



COMPTROLLER

UNDER SECRETARY OF DEFENSE
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WASHINGTON, DC 20301-1100



INFO MEMO

June 15, 2005

FOR: SECRETARY OF DEFENSE
ACTING DEPUTY SECRETARY OF DEFENSE

FROM Tina W. Jonas 

SUBJECT: Potential Floor Amendment to cut all FY06 funds for Guantanamo

- The House defense appropriations bill goes to the floor this evening. Subcommittee staff believe that amendments may arise cutting all funds for **Guantanamo** or restricting transfer of the detainees.
- At Pete Geren's recommendation, my staff sent the attached (TAB A) 10-page briefing prepared by him and MG Maples to help them prepare talking points for their leadership. The subcommittee staff has also been alerted to your remarks at the June 15, 2005 news briefing (TAB B).
- In addition, attached (TAB C) **are** talking points you may wish to use to call Chairman Young to emphasize **our** concern about any such amendment.

Attachments:

As stated.

COORDINATION None

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OSD 11535-05

TAB

A





U.S. Detention/Interrogation Operations An Update

June 14, 2005

Treatment of Detainees

- On January 19, 2002, the Secretary of Defense issued specific guidance that all detainees be treated humanely.
 - On January 21, 2002, the Chairman of the Joint Chiefs of Staff issued Execute Orders to commanders that transmitted Secretary of Defense order that detainees be treated humanely
- On February 7, 2002, President Bush determined that Al Qaeda and Taliban detainees should be treated:
 - Humanely
 - Consistent with the principles of the Geneva Conventions
 - Consistent with Military Necessity



Guantanamo in Context

- Since September 11, 2001, more than 70,000 detainees have been captured in Afghanistan, Iraq.
 - The vast majority have been released
 - We are working with Iraq, Afghan, and other governments to have them take control of detainees from their countries
- Some 800 suspected Al Qaeda or Taliban have been sent to Guantanamo
 - App. 520 remain
 - App. 235 have been released/transferred to other countries
 - 61 are awaiting release or transfer



Investments

- The United States has invested significantly in Guantanamo, as the most appropriate location to execute operations that result from the President's February 7, 2002, determination.
 - Investments in Guantanamo since 2002:
 - \$109.2 Million in new construction (\$42 Million additional underway from '05 Supplemental):
 - Medical Facilities
 - Interrogation Facilities
 - Multi-story berthing/dining/food preparation facilities
 - \$241 Million in cost of operations (now roughly \$95 million/year)
- The United States also has made investments of over \$140 Million to improve existing or build new detention facilities in Afghanistan and Iraq



Guantanamo Review Process

- **Combatant Status Review Tribunals**
 - Baseline review, conducted consistent with recent Supreme Court ruling
 - All detainees have been reviewed by a Tribunal
 - 38 determined to be no longer enemy combatants.
 - 23 released
 - 15 in process for release
- **Administrative Review Boards**
 - Review of each case at least annually for possible release, based on threat
 - More than 130 Boards completed to date
- 95 habeas corpus petitions filed covering 203 detainees (a petition to make a detainee available in court)
- **Military Commissions are available and ready**
 - Awaiting resolution of various U.S. federal court rulings and reviews



The Value of Guantanamo

- Who is at Guantanamo? (Note: None under 18 years old)
 - Terrorist trainers
 - Bombmakers
 - Recruiters and facilitators
 - Terrorist Financiers
 - UBL body-guards
 - Would-be suicide bombers
- What is the U.S. learning?
 - Organizational structure of al-Qaida and other terrorist groups
 - Extent of terrorist presence in Europe, the U.S. and Middle East
 - Al-Qaida's pursuit of WMD
 - Methods of recruitment; location of recruitment centers
 - Terrorist skill sets: General and specialized operative training
 - How legitimate financial activities are used to hide terrorist operations



Intelligence Gained at Guantanamo has prevented Terrorist Attacks and saved American lives

Transparency

- Access provided to Guantanamo since 2002:
 - International Committee of the Red Cross
 - 24/7 access to the facility, at its discretion
 - Had a permanent presence, recently changed at its choosing
 - Media (400 visits by 1,000 national and international journalists)
 - Lawyers for detainees (in connection with habeas cases)
 - 11 Senators, 77 Representatives and 99 Congressional staff members



Universe of Detainee Mistreatment

- **Abuses and other misconduct involving detainees have occurred**
 - Notably, nothing significant at Guantanamo has been identified
- **The U.S. government is holding people accountable**
 - More than 390 criminal investigations
 - More than 50 referrals to trial by Courts-Martial
 - More than 85 Non-Judicial Punishments (Fines/Reduction in Rank/etc)
 - More than 26 administrative actions (Relief from duty/Discharge)
- **Abu Ghraib accountability**
 - Commanding General relieved of command & reduced in rank
 - Intelligence Brigade Commander (Colonel) relieved of command
 - 8 Courts-Martial completed; 1 pending
 - Sentences range from 6 months to 10 years imprisonment
 - 4 officers received Non-Judicial Punishments
 - Further action pending on 13 Soldiers



Investigations

INVESTIGATION	PURPOSE	STATUS
Taguba	Abu Ghraib Military Police Activities	Complete
Fay	Abu Ghraib Military Intel Activities	Complete
Church I	Charleston/Guantanamo Quicklook	Complete
Miller	Guantanamo Intel/Detention Ops	Complete
Ryder	Iraq Detention Ops	Complete
Formica	Iraq Special Forces Detainee Ops	Complete
Jacoby	Afghanistan Detention Ops	Complete
Mikolashek	General Review of Doctrine/Training	Complete
Schlesinger	Assessment of DoD Detention Ops	Complete
Church II	Assessment of DoD Interrogation Ops	Complete
Kiley	Medical Support to Detention Ops	In Progress
Schmidt/Furlow	FBI E-mails/Kahtani	In Progress



Select Reforms

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- 442 Reform Recommendations from Completed Investigations
 - Major Changes Implemented by Defense Department to date:
 - Established Deputy Assistant Secretary for Detainee Affairs
 - Established Joint Staff Detainee Affairs Division
 - Established Army Provost Marshal General as executive agent for detention operations
 - Established Detainee Operations Oversight Council
 - Improved reporting relationship with International Committee of the Red Cross and expanded and expedited internal review of ICRC reports
 - Placed a Two-Star Officer in charge of Detention Operations in Iraq
 - Standardized Interrogation/Detention Operations across the theaters
 - Made multi-million dollar investment in improved facilities at Guantanamo
 - Trained Soldiers to accommodate religious/cultural practices
 - U.S. is providing high quality medical care to detainees



NOTE: Other departments have implemented reforms

TAB

B



In the years leading up to September 11th, the United States dealt with terrorism primarily as a law enforcement issue. Terrorists who had already killed Americans were investigated, they were arrested, and then they were put on trial, and then they were punished. When terrorists committed an act of war against our country on September 11th, killing 3,000 people, the United States and our allies responded by using military force against al Qaeda and its Taliban sponsors in Afghanistan. In this new era, it became clear that prosecuting terrorists after they strike was an inadequate approach, particularly given the lethal threats posed by violent extremists.

During the operations since September 11th, the military has apprehended thousands of enemy combatants, and several hundred were determined to be particularly dangerous and valuable from an intelligence perspective. There was no existing set of procedures or facilities to detain these enemies in Afghanistan or elsewhere. After extensive discussions with his senior advisers, the president decided that they were not entitled for formal prisoner of war status under the Geneva Conventions and that they were certainly not criminal defendants in the traditional law enforcement sense. Indeed, faced with this new situation, the president ordered that detained combatants be treated humanely under the laws of war. The detention facility at Guantanamo Bay was established for the simple reason that the United States needed a safe and secure location to detain and interrogate enemy combatants. It was the best option available.

The Department of Defense, working through the National Security Council interagency process, established procedures that would provide appropriate legal process to these detainees, procedures that go beyond what is required even under the Geneva Conventions. These included combatant status review tribunals to confirm that, in fact, each individual is, in fact, an unlawful enemy combatant. Every detainee currently at Guantanamo has received such a hearing. As a result, some 38 individuals were released.

Military commissions, trials with full representation by defense counsel for those suspected of committing war crimes. The commissions have been temporarily suspended pending further review by the U.S. federal court system.

And third, administrative review boards that annually assess the remaining potential threat and intelligence value represented by each detainee. These boards are designed to reexamine detainees regularly in order to identify detainees who can be released.

Our goal as a country is to detain as few people as is possible and is safe. We prefer to return them to their countries of origin if the country is capable and willing to manage them in an appropriate way. In some countries, Iraq and



Afghanistan, we have begun a process of trying to help them develop the proper facilities and the proper trained forces to manage these detainees. Other countries have not satisfied the **U.S.** government, **as** yet, that they will treat their nationals humanely, were they to be transferred to their countries. Still others don't have laws that permit them to detain individuals of this sort, and they're in the process of passing such laws.

One of these detained terrorists at Guantanamo is a man, called Mohamed al-Kahtani, believed to be the 20th hijacker on September 11th. He has direct ties to al Qaeda's top leadership including Osama bin Laden. While at Guantanamo, Kahtani and other detainees have provided valuable information, including insights into al Qaeda planning for September 11th, including recruiting and logistics; the identities and detailed information of 20 of Osama bin Laden's bodyguards; information leading to the capture of Khalid Sheikh Mohammed, the architect of the September 11th attacks; and information allowing foreign police to detain **22** suspected terrorists plotting attacks earlier this year.

Detainees are sent to Guantanamo only after a proper screening process that identifies these prisoners who pose a threat to the United States or who have intelligence value. The kind of people held at Guantanamo include: terrorist trainers, bomb-makers, extremist recruiters and financiers, bodyguards of Osama bin Laden, and would-be suicide bombers. They are not common car thieves. They **are** believed to be determined killers.

Arguably, no detention facility in the history of warfare has been more transparent or received more scrutiny than Guantanamo. Last year the department declassified highly sensitive memorandum on interrogation techniques. Unfortunately, they were documents that are useful to terrorist operatives, and we posted them on the Internet specifically to set the record straight about **U.S.** policies and practices.

There have been nearly 400 separate media visits to Guantanamo Bay by more than 1,000 journalists. Additionally, some 180 congressional representatives have visited the facility.

We provide continuous access to the International Committee **of** the Red Cross, whose representatives meet privately with the detainees.

Allegations of abuse at Guantanamo, as at any other U.S. military facility, have been thoroughly investigated. Any wrongdoing is -- wrongdoers are being held accountable. The **U.S.** military has instituted numerous reforms of the conduct of detainee operations, with a renewed emphasis on standards and training.



The **U.S.** military has also gone to unprecedented lengths to respect the religious sensibilities of these enemies of civil society, including the issuance **of** detailed regulations governing the handling of the Koran and arranging schedules for detainees around the five daily calls for prayer required by the Muslim faith. In fact, at Guantanamo, the military spends more **per** meal for detainees to meet their religious dietary requirements than it spends **per** rations for U.S. troops.

Since September 11th, the military has released tens of thousands of detainees, including some 200 from Guantanamo. Regrettably, we now know that some of those detainees that were released from Guantanamo have again taken **up** arms against the United States and our allies, and are again -- were again attempting to kill innocent men, women and children. The U.S. government will continue to transfer others to their countries of origin after negotiating appropriate agreements to ensure their humane and -- humane treatment.

The United States government, let alone the U.S. military, does not want to be in the position of holding suspected terrorists any longer than is absolutely necessary. But as long as there remains a need to keep terrorists from striking again, a facility will continue to be needed. The **U.S.** taxpayers have invested over \$100 million in military construction in the detention facility at Guantanamo Bay, and it is spending something like an average of \$90 (million) to \$95 million a year to operate that facility to its highest standards.

The real problem is not Guantanamo Bay. The problem is that, to a large extent, we are in unexplored territory with this unconventional and complex struggle against extremism. Traditional doctrines covering criminals and military prisoners do not apply well enough.

As the president has said, we are always looking for ways to improve our procedures. And of course we have been looking for better suggestions as to how to manage detainees who pose a lethal threat to the civilized world, and we have already implemented dozens of reforms.



TAB

C



Talking Points for Phone Call with Chairman Young (HAC-D)

- Mr. Chairman, I understand that you are going to the floor today. I hope everything goes smoothly.
- I am very concerned about amendments cutting funds for Guantanamo, restricting transfer of the detainees or otherwise disrupting future operations at Guantanamo.
- The United States has invested significantly in Guantanamo since 2002, as the most appropriate location for these operations.
 - To include \$109.2 million in new construction; and
 - Roughly \$95 million/year cost of operations.
- Intelligence gained at Guantanamo has prevented terrorist attacks and saved American lives.
- Some 800 suspected Al Qaeda or Taliban have been sent to Guantanamo.
 - Approximately 235 have been released/transferred to other countries; and
 - 61 are awaiting release or transfer.
- I appreciate your support in opposing any amendment that would disrupt future operations at Guantanamo.

