - New triad
 - Nuclear weapons reductions underway
- **Developed Proliferation Security Initiative**
- **Restructured Missile Defense Program**
 - Withdrawal ABM Treaty
 - Refocused and broadened R&D for MD
 - Aggressive test program
 - Began fielding an initial capability
- **Implemented Space Commission Recommendations**

3/4/04

1

The First 3 Years—1/01-3/04—Highlights

Accomplishments (cont.)

- **Defense Status**
 - New defense strategy
 - New force sizing construct
 - New risk balancing focus
- **Modernized Unified Command Plan**
 - Northern Command—fully operational Sep 03
 - JFCOM—Focus on Transformation—NATO Supreme Allied Commander-Transformation
 - Strategic Command—combined w/Space Command; new missions
 - NATO command structure modernized
- **New Working Relationships**
 - OSD & Joint Staff
 - DoD & CIA
 - DoD and DHS
- **Improved Strategic Reconnaissance Operations**
- **New Strategic Direction**
 - DoD role in new political military strategy
 - Liberia crisis—initial US lead to stabilize, then hand-off to follow-on UN force
 - Strategic Planning Guidance, Enhanced Planning Process, Joint Programming Guidance, Contingency Planning Guidance improving speed/relevance/value of plans
- **New Strategic Relationships**
 - Central Asia/Caucasus and South Asia
 - Eastern Europe and NATO
 - Missions determining Coalitions
 - Security Cooperation Guidance implemented
 - NATO Expansion
 - NATO Response Force

3/4/04

2

The First 3 Years—1/01-3/04—Highlights

Accomplishments (cont.)

- **Implemented Top-Down, Capabilities-Based Requirements & Acquisition Process**
- **Adopted Realistic Budgeting/ Cost Estimates**
- **Illustrative Program Decisions**
 - Crusader to FCS/Precision
 - Acceleration of UAVs/UCAVs
 - DD-21 to DD-X
 - Stryker Brigade combat capability
 - SSBN to SSGN
 - “Ship Swaps”
 - Laser Comms and C4ISR funding
 - Consolidated Navy/Marine aircraft programs
 - Army Aviation Task Force/Comanche
- **Supply chain management reforms**
 - Established single entity responsible for the Defense Logistics supply chain
 - Established USTRANSCOM as the distribution process owner
 - Flattened planning cycle – 50% faster
 - Improved in-transit visibility – reduced costs, improved performance
- **Stand-up of:**
 - USD(I)
 - ASD (Homeland Defense)
 - Coalition Provisional Authority (Rear Office)
- **Defense Transformation Legislation**
 - National Security Personnel System
 - Range and Training Area Readiness
 - BRAC authority
- **Established Senior Level Review Group Process**



UNITED STATES TRANSPORTATION COMMAND
506 SCOTT DR
SCOTT AIR FORCE BASE IL 62225-5357

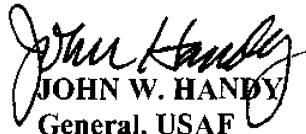
10 March 2004

MEMORANDUM FOR SECRETARY OF DEFENSE

FROM: TCCC

SUBJECT: USTRANSCOM 30-Month Snapshot

1. The United States Transportation Command (USTRANSCOM) has transformed dramatically over the past 30-months, greatly benefiting the Department of Defense (DOD) and the warfighter. The attached listing highlights some of the key events and initiatives.
2. Rest assured that we are committed to continuous process advancements that will significantly improve DOD distribution, and provide premier support to global warfighters. I am truly proud of the USTRANSCOM team, and you can count on us to deliver excellence!
3. I look forward to any feedback you may offer.


JOHN W. HANDY
General, USAF
Commander

Attachment:
USTRANSCOM 30-Month Snapshot

cc:
Chairman, Joint Chiefs of Staff
Deputy Secretary of Defense
Deputy Under Secretary of Defense (AT&L)

11-L-0559/OSD/36046

USTRANSCOM 30-Month Look (Oct 01-Mar 04)

Organization:

- Flattened and streamlined the HQ based on industry model—identified 86 positions
- Created J-3 Directorate dedicated to warfighter operations
- Consolidated two Numbered Air Forces into one - single focal point for air mobility ops
- Established Joint Interagency Coordination Group
- Transferred the Joint Deployment Training Center to USJFCOM and Defense Courier Service to HQ USTRANSCOM
- SDDC/MSC reorganization – consolidated contracting into one component

Process:

- Implemented DOD Distribution Process Owner
- Cost avoidance using sealift over airlift
- Established DDOC Forward - created template for joint theater logistics
- Deployed/embarked force protection for common user sealift - Operation Guardian Mariner
- Drove reauthorization of Maritime Security Program - expanded warfighter capability
- Union/Labor Support

Warfighting:

- Optimized Sealift - 101st deployment closed in 12 days
- C-17 Performance—ie., 173rd Airborne Brigade Airdrop
- CRAF / RRF Activation
- Delivered combat capability – force packaged and sequenced troop/equipment arrivals
- Containerized ammo vs. break bulk
- ITV to identify MRE's in theater
- Reduced footprint
- Aeromedical Evacuation
- Safety

Technology:

- DOD certified command architecture model as template
- Designed expandable IT system - GTN 21 ready for global distribution mission
- Published RFID CONOPS - driving global visibility for warfighter
- Established global ITV of patient movement

Bottom Line: Supported combat operations in two austere environments - executed the largest troop movement since WWII, while simultaneously supporting other combatant commands

Deployment and Distribution Operations Center (DDOC)

“The First 45 Days”

Organization

- Formed from DOD's Logistics Partners
- Led by Distribution Process Owner
- Lean Organization: 63 Logistics Experts
- Deployed into Theater; Tactically Controlled by the CENTCOM Commander
- Reach back Capability – leverages the power of DOD's National Logistics network

Improved Theater Execution

- Improved customer confidence – collaborative theater environment
 - Connected logisticians in Kuwait, Iraq, Qatar, and the US
 - Most robust collaborative logistics network in DOD
 - Flattened the planning cycle for intra-theater distribution (50% faster)
- Improved performance and reduced costs by gaining visibility of key forces and materiel
 - Located and redirected 19 containers of armored vehicle track in Kuwait
 - Diverted over 100 Repair Parts containers back to origin in CONUS
 - Prevented shipment of over 1700 containers from CONUS
- Synchronized strategic & intra-theater Deployment and Distribution:
 - Generated CRAF-level performance in a NON-CRAF environment
 - Achieved record single day performance - approx. 8,000 pax moved globally
 - Discharged and loaded 5 LMSR-size vessels simultaneously in record time
- Accelerated 101st AA Div Redeployment by 3 weeks
- Improved strategic delivery of critical materiel directly to forward units
 - Streamlined packaging process for frontline units
 - No longer requires multiple handling and repackaging in theater
 - Pallets constructed in CONUS for direct delivery to combat units in Iraq
 - Improved velocity –significantly reduced customer wait times
- Introduced leading edge, national systems into theater
 - Vessel berth throughput to synchronized deployment/retrograde operations
 - First ever web-based tool to track intransit visibility in Iraq
 - Created repair parts to provide accurate visibility of inbound cargo
- Demonstrated new technology
 - Tested Iridium satellite tags to track container and unit convoys
 - First ever employment of commercial satellite tags to manage containers

Bottom Line: We moved out and demonstrated the power of DOD's logistics partnership while achieving a truly “end to end” distribution process

March 15, 2004

TO: Gen. Dick Myers
CC: Paul Wolfowitz
FROM: Donald Rumsfeld *DR*
SUBJECT: TRANSCOM Dual-Hat

We need to address the question of the fact that the TRANSCOM CINC is dual-hatted as an Air Force four-star in charge of Mobility Command. That is inhibiting in terms of who is going to be TRANSCOM someday.

I need some visibility into that and why that is a good idea. Do we need that task? Could it be merged with something other than a combatant command or a specified command?

Thanks.

DHR:dh
031104-10


.....
Please respond by

4/2/04

OSD 10870-04

11-L-0559/OSD/36049

March 15, 2004

TO: Doug Feith
CC: Paul Wolfowitz
FROM: Donald Rumsfeld 
SUBJECT: Response by Joe Collins to *Atlantic Monthly*

I saw this letter to the editor of Joe Collins wrote to the *Atlantic Monthly*. It is excellent. Please tell him: "Good job!"

Thanks.

Attach.

Collins, Joe. "Blind Into Baghdad" letter to the editor, *Atlantic Monthly*, April 2004.

DHR:dh
031504-5

.....
Please respond by _____

OSD 10871-04

11-L-0559/OSD/36050

Atlantic
Monthly
April 2004**Blind Into Baghdad**

As one of the Department of Defense officials involved in the initial planning for relief and reconstruction in Iraq, I would like to comment on James Fallows's article "Blind Into Baghdad" (January/February *Atlantic*). At every turn in his description of planning for Iraq, the author overemphasized bureaucratic conflict in the executive branch and distorted the nature of contingency planning.

As the Pentagon's "point man" (his term) for postwar plans, I worked continuously and harmoniously with my colleagues at State, USAID, the CIA, and the NSC. I also participated in numerous interagency meetings and conferences, including the January 2003 National Intelligence Council exercise that Fallows says Pentagon personnel were "forbidden by OSD to attend."

The author states that rather than holding a meeting with the Secretary of Defense or the deputy secretary, the nongovernmental organizations were given an audience only with me. In fact I had been meeting with the NGOs frequently on many topics since the start of operations in Afghanistan. I was not a consolation prize for the NGOs but a frequent interlocutor, and I remain so to this day. Our conversations are substantive and have often resulted in policy changes, even though we forgo the photo ops and the press releases that often encumber one-time meetings with the most senior officials.

Missing from Fallows's narrative was any mention of the official interagency planning effort that went on from early fall of 2002 to March of 2003. The planning group met weekly in the Eisenhower Executive Office Building, next to the White House. Chaired by NSC and OMB officials, this group included senior representatives from State,

USAID, the CIA, Treasury, and many other agencies. Tom Warrick, the head of State's Future of Iraq Project, was a back-bencher at some of the sessions. The senior interagency planners were all familiar with the interesting work of his eclectic group.

The interagency group formulated first a strategy and then a detailed plan for relief and reconstruction. Representatives from the group coordinated these plans with international organizations and with General Tommy Franks, the combat commander. Secretaries Colin Powell and Donald Rumsfeld were briefed on the final plan, as was the President. The group even briefed the press on its work on February 24.

Although none of this planning was as juicy as the bureaucratic infighting that Fallows dwells on, it is an essential part of the story. Jay Garner—appointed in late January of 2003 to lead the field effort in Iraq—did face a daunting task, but not a blank sheet of paper. Indeed, the basic reconstruction plans discussed at the two-day conference that Garner held in February at the National Defense University were in the main developed—and harmoniously so—by the very interagency group that Fallows overlooked.

Finally, Fallows's judgment that when the past eighteen months are assessed "the Administration will be found wanting for its carelessness" does not pass muster. The four conflicts that I have helped to plan in the Pentagon suggest clearly that war, as Clausewitz told us, remains the province of chance. Military campaigns and their aftermath defy prediction. Intelligence accepted for a decade can be wrong. The same experts who incorrectly predict huge refugee flows may accurately predict civil disturbances. Staffs will fixate on things that do not come to pass and assume away the importance of things

that do. No plan—political or military—survives contact with reality. Planners will always make more mistakes than journalists who have the benefit of 20/20 hindsight.

We have not "squandered American prestige, fortune, and lives" in Iraq. Despite high costs and many casualties, the United States and its thirty-four coalition partners have destroyed one of the most heinous and dangerous regimes in the world, captured 80 percent of its criminal senior leadership, liberated the Iraqi people, and started the political and economic reconstruction of a nation that may well bring democracy to that part of the Middle East. Mr. Fallows should resist the temptation to call the game in the third inning.

Joseph J. Collins

Deputy Assistant Secretary of Defense
Alexandria, Va.

James Fallows's lengthy list of expert warnings on Iraq that were ignored by the Bush Administration would have benefited from some reference to the strikingly parallel "splendid little war" that provided the other bookend to the twentieth century. (And both of those conflicts boasted a British troubadour, although Tony Blair's flack Alistair Campbell never quite matched the eloquence that Rudyard Kipling showed in his paean to American benevolence, "The White Man's Burden.") In the Philippines a century ago a walkover victory in the capital was followed by prolonged hostilities in the countryside. A foray by General Frederick Funston and his special forces into hostile territory led to the capture of the enemy leader, General Emilio Aguinaldo. (The two Napoleonic figures—both about five feet four—actually got along quite well after that episode.) Mark Twain suggested a redesign of Old Glory, with "the white stripes painted

March 16, 2004

TO: Marc Thiessen
FROM: Donald Rumsfeld *DR*
SUBJECT: Thoughts on WMD

Here are some thoughts on the WMD issue that we might want to use from time to time.

Thanks.

Attach.
3/15/04 MFR on WMD (#031504-33)

DHR:dh
031604-4

.....
Please respond by _____

OSD 10872-04

11-L-0559/OSD/36052

March 15,2004

SUBJECT: WMD

How many times did the President ask what General Franks was going to do when WMD was used on US forces during the invasion of Iraq? Many times!

General Franks believed the likelihood of Saddam Hussein using WMD was the greatest at that point where our forces got closer to Baghdad, from any direction.

How many times did US forces put on their chemical protective gear, despite the discomfort? The reason is because they expected a chemical attack.

The heads of state of most countries in the CENTCOM AOR believed Saddam Hussein had WMD. Mubarak cautioned General Franks that Saddam Hussein has biological weapons and will use them – “be careful.”

The likelihood is that we did surprise Saddam Hussein. He likely had precursors that he could have put together fast, but because he was surprised, he didn't have time to do so.

We will find out at some point in the future what the situation actually was.

DHR:dh
031504-33