

October 15, 2003

TO: Jerry Bremer
CC: Gen. Dick Myers
Paul Wolfowitz
Gen. John Abizaid
Doug Feith
FROM: Donald Rumsfeld *DR*
SUBJECT: Iraqi Army

I am concerned about the pace of the recruiting and training of the Iraqi army. It feels slow. I wonder if we could consider requiring each U.S. division to recruit and train a brigade of former soldiers every quarter. This would be a strenuous requirement, but it would produce about 16 brigades annually. Even if we did half that, it would be a good thing.

As I recall, MPRI trained an army from recruits, not former soldiers, in Croatia and Bosnia. That is a thought as well.

Thanks.

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.....
Please respond by 11/7/03

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Iraq

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October 15, 2003

TO: Jay Garner

FROM: Donald Rumsfeld



Jay—

We are pushing the recruiting of the security forces in Iraq hard. The Army is the slowest piece. I like the ideas you mentioned.

I appreciate getting your memos a great deal. Keep your thinking machine going, my friend! We need all the help we can get.

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Iraq

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December 16, 2003

IRAQ

TO: Vice President Richard B. Cheney

CC: Honorable Andrew H. Card, Jr.
Dr. Condoleezza Rice

FROM: Donald Rumsfeld *DR*

SUBJECT: Referring to the "Plan"

Attached are some remarks I have been making that talk about planning for post-war Iraq.

With opponents saying we had no "plan," it is important that we keep referring to our "plan."

Here are some remarks I made recently at the American Enterprise Institute that show we had a plan, what it was, what we accomplished and how it compared with Germany.

Attach.

12/11/03 Remarks to American Enterprise Institute Board of Trustees

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09. M. 2749

AMERICAN ENTERPRISE INSTITUTE
BOARD OF TRUSTEES BREAKFAST
DECEMBER 11, 2003

Good morning. Thank you, Chris [DeMuth], for your leadership of AEI. It is a pleasure to be with you.

I'm here to listen. I want to hear what is on your minds, so I will make a few comments and then respond to questions.

I returned this Sunday from Iraq and Afghanistan. I know several of you here today have participated in recent DoD trips to Iraq, and have had the chance to see for yourselves the situation on the ground. It is certainly different than is reported back home.

Each time I have returned since liberation -- five times to Afghanistan and three times to Iraq -- I see more signs of progress in both countries.

Consider what the courageous civilian and military personnel in Iraq have accomplished in just 7 months:

- Our plan called for the establishment of an Iraqi cabinet of ministers. The coalition did it in four months. It took 14 months in post-war Germany.
- The plan called for the establishment of an independent Iraqi central bank. The coalition did it in two months. It took three years in post-war Germany.
- The plan called for the establishment of a new Iraqi currency. New Iraqi dinars began circulating in five months. It took three years in post-war Germany.
- The plan called for the establishment of a new Iraqi police force. The coalition accomplished it in two months. It took 14 months in post-war Germany.
- The plan called for the establishment of a new Iraqi army. The first battalion had completed training in less than five months. It took 10 years in post-war Germany.
- The plan called for rebuilding Iraq's hospitals and clinics. Today all 240 Iraqi hospitals and 95 percent of Iraq's 1,200 medical clinics are open.
- The plan called for getting electric power production up to prewar levels. By October 6th, production had reached 4,518 megawatts, surpassing prewar levels.
- The plan called for getting the Iraqi justice system up and running. Today, some 400 Iraqi courts are back in operation.
- The plan called for the establishment of a free press. Today, some 170 newspapers are being published.

- The plan called for getting Iraq's education system up and running. Today, 5.1 million Iraqi students are back in the classroom, 51 million new textbooks have been issued, and 97,000 Iraqis applied to attend college for the 2003 fall semester.

The Coalition has done all this, and more, under fire -- not in a peaceful country, but rather in a country where regime dead-enders are still violently trying to stop this progress.

Consider security: In less than six months, we've gone from zero Iraqis providing security for their country to more than 160,000 Iraqis under arms.

On Saturday in Baghdad, I had the opportunity to observe the training of several hundred new recruits in the Iraqi Civil Defense Corps. They are impressive -- and courageous.

More than 110 Iraqis have given their lives in the fight against the terrorists. Yet, despite the dangers, more and more Iraqis are stepping forward to serve.

In Kirkuk, General Odierno reports that nearly all crime in the city is now being dealt with by the 2,200 Coalition-trained Iraqi police. Joint patrols have largely ended, and Iraqis have stepped forward to patrol on their own.

There is a city jail and a functioning Iraqi court system -- so Iraqis now handle crime from arrest, to trial, to sentencing.

As Iraqis take on more responsibility, the U.S. presence in the city has gone from three battalions to just 150 soldiers, with our remaining forces assisting in various types of reconstruction.

Meanwhile, Coalition forces continue taking the battle to the terrorists. In Kirkuk, after four weeks of intensified operations, General Odierno told us that attacks have gone down from twenty to about six a day. Other commanders report similar declines. It's too early to call it a trend, but it is encouraging.

The terrorists are turning increasingly to stand off operations, using mortars and improvised explosive devices, which are less effective. The Commander estimates the success rate of terrorist attacks in his area of responsibility is about 5%.

That is not to say that the attacks are over. They are not. But our forces will remain on the offense.

In Afghanistan, signs of progress are everywhere. Micro-businesses are flourishing. The highway linking Kandahar to Kabul is finished, and the road linking Kabul with Mazar is near completion. Ministry of Defense reforms have been initiated. Demobilization of militias is beginning. There is high growth and little or no inflation. President Karzai believes Afghanistan has turned a corner.

In both countries, Coalition forces are fighting the terrorists so we do not have to deal with them later here in our cities and on our streets.

As the President has said, we will stay as long as necessary to finish the job. The exit strategy in Iraq and Afghanistan is success. The troops I meet are in good spirits. They know what they are doing is important -- to those 50 million Afghans and Iraqis that have been liberated and to ours. I have every confidence in them.

With that, I'll stop and respond to some questions.

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CPA
REPRESENTATIVE
OFFICE

OFFICE OF THE SECRETARY OF DEFENSE
1000 DEFENSE PENTAGON
WASHINGTON DC 20310-1000

December 9, 2003

TO: SECRETARY RUMSFELD

From: Coalition Provisional Authority

Subject: De-Ba'athification: An Iraqi Process

Please refer to the attached.

Cc: Paul Wolfowitz
Doug Feith
Jim Haynes
Reuben Jeffery

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Iraq

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12/9



COALITION PROVISIONAL AUTHORITY
BAGHDAD

8 December 2003

FOR: CPA Senior Advisors
CPA Governance Teams
CJTF-7

FROM: THE ADMINISTRATOR

SUBJECT: De-Ba'athification: An Iraqi Process

Attached is CPA Memorandum Number 7, which delegates authority to the Iraqi Governing Council and any entity it designates to establish and implement de-Ba'athification for all Iraqi government employees, consistent with CPA Order Number One. Order Number One removed from their positions and banned from future employment in the public sector full members of the Ba'ath Party holding ranks of Firqah and above; it also prohibited anyone holding the lesser position of full (amil) party member in the Ba'ath Party from holding a job in the top three tiers of any ministry.

De-ba'athification is now an Iraqi process. CPA civilians and Coalition Military personnel are no longer responsible for de-ba'athification. You should therefore immediately cease any involvement in de-Ba'athification.

The Governing Council is in the process of developing procedures necessary to fully implement its authority. In this interim period before such procedures are formulated and publicized, you should refer questioners to the relevant ministry where the individual worked or to the Governing Council.

Memorandum No. 7 ratifies the Governing Council's decision of September 14, to the extent that it is consistent with CPA Legal Order No. 1, which called for all Firqah and above government employees to be immediately dismissed with an option to appeal at a later time.

Consultations: The Governing Council shall coordinate with the Ministry of Finance before taking actions on matters with fiscal consequences, and with the CPA on actions where the number and/or concentration of Iraqi citizens affected may raise security concerns.

Appeals: All dismissed employees will have basic due process rights of written dismissal notification, an opportunity to respond to the factual allegations upon which the dismissal is based, and a two-step process of appeals. At the local level, ministers will form local de-

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ba'athification committees. Those denied reinstatement can then appeal to the Governing Council's Higher National De-Ba'athification Commission.

Reinstatement: Reinstated employees will receive back pay, retroactive to the date they were dismissed.

Exemptions: Exemptions previously granted by CPA Administrator Bremer, and only those granted by CPA Administrator Bremer, will remain in effect unless and until termination on a case-by-case basis by the Governing Council's Higher National de-Ba'athification Commission. After consultations with the Governing Council, Ambassador Bremer reserves the right to reinstate employees removed under de-Ba'athification; he will only exercise this right in unusual circumstances.

Special Cases: Allows the Governing Council to establish procedures for exempting groups, such as POWs from the Iran-Iraq War, who acquired high-level Ba'ath Party status by default.

Property and Assets: Allows the Governing Council to seize and manage Ba'ath Party assets. (To date, the GC has issued no instructions on how this process will be implemented.)

Effective date: November 5, 2003.

FAQs:

Pensions: To date, decisions on whether to award pensions have been unevenly implemented in the ministries. The Governing Council has not yet decided if/how they will award pensions to employees who have lost their jobs through de-Ba'athification.

Reinstatement Order: On September 29, the Governing Council issued Decision No.51, which called for the immediate reinstatement of all those government employees who had lost their jobs for political reasons under Saddam. The GC has not yet developed procedures to implement this order. The order was put on hold in a GC press statement, which said that ministries should make a list of petitioners and the issue would be reconsidered at a later time.

Who is in charge: This is a national policy, and Governing Council decisions on de-Ba'athification take precedence over the wishes of mayors, governors or other local officials. The relevant ministers, through their directorates general, are leading this process. The GC, however, is required to operate in accordance with the procedures laid out in the legal order, including those to provide due process and those to ensure adequate consultation with the CPA before decisions having financial or security implications are taken.

COALITION PROVISIONAL AUTHORITY MEMORANDUM NUMBER 7

DELEGATION OF AUTHORITY UNDER DE-BAATHIFICATION ORDER NO. 1 (CPA/ORD/16 May 2003/01)

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

Recognizing that the Iraqi people have suffered large scale human rights abuses and deprivations over many years at the hands of the Baath Party,

Noting the grave concern of Iraqi society regarding the threat posed by the continuation of Baath Party participation in the public sector, including in particular the education system,

Observing that under the prior regime some Iraqis may have become affiliated with the Baath Party for reasons not primarily related to their ideological beliefs,

Recognizing that organizing and expediting de-Baathification is an urgent task that is necessary to put Iraq on the path towards reconstruction and renewal,

Acknowledging that the Governing Council has created a Higher National De-Baathification Commission in order to contribute to a secure, stable environment that will sustain freedom and democracy for the Iraqi people,

Recalling the steps already taken in CPA Order Number 1, De-Baathification of Iraqi Society (CPA/ORD/16 May 2003/01),

I hereby promulgate the following:

Section 1 Delegation of Authority

- 1) The Governing Council is hereby empowered to carry out the de-Baathification of Iraqi society consistent with CPA Order No. 1, De-Baathification of Iraqi Society (CPA/ORD/16 May 2003/01). To the extent consistent with CPA Order No. 1 (CPA/ORD/16 May 2003/01), Decisions 1 and 2 of the Higher National De-Baathification Commission, made on September 14, 2003, are hereby ratified. Notwithstanding such ratification, any action taken by the Administrator pursuant to Section 1(6) of CPA Order No. 1 (CPA/ORD/16 May 2003/01) shall remain in effect unless and until terminated on a case-by-case basis by the Higher National De-Baathification Commission.

- 2) The Governing Council is further authorized to seize and manage property and assets of the Baath Party, consistent with CPA Order No. 4, Management of Property and Assets of the Iraqi Baath Party, May 25, 2003. The Governing Council shall consult with the CPA in developing procedures to ensure that such property is seized and managed fairly and judiciously.

Section 2

Terms and Conditions

The authority delegated under Section 1 of this Memorandum shall be subject to the following terms and conditions:

- 1) The Governing Council may further delegate the authority conferred under Section 1 of this Memorandum to the Higher National De-Baathification Commission or other organization established by the Governing Council.
- 2) To the extent practicable, factual determinations regarding an Iraqi citizen's affiliation with the Baath Party, or involvement with the Special Security, National Security, Special Protection for the Presidency, Military Intelligence, Feda'iyeen Saddam, General Security or Mukhabarat, should be made at the governorate (or equivalent) level of government or below, by individuals selected on the basis of their ability to analyze information objectively and render fair and judicious determinations. These factual determinations shall be made in accordance with policies and procedures to be established by the Governing Council for uniform application throughout Iraq.
- 3) The Governing Council, in coordination with the concerned Minister or equivalent official, may establish special de-Baathification procedures for application to particular professions or groups of individuals. Such procedures may concern the process of making factual determinations and the consequences of such determinations. Consistent with this paragraph, the Governing Council shall authorize the continued employment of current or recently discharged Iraqi civil servants who were:
 - a) held as a POW by Iran during the period September 4, 1980 through June 1, 2003;
 - b) released and repatriated to Iraq by Iran after being held in that status; and
 - c) granted 'Udw Firqah' status following his or her release and repatriation to Iraq and because of his or her status as a former POW.

An Iraqi civil servant's eligibility for an exception to the de-Baathification policy under this provision may be established through official documentation issued by the International Committee of the Red Cross, or other independent organization or government organization. If the Higher National De-Baathification Commission

determines that credible information establishes that an Iraqi civil servant who seeks or has been granted an exception under this delegation of authority was promoted to the rank of 'Udw Firqah' for reasons other than his or her status as a former POW, or that his or her involvement in the Baath Party was incompatible with continued service as a civil servant, the Higher National De-Baathification Commission may deny or at any time rescind an exception for that individual

- 4) Any Iraqi citizen who is dismissed from his or her position of employment as a result of the exercise of the authority conferred herein shall be entitled to:
 - a) advance written notification explaining the grounds for dismissal and the procedures for appealing that dismissal;
 - b) a reasonable opportunity to respond to the notification in writing or in person and present evidence; and
 - c) a reasonable opportunity to appeal immediately any adverse decision, in writing or in person, to a fair and impartial entity independent of the individual or organization that rendered the adverse decision, which shall promptly render a written decision in the case.
- 5) In any case in which a dismissed employee's appeal is denied, the dismissed employee shall have the right to request further review of the matter by the Higher National De-Baathification Commission or a national committee established by the Higher National De-Baathification Commission for this purpose.
- 6) If an appeal results in an employee's reinstatement, the employee shall be paid back pay from the date of dismissal to the date of reinstatement.
- 7) Following consultation with the Governing Council, the Administrator may reinstate an employee if he concludes that it is in the interests of the Iraqi people or that failing to reinstate the employee would be fundamentally unfair.
- 8) The Governing Council shall coordinate with the Minister of Finance before exercising the authority conferred under this Memorandum in a manner that will significantly affect the national budget of Iraq.
- 9) The Governing Council shall consult with the Administrator, or his designee, with respect to the use of de-Baathification procedures in any area identified by the Administrator where the number and/or concentration of Iraqi citizens affected by the procedures may raise security concerns.
- 10) The Higher National De-Baathification Commission shall provide monthly reports to the Administrator of the CPA and the Governing Council describing the manner in which the authority delegated herein has been exercised. Such reports shall include the names and

positions of any Iraqi citizen dismissed from a position of employment as a result of this delegation, and the names of any Iraqi citizens hired to replace a dismissed employee.

Section 3
Transition Provisions

CPA Order Number 5, Establishment of the Iraqi De-Baathification Council (CPA/ORD/25 May 2003/05) is hereby rescinded.

Section 4
Effective Date

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

L. Paul Bremer, Administrator
Coalition Provisional Authority

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FM DEP SECDEF WASHINGTON DC
TO RUCAACC/CDR USCENTCOM
RUEKJCS/COALITION PROVISIONAL AUTHORITY
RUEADWD/CSA
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RUEKJCS/VCJCS
RUEKJCS/JOINT STAFF J8
RUEKJCS/CJCS
RUEKJCS/JOINT STAFF J5
RUEKJCS/DJS
RUEKJCS/JOINT STAFF J3

UNCLAS

SUBJECT: WAY AHEAD ON COMMANDERS EMERGENCY RESPONSE FUND (CERP)

IMPORTANCE: IMMEDIATE

PERSONAL FOR AMBASSADOR BREMER, GEN ABIZAID, GEN SCHOOMAKER INFO
UNDERSEC ZAKHEIM, GEN MYERS, LTG SANCHEZ//

AKNLDG/YES//

GENTEXT/REMARKS/1. THE PURPOSE OF THIS MESSAGE IS TO OUTLINE THE
WAY AHEAD FOR A SMOOTH TRANSITION TO AUGMENT CERP FUNDING FROM
NON-APPROPRIATED FUNDS (E.G., SEIZED ASSETS, DEVELOPMENT FUND FOR
IRAQ (DFI)) WITH APPROPRIATED FUNDS UNDER THE FY 2004 EMERGENCY
SUPPLEMENTAL APPROPRIATIONS ACT (P.L. 108-106) FOR BOTH IRAQ AND
AFGHANISTAN.

2. IN IRAQ TODAY, CERP IS WIDELY RECOGNIZED AS AN EXTREMELY POWERFUL
TOOL FOR MILITARY COMMANDERS IN CARRYING OUT THEIR CURRENT SECURITY
AND STABILIZATION MISSION. WE NEED TO SET UP FOR SUCCESS TO ENSURE
WE EXECUTE CERP-APPROPRIATED FUNDS (CERP-APF) TO THE CORRECT
STANDARD, WITHOUT INTERRUPTING THE FLOW OF CERP TO OUR FORCES IN THE
FIELD.

3. PER OUR TELEPHONE CONVERSATION OF YESTERDAY, AMBASSADOR BREMER
SHOULD DEVELOP WITH COMMANDERS TOMORROW A PLAN TO PROCEED WITH CERP
FUNDING BASED ON \$100 MILLION OF NON-APPROPRIATED FUNDS AND \$140
MILLION FROM APPROPRIATED FUNDS. GENERAL ABIZAID SHOULD RECOMMEND
WHAT PORTION OF THE REMAINING \$40 MILLION OF APPROPRIATED FUNDS
SHOULD BE PLANNED FOR IRAQ. IN ADDITION TO ALLOCATING \$100 MILLION

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OF NON-APPROPRIATED FUNDS, COALITION PROVISIONAL AUTHORITY (CPA) SHOULD IDENTIFY OTHER SOURCES OF FUNDS, INCLUDING DFI, THAT WILL ENABLE US TO FULLY MEET CERP REQUIREMENTS THROUGH THE REST OF THE FISCAL YEAR (I.E., SEPTEMBER 30, 2004). COMMANDERS WILL STILL NEED ACCESS TO THESE FUNDS EVEN AFTER TRANSFER OVER TO AN EMBASSY AT THE END OF JUNE. (THE CURRENT AUTHORITY TO USE APPROPRIATED FUNDS WILL EXPIRE ON SEPTEMBER 30.)

4. WE ANTICIPATE USING A MIXTURE OF APPROPRIATED AND NON-APPROPRIATED FUNDS THROUGH THE ENTIRE FISCAL YEAR, IN ORDER TO PRESERVE THE GREATER FLEXIBILITY AFFORDED BY NON-APPROPRIATED FUNDS AS LONG AS POSSIBLE. DURING THE TRANSITION PERIOD, CPA AND APPROPRIATE EXECUTIVE AGENCIES SHOULD ESTABLISH RESPONSIVE CONTRACTING VEHICLES FOR ALL AUTHORIZED USES OF APPROPRIATED FUNDS AS QUICKLY AS POSSIBLE. AS THOSE VEHICLES BECOME AVAILABLE, ANY PROJECTS THAT CAN BE FUNDED THROUGH THOSE VEHICLES SHOULD BE FUNDED WITH APPROPRIATED FUNDS IN ORDER TO PRESERVE NON-APPROPRIATED FUNDS FOR OTHER PURPOSES.

5. FOR CDRUSCENTCOM: SUBMIT A RECOMMENDED CERP FUNDING PROFILE NO LATER THAN 10 DECEMBER FOR THE REMAINDER OF THE FISCAL YEAR THAT AGGRESSIVELY RESOURCES CERP REQUIREMENTS NEAR-TERM AND PROVIDES A ROBUSTLY-FUNDED PROGRAM OVERALL.

6. THE PURPOSE OF CERP-APF IS FOR BASIC, TIME-CRITICAL HUMANITARIAN ASSISTANCE AND RECONSTRUCTION ASSISTANCE FOR THE PEOPLE OF IRAQ. CERP-APF FUNDS MAY BE USED BY THOSE COALITION FORCES UNDER US PROGRAMMATIC AND FINANCIAL CONTROL AND OVERSIGHT SUFFICIENT TO ENSURE THAT FUNDS ARE USED FOR AUTHORIZED PURPOSES AND ARE PROPERLY ACCOUNTED FOR AND REPORTED. COMMANDERS HAVE THE AUTHORITY TO USE THESE RESOURCES FOR THE FOLLOWING TYPES OF PROJECTS: WATER AND SANITATION; FOOD PRODUCTION AND DISTRIBUTION; AGRICULTURE; ELECTRICITY; HEALTHCARE; EDUCATION; TELECOMMUNICATIONS; ECONOMIC, FINANCIAL, MANAGEMENT IMPROVEMENTS; TRANSPORTATION; IRRIGATION; RULE OF LAW AND GOVERNANCE; CIVIC CLEANUP ACTIVITIES; CIVIC SUPPORT VEHICLES; REPAIR OF CIVIC AND CULTURAL FACILITIES; AND OTHER HUMANITARIAN OR RECONSTRUCTION PROJECTS.

7. BASED ON OUR PRELIMINARY ASSESSMENTS, COMMANDERS DO NOT HAVE THE AUTHORITY TO USE CERP-APF FUNDS FOR THE FOLLOWING TYPE OF PROJECTS: DIRECT OR INDIRECT BENEFIT US FORCES OR COALITION FORCES; ENTERTAINMENT OF LOCAL POPULATION; WEAPONS BUY BACK PROGRAMS; REWARDS PROGRAMS; FIREARMS/AMMUNITION PURCHASES; REMOVAL OF UNEXPLODED ORDNANCE (UXO); SALARIES; CLOTHING; OR DUPLICATING SERVICES AVAILABLE THROUGH MUNICIPAL GOVERNMENTS; AND ALL GOODS AND/OR SERVICES EXCLUDED BY U.S. STATUTE. (NON-APPROPRIATED FUNDS (E.G., SEIZED ASSETS, DFI, ETC.) MAY BE USED FOR SUCH PROJECTS.) FURTHER GUIDANCE WILL BE FORTHCOMING.

8. CERP-APF REPORTING. AS EXECUTIVE AGENT, ARMY WILL FORWARD A CONSOLIDATED CERP-APF REPORT TO OUSD (COMPTROLLER) ON A MONTHLY BASIS. THE CONSOLIDATED REPORT SHOULD SUMMARIZE CERP-APF ACTIVITY PER COMMAND BY PROJECT CATEGORY AND SHOW THE TOTAL NUMBER OF PROJECTS BY CATEGORY AND TOTAL AMOUNT SPENT BY CATEGORY. THE REPORT SHOULD ALSO PROVIDE THE NUMBER OF PLANNED PROJECTS WITH ESTIMATED COST.

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ARMY WILL PREPARE AND DISSEMINATE DETAILED REPORT GUIDANCE FOR
COMMANDERS.

9. TRANSITION. THE TRANSITION TO INTRODUCE RESPONSIVE CONTRACTING
VEHICLES FOR APPROPRIATED CERP FUNDS SHOULD BE COMPLETED NO LATER
THAN FEBRUARY 15. DURING THE TRANSITION PERIOD, CPA SHOULD REPORT ON
SPENDING AND SEIZED/VESTED ASSETS ON HAND WEEKLY TO
OUSD (COMPTROLLER).

HAPPY THANKSGIVING,
PAUL WOLFOWITZ

+++PERSONAL FOR+++

SPECIAL HANDLING \$\$\$REQUIRED
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COMPTROLLER

UNDER SECRETARY OF DEFENSE
1100 DEFENSE PENTAGON
WASHINGTON, DC 20301-1100

INFO MEMO

203 NOV -7 01 5:50

November 7, 2003, 5:00 PM

FOR: SECRETARY OF DEFENSE
DEPUTY SECRETARY OF DEFENSE

FROM: Dov S. Zakheim

SUBJECT: Commander's Emergency Response Program (CERP)

- As you know, the Coalition Provisional Authority had established and funded CERP using seized Iraqi assets. Last month, the Coalition Provisional Authority provided an additional \$50 million resulting in a total funding amount of \$145.5 million for CERP. This should have financed CERP requirements into next year.
- By tomorrow, we will direct the Army to provide \$60 million of its baseline FY 2004 resources to the Commander of the Central Command (CENTCOM) to continue the CERP for Iraq. This \$60 million represents one-third of the \$180 million authority provided for CERP in the recently enacted FY 2004 Supplemental.
- The U.S. CENTCOM is currently determining the funding split between Iraq and Afghanistan. Once this distribution is known, the remaining \$120 million will be released to the Army in order to finance the remaining CERP requirements.
- We intend to backfill the Army with a transfer from the \$2 billion provided to the Iraq Freedom Fund in the recently enacted FY 2004 Supplemental.
- In keeping with the spirit of the program's purpose, flexibility, and responsiveness, the Joint Staff, U.S. CENTCOM, and my staff are preparing guidance on proper custody and accounting procedures for appropriated CERP funds.

Prepared By: (b)(2), (b)(6)

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09-M-2749

9

October 21, 2003

TO: President George W. Bush
CC: Vice President Richard B. Cheney
Honorable Andrew H. Card, Jr.
Dr. Condoleezza Rice

FROM: Donald Rumsfeld



SUBJECT: Sadr

This is a "first report" (and therefore subject to later adjustment):

Last evening at 6:30 p.m. (EDT), the Iraqi Civil Defense Corps (ICDC), with the Iraqi police, delivered an ultimatum to those located at the Mukhaym Mosque in Karbala.

At 6:53 p.m., roughly 15-20 individuals in the mosque surrendered to the ICDC. At 7:12 p.m., the remainder of the individuals, some of whom attempted to escape, including a Sadr lieutenant, Kethemial-Nasiri (Al Nasiri), surrendered to U.S. forces and Iraqi police. A follow-up search of Al Nasiri's house yielded four additional detainees and weapons, including a heavy machine gun. A total of 59 individuals are currently being questioned.

The Sadr lieutenant they were looking for, Kadhermi, was not there, but they have received information about him which might be useful. Intelligence they are getting says there are weapons stored in other mosques.

There are no reports of unrest or violence as a result of the apprehension. The feedback they have received thus far in Karbala seems to be mostly positive.

General Sanchez reports that the Polish division and the Bulgarians on the ground have gathered strength from the success of the action and from the feedback on it. Sanchez intends to underline the work of the ICDC and the Iraqi police to indicate their confidence and credibility.

Respectfully,

DHR:dh
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Iraq

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Comparison of Draft Legislation with Military Commission Orders

Draft Legislation	Military Commission Orders	
Evidence admissible if it would be "of probative value to a reasonable person"	Evidence admissible if it would be "of probative value to a reasonable person"	SAME
Hearsay evidence admissible unless it would render evidence "unreliable or lacking in probative value"	No express rule on hearsay, but hearsay evidence must be "probative to a reasonable person"	
Statements obtained through torture excluded	Statements obtained through torture excluded	SAME
Statement obtained through coercion excluded if "unreliable or lacking in probative value"	No express rule on coercion, but statements must be "probative to reasonable person"	
No Miranda warning required	No Miranda warning required	SAME
No grand jury-type pre-trial process	No grand jury-type pre-trial process	SAME
Accused provided with military defense counsel and permitted to retain a civilian counsel who is a U.S. citizen with a security clearance	Accused provided with military defense counsel and permitted to retain a civilian counsel who is a U.S. citizen with a security clearance	SAME
Secretary of Defense has general authority to promulgate rules of evidence and procedure, where not inconsistent with the Act	Secretary of Defense has general authority to promulgate rules of evidence and procedure, where not inconsistent with President's Military Commission Order	?
Conviction based on two-thirds vote of commission; unanimous vote required for death penalty.	Conviction based on two-thirds vote of commission; unanimous vote required for death penalty.	SAME
Proceedings may be closed to the public "to protect classified information" or "information the disclosure of which could reasonably be expected to cause damage to the public interest"; to protect "the physical safety of the participants", "intelligence and law enforcement sources and methods"; or "other national security interests"	Proceedings may be closed to the public for "the protection of information classified or classifiable"; "the physical safety of participants in Commission proceedings"; protection of "intelligence and law enforcement sources and methods"; or "other national security interests"	
Accused may be excluded from proceedings "where necessary for national security, the safety of individuals, or to prevent disruption"	A decision to close a proceeding may include a decision to exclude the accused; accused may be excluded for "disruptive conduct"	
Military defense counsel may not be excluded from proceedings	Military defense counsel may not be excluded from proceedings	SAME

Doc 2

09.M.3083

R1

March 27, 2002 10:13 AM

TO: Gen. Kernan

CC: Paul Wolfowitz
Gen. Myers
VADM Giambastiani
Larry Di Rita

FROM: Donald Rumsfeld

SUBJECT: Millennium Challenge

I understand that you are executing Millennium Challenge this summer, and I'm looking forward to seeing the results of this important event. It struck me that it might be useful to apply to Millennium Challenge the lessons of Afghanistan and the transformation principles from the work we have been undertaking. If you have not yet been briefed on the transformation work that has been done by the Service Chiefs, the Joint Staff and the civilian leadership of the Department, I would like to have you briefed by Ken Krieg or Steve Cambone, PUSD(P).

I would appreciate it if you would brief me on the Millennium Challenge experiment and exercise plan as it relates to transformation and jointness sometime in the next 30 days. It is my understanding that the Services have been supportive of your efforts, particularly with respect to the joint and transformational aspects of the experiment. This is good—we need to give the right signals to all of DoD that we are serious about change and to let the Services know that they must work closely with Joint Forces Command on joint transformation and that they must cooperate with JFCOM's efforts.

I would also suggest that you share the Millennium Challenge execution plan with Art Cebrowski in the Transformation Office and with Steve Cambone. One other

09-M-2218

Doc. 1

individual who might be helpful is the Honorable Newt Gingrich, former Speaker of the House of Representatives, who has some very interesting ideas on transformation and has been in from time to time to share his thoughts.

I apologize for not getting this note off to you earlier in the year, and I do realize that the planning for Millennium Challenge is well underway; nonetheless, a country that may have to be ready to fight in hours ought to be flexible enough to not lock in exercises many months in advance.

I have asked Vice Admiral Ed Giambastiani in my office to be your point of contact on this matter.

Thanks.

DHR:dh
031902-24.2

.....
Please respond by _____

Snowflake

December 24, 2002 6:51 AM

TO: Paul Wolfowitz
FROM: Donald Rumsfeld *DR*
SUBJECT: Iraqi Opposition

Iraq

You may have to call the NSA and CIA and ask them to speed up on vetting these Iraqi people for the training for the opposition.

Thanks.

DHR:dh
122402-3

.....
Please respond by 01/03/03

U11326 /03

24 Dec 02

Snowflake

EF2950

02 / 014370

September 30, 2002 9:43 AM

Larry Di Rita
10/16

TO: Doug Feith

FROM: Donald Rumsfeld *DR*

SUBJECT: Questions

ADVANCE
COPY
GIVEN TO POLICY

IT-2

Please have someone get an answer to these questions in this William Raspberry column, put them down and get them to me by Wednesday, please.

Thanks.

Attach.

Raspberry, William, "Unasked Questions," *Washington Post*, 09/30/02.

DHR:dh
093002-6

.....
Please respond by 10/02/02

U08669 103

30 Sep 02

9/30 1300

09-M-2218 DOC 2



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OCT 1 2002

USDP *copy from Rod*

EF-2950 OCT - 1
I-02/014370

MEMO FOR: SECRETARY OF DEFENSE

FROM: Assistant Secretary of Defense, International Security Affairs
(Peter W. Rodman, (b)(2) *PR* 01 OCT 2002)

SUBJ: Replies to questions in William Raspberry column

- You asked for answers to the questions in William Raspberry's column for 30 September (next under).
- Suggested answers at TAB A.

DASD NESA *W. Rodman*

SPL ASSISTANT DI RITA	<i>10/5</i>
SR MA CRADDOCK	
MA BUCCI	
EXECSEC WHITMORE	<i>10/13</i>

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- *What is the actual threat to the U.S. – the purpose of war?*
 - Biological agents – which might be disseminated by a terrorist group – could cause large casualties. If one were trying to cause civilian casualties, they could be used quite effectively, despite what Colonel Williams says.
 - Iraq has had experience using chemical weapons – Iraq found them quite useful in the war with Iran, not to speak of massacres of its own citizens.
 - At Halabjah alone, Iraq massacred 5,000 people. This is one of several dozen cases chemical weapons were used effectively against civilians.
 - An Iraqi nuclear weapon would transform the Middle East. It would be used politically as a weapon of regional blackmail, intimidating all of Iraq's neighbors in the Gulf and the Middle East. Saddam could threaten Kuwait, Jordan, Saudi Arabia, Israel, or other neighbors via conventional aggression and hope that the U.S. would be deterred or impeded from intervening.
- *How many American lives will we expend to punish Saddam Hussein?*
 - None. If American lives are put at risk, it will be for the purpose of defending our country and its vital interests.
 - After the Gulf War, the population of Iraq rose in rebellion against Saddam. Half of Baghdad's population is Shi'a. Why would they want to fight for Saddam?
 - In fact, since Saddam took power, almost one in five Iraqis have fled their country. Almost every Iraqi has someone in his family who fled or died because of Saddam.
 - Saddam rules by intimidation and bribery, not ideology. Few Iraqis want to die for Saddam. There is precedent of unrest among even the Tikritis and Special Republican Guard.
- *How long will public support last when hundreds, possibly thousands, of body bags start arriving home?*
 - It is not productive to speculate about levels of casualties. High estimates have been significantly wrong in the past.
 - Thousands of Americans have already died because the U.S. turned a blind eye to those who harbor terrorists.

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- In Vietnam, support for the war remained high even as we started taking casualties in large numbers. Majority public support lasted into 1968, by which time about 30,000 American servicemen and women had died.
- *How, militarily, do you plan to fight this war?*
 - Coalition air power is much more capable now than it was in the Gulf War. Iraq's Air Force is not capable of engaging a Coalition Air Force both in equipment and pilot capabilities.
 - On the ground, we are much stronger and more agile than we were in the Gulf War, while the Iraqi army, even if it fights, is poorly equipped and one-third the size it was in 1990.
 - The scenario that we will have to "conquer cities" by house-to-house fighting is speculative.
- *How many Iraqi citizens do you plan to kill in order to bestow democracy?*
 - We do not target civilians. In fact, we do everything humanly possible to limit civilian casualties as demonstrated during Desert Storm, Kosovo, and Afghanistan.
 - The Iraqi regime intentionally uses civilians as human shields by hiding military forces in mosques, schools, and hospitals.
 - While we can't guarantee that no civilians will be harmed, it is probable that we will kill orders of magnitude fewer civilians than Saddam Hussein has killed to maintain his tyranny.
 - We will not "level cities by bombing." We didn't in the Gulf War, we didn't in the Kosovo conflict, we didn't in Afghanistan, and we won't now.
- *How will you govern a defeated Iraq?*
 - As the people of Iraq showed after the Gulf War, they are more likely to regard themselves as liberated than as defeated.
 - Iraqi opposition groups are discussing a broad-based, representative government to replace Saddam's tyranny.
 - Why do we assume that the Iraqi people are unable to provide themselves with a decent government?

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- *How does the war against Iraq contribute to winning the war against terrorism?*
 - Iraq is a supporter of terrorist groups, including al Qaida, the Arab Liberation Front, and Hamas.
 - Iraq actively undermines Israeli-Palestinian peace diplomacy and pays \$25,000 per suicide bombing.
 - The overthrow of the current Iraqi regime would deprive international terrorist groups of safehaven in Iraq.
 - The Iraqi regime's overthrow would end the threat that Iraq will be a source of biological agents, or other weapons of mass destruction, to terrorists.
 - The reaction in the Arab world will likely be short-lived, just as it was to the liberation of Afghanistan – demonstrations at first, until the television screens begin to show the celebrations of the population.
 - Iraqis celebrating their liberation would send a message to other Arabs that freedom and a desire for peace trump extreme nationalism, radicalism, and war.

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Unasked Questions

By William Raspberry

Larry Williams, a retired Marine colonel now teaching at George Washington University, has a few questions he'd like to ask his commander in chief. They aren't smart-aleck questions -- this is a serious military man, whose service included stints in Vietnam and Lebanon.

And though his questions may seem obvious, I think you'll be struck by how few of them the president has answered -- perhaps, as Williams says, even for himself. Here they are, abridged from his recent open letter to President Bush and elaborated in an interview:

What is the actual threat to the United States -- the purpose of war?

Chemical and biological weapons, Williams argues, are not weapons of mass destruction. "They are very inefficient and unpredictable and hard to use effectively. Casualty-producing, yes, but not on a large scale."

Says Williams: "Even if the Iraqis make a nuclear device -- which also concerns me -- what would they do with it? The Mideast region is not alarmed. Why are we -- thousands of miles away -- alarmed to the degree of war?"

How many American lives will we expend to punish Saddam Hussein?

Baghdad has nearly 5 million residents. It is reasonable to expect that many would see America not as a liberator but as an invader -- and that many of these would see our military as at least as great a threat as Hussein. "If," says the professor, "one million of them resist an American invasion in street-to-street resistance -- under a local threat of chemical and/or biological weapons -- how many Americans will die?"

How long will public support last when hundreds, possibly thousands, of body bags start arriving home?

"Desert Storm and Afghanistan make war look so easy, with so few casualties. When support at home wanes, how will you turn back the clock?"

How, militarily, do you plan to fight this war?

The Army is too "heavy" to get there short of a Desert Storm-style buildup. Air power and advanced technology get you little in the fight to conquer cities.

How many Iraqi citizens do you plan to kill in order to bestow democracy?

"You can't level cities by bombing, as in World War II. When newspapers and TV broadcasts around the world start to show pictures of Iraqi mothers carrying babies dead from U.S. bombs -- pictures real or

staged, it doesn't matter -- the world will be inflamed in anti-American sentiment, and U.S. public support will dissolve."

How will you govern a defeated Iraq?

"Of course, a military victory is as assured as it was at the outset of Desert Storm. But then, how will you govern a country probably still resisting through guerrilla activity and in which we do not speak the language? Will your military forces be confined to cantonments at night because they do not control the streets of Baghdad?"

How does the war against Iraq contribute to winning the war against terrorism?

"The origin of the attacks of 9/11 and the preceding chain of attacks against the embassy in Beirut and the Marine barracks in 1983 and other embassies thereafter were in the Arab/Muslim world. Victory in the war against terrorism must necessarily be found in that worldwide presence. How does alienating every facet of that world contribute to victory in the current war on terrorism?"

Williams, a career Marine who insists that his thoughts are his and not to be linked to George Washington University, says he learned in Beirut and South Vietnam that his government didn't always have better information than he had -- not because officials lied but because critical details were filtered out as communiques made their way up the chain of command. "That experience," he said, "convinced me that the most senior leadership does not always have the best counsel."

He then offers Bush his own bit of counsel: "As president and commander in chief, you clearly have it in your power to move a reluctant nation toward war. But if war is too important to be left to generals, it is also too fraught with unforeseeable catastrophe to be left to the personal whim of one man. Please, sir, ask yourself my questions -- and make certain you have the answers right."

Snowflake

September 30, 2002 11:52 AM

TO: Gen. Franks
CC: Gen. Myers
FROM: Donald Rumsfeld *DR*
SUBJECT: The North

Iraq

If the UK isn't going to work in the north and the Turks may not, and the Kurds may not be enough, we are going to need some U.S. forces. Let's discuss.

Thanks.

DHR:dh
093002-43

.....
Please respond by 10/11/02

305802

U15850 02

Doc 3

09M-2218

Snowflake

September 30, 2002 10:12 AM

TO: Paul Wolfowitz
Doug Feith
Gen. Myers
Gen. Pace
Gen. Franks

FROM: Donald Rumsfeld DA

SUBJECT: Post-Saddam

Attached is an interesting article by Robert Kaplan.

Thanks.

Attach.

Kaplan, Robert D., "A Post-Saddam Scenario," *The Atlantic Monthly*, November 2002.

DHR:dh
093002-14

.....
Please respond by _____

Iraq

305802

U15854 02

Doc. 4
09M-2218



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SEP 30 2002

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This is a special preview of material from our November 2002 issue, available for sale at newsstands October 15.

The Atlantic Monthly | November 2002

A Post-Saddam Scenario

Iraq could become America's primary staging ground in the Middle East. And the greatest beneficial effect could come next door, in Iran

BY ROBERT D. KAPLAN

.....

The constellation of overseas bases with which the United States sustained its strategic posture throughout the Cold War was a matter not of design but of where Allied troops just happened to be when World War II and its aftershocks—the Greek Civil War and the Korean War—finally ended. The United States found itself with basing rights in western Germany, Japan, Korea, the eastern Mediterranean, and elsewhere. In particular, our former archenemy, Germany, precisely because America had played a large role in dismantling its Nazi regime, became the chief basing platform for U.S. troops in Eurasia—to such a degree that two generations of American soldiers became intimately familiar with Germany, learning its language and in many cases marrying its nationals. If the U.S. Army has any localitis, it is for Germany.

A vaguely similar scenario could follow an invasion of Iraq, which is the most logical place to relocate Middle Eastern U.S. bases in the twenty-first century. This conclusion stems not from any imperialist triumphalism but from its opposite: the realization that not only do our current bases in Saudi Arabia have a bleak future, but the Middle East in general is on the brink of an epochal passage that will weaken U.S. influence there in many places. Indeed, the relocation of our bases to Iraq would constitute an acceptance of dynamic change rather than a perpetuation of the status quo.

Two features of the current reality are particularly untenable: the presence of "unclean" infidel troops in the very Saudi kingdom charged with protecting the Muslim holy places, and the domination by Israeli overlords of three million Palestinians in the West Bank and Gaza. Neither will stand indefinitely. President Bush's refusal to force the Israelis out of the West Bank has heartened neoconservatives, but it is a temporary phenomenon—merely a matter of sequencing.

Only after we have achieved something more decisive in our war against al Qaeda, or have removed the Iraqi leadership, or both, can we pressure the Israelis into a staged withdrawal from the occupied territories. We would then be doing so from a position of newfound strength and would not appear to be giving in to the blackmail of those September 11-category criminals, the Palestinian suicide bombers. But after the Israelis have reduced the frequency of suicide bombings (through whatever tactics are necessary), and after, say, the right-wing Israeli leader Ariel Sharon has passed from the scene, Bush, if he achieves a second term and thus faces no future elections, will act.

But first the immediate issue: Iraq. The level of repression in Iraq equals that in Romania under the Communist dictator Nicolae Ceausescu or in the Soviet Union under Stalin; thus public opinion there is unknowable. Nevertheless, two historical cultural tendencies stand out in Iraq: urban secularism and a grim subservience. Whenever I visited Baghdad in the past, the office workers at their computer keyboards had the expressions that one imagines on slaves carrying buckets of mud up the steps of ancient ziggurats. These office workers labored incessantly; a cliché among Middle East specialists is that the Iraqis are the Germans of the Arab world (and the Egyptians are the Italians). Iraq was the most fiercely modernizing of Arab societies in the mid twentieth century, and all coups there since the toppling of the Hashemite dynasty, in 1958, have been avowedly secular.

Given the long climate of repression, the next regime change in Iraq might even resurrect the reputation not of any religious figure but of the brilliant, pro-Western, secular Prime Minister Nuri Said, who did more than any other Iraqi to build his country in the 1940s and 1950s. As in Romania, where the downfall of Ceausescu resurrected the memory of Ion Antonescu, the pro-Hitler nationalist executed in 1946 by the new Communist government, the downfall of Iraq's similarly suffocating autocracy could return the memory of the last great local politician murdered in the coup that set the country on the path to Saddam Hussein's tyranny.

Iraq has a one-man thugocracy, so the removal of Saddam would threaten to disintegrate the entire ethnically riven country if we weren't to act fast and pragmatically install people who could actually govern. Therefore we should forswear any evangelical lust to implement democracy overnight in a country with no tradition of it.

Our goal in Iraq should be a transitional secular dictatorship that unites the merchant classes across sectarian lines and may in time, after the rebuilding of institutions and the economy, lead to a democratic alternative. In particular, a deliberately ambiguous relationship between the new Iraqi regime and the Kurds must be negotiated in advance of our invasion, so that the Kurds can claim real autonomy while the central government in Baghdad can also claim that the Kurdish areas are under its control. A transitional regime, not incidentally, would grant us the right to use local bases other than those in the northern, Kurdish-dominated free zone.

Keep in mind that the Middle East is a laboratory of pure power politics. For example, nothing impressed the Iranians so much as our accidental shooting down of an Iranian civilian airliner in 1988, which they believed was not an accident. Iran's subsequent cease-fire with Iraq was partly the result of that belief. Our dismantling the Iraqi regime would concentrate the minds of Iran's leaders as little else could.

Iran, with its 66 million people, is the Middle East's universal joint. Its internal politics are so complex that at times the country appears to have three competing governments: the Supreme Leader Ayatollah Sayyed Ali Khamenei and the goons in the security service; President Mohammad Khatami and his Western-tending elected government; and the former President Ali Akbar Hashemi Rafsanjani, whose *bazaar* power base has made him a mediator between the other two. Sometimes Iranian policy is the result of subtle arrangements among these three forces; other times it is the result of competition. The regimes of Iraq and Iran are fundamentally different, and so, therefore, are our challenges in the two countries.

Vastly more developed politically than Iraq, Iran has a system rather than a mere regime, however labyrinthine and inconvenient to our purposes that system may be. Nineteenth-century court diplomacy of the kind that Henry Kissinger successfully employed in China with Mao Zedong and

Zhou Enlai will not work in Iran, simply because it has too many important political players. Indeed, because so many major issues are matters of internal bargaining, the Iranian system is the very opposite of dynamic. Iran's foreign policy will change only when its collective leadership believes there is no other choice.

Iranian leaders were disappointed not to see an American diplomatic initiative in 1991, after the United States bombed Baghdad—which, like the shooting down of the civilian jet, had greatly impressed them. Also likely to have been impressive to them was President George W. Bush's "axis of evil" speech (Iran's orchestrated denunciations notwithstanding). Overtures to the moderates in Iran's elected government, as the White House has already admitted, have not helped us—we will have to deal directly with the radicals, and that can be done only through a decisive military shock that affects their balance-of-power calculations.

The Iranian population is the most pro-American in the region, owing to the disastrous economic consequences of the Islamic revolution. A sea change in its leadership is a matter of when, not if. But a soft landing in Iran—rather than a violent counter-revolution, with the besieged clergy resorting to terrorism abroad—might be possible only if general amnesty is promised for those officials guilty of even the gravest human-rights violations.

Achieving an altered Iranian foreign policy would be vindication enough for dismantling the regime in Iraq. This would undermine the Iranian-supported Hizbollah, in Lebanon, on Israel's northern border; would remove a strategic missile threat to Israel; and would prod Syria toward moderation. And it would allow for the creation of an informal, non-Arab alliance of the Near Eastern periphery, to include Iran, Israel, Turkey, and Eritrea. The Turks already have a military alliance with Israel. The Eritreans, whose long war with the formerly Marxist Ethiopia has inculcated in them a spirit of monastic isolation from their immediate neighbors, have also been developing strong ties to Israel. Eritrea has a secularized population and offers a strategic location with good port facilities near the Bab el Mandeb Strait. All of this would help to provide a supportive context for a gradual Israeli withdrawal from the West Bank and Gaza. A problem with the peace plan envisioned by President Bill Clinton and Israeli Prime Minister Ehud Barak, in the summer of 2000, was that coming so soon after Israel's withdrawal from Lebanon, it was perceived by many Arabs as an act of weakness rather than of strength. That is why Israel must be seen to improve its strategic position before it can again offer such a pullback.

Of course, many Palestinians will be unsatisfied until all of Israel is conquered. But in time, when no Israeli soldiers are to be seen in their towns, the seething frustration, particularly among youths, will turn inward toward the Palestinians' own Westernized and Christianized elites, in Ramallah and similar places, and also eastward toward Amman.

In regards to Jordan and our other allies, U.S. administrations, whether Republican or Democratic, are simply going to have to adapt to sustained turbulence in the years to come. They will get no sympathy from the media, or from an academic community that subscribes to the fallacy of good outcomes, according to which there should always be a better alternative to dictators such as Hosni Mubarak, in Egypt; the Saudi royal family; and Pervez Musharraf, in Pakistan. Often there isn't. Indeed, the weakening of the brutal regime of Islam Karimov, in Uzbekistan, will not necessarily lead to a more enlightened alternative. It could just as likely ignite a civil war between Uzbeks and the ethnic Tajiks who dominate the cities of Samarkand and Bukhara. Because Uzbekistan is demographically and politically the fulcrum of post-Soviet Central Asia, those advocating "nation-building" in Afghanistan should realize that in the coming years there could be quite a few more nations to rebuild in the region. For this reason some in the Pentagon are intrigued by a basing

strategy that gives us options throughout Central Asia, even if some countries collapse and we have to deal with ethnic khanates.

Our success in the war on terrorism will be defined by our ability to keep Afghanistan and other places free of anti-American terrorists. And in many parts of the world that task will be carried out more efficiently by warlords of long standing, who have made their bones in previous conflicts, than by feeble central governments aping Western models. Of course we need to eliminate anti-American radicals (Gulbuddin Hekmatyar is a case in point) who are trying to topple Hamid Karzai's pro-Western regime. But that doesn't mean we should see Karzai's government as the only sovereign force in the country. Given that the apex of Afghan national cohesion, in the mid twentieth century, saw the Kabul-based regime of King Zahir Shah controlling little more than the major cities and towns and the ring road connecting them, the prospects for full-fledged nation-building in Afghanistan are not only dim but also peripheral to the war on terrorism. We forget that the December 1979 Soviet invasion of Afghanistan did not spark the *mujahideen* uprising. The spark came in April of 1978, in the form of the Kabul regime's attempt to extend the power of the central government to the villages. However brutal and incompetent the methods were, one must keep in mind that Afghans have less of a tradition of a modern state than do Arabs or Persians.

In any case, the changes that may be about to unfold in the Middle East will clear Afghanistan from the front pages. In the late nineteenth century the Ottoman Empire, despite its weakness, tottered on. Its collapse had to wait for the cataclysm of World War I. Likewise, the Middle East is characterized by many weak regimes that will totter on until the next cataclysm—which the U.S. invasion of Iraq might well constitute. The real question is not whether the American military can topple Saddam's regime but whether the American public has the stomach for imperial involvement of a kind we have not known since the United States occupied Germany and Japan.

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INFO MEMO

SEP 20 2002

USDP / 11/1/02
I-02/013617

FOR: SECRETARY OF DEFENSE

FROM: Assistant Secretary of Defense, International Security Affairs
(Peter W. Rodman, (b)(2))

SEP 20 2002

IR 9

SUBJECT: Hussein Remarks

- You asked (next under) for a list of things that Saddam Hussein and his Administration have been saying.
- Since before last year's attacks on the United States, threatening rhetoric has been a consistent feature of Iraqi rhetoric—both in statements by Saddam and in the official Iraqi press:
- Iraqi threats before 11 September 2001:

"Does the United States realize the meaning of opening the storehouses of the universe with the will of the Iraqi people?...Does it realize the meaning of every Iraqi becoming a missile that can cross to countries and cities?"

Babil (the newspaper of Saddam's son Uday), Editorial
29 September 1994

Three days before the attack on the United States, Babil advocated "transferring the confrontation . . . inside the US society."

- Since 11 September 2001, Iraqi threats and gloating have continued:

"The United States reaps the thorns that its rulers have planted in the world."

Saddam Hussein, Iraq TV
12 September 2001

205 2802



SEP 21 2002

15441 /02 0005

09M-2248

"Americans should feel the pain they have inflicted on the peoples of the world..."

Saddam Hussein , "Open Letter to the Peoples of the United States"

15 September 2001

"It seems that [President Bush] did not learn from the 11 September events...as long as Bush does not view these reasons in a real and effective way, the same reasons—which are condescension, arrogance, robbery of the rights of others and aggression on them—will remain valid ones for the repetition of these events."

Dr. Abd al-Razzaq al-Dulaymi, "Bush Administration Will Pay for its Mistakes," Babil

14 September 2002

Attachments: As stated.

Prepared by,

(b)(2), (b)(5)

DASD

W. J. [Signature]

PDASD

Snowflake

EF2800

7:24 AM

ISA 12/19
-NESA

TO: Doug Feith
FROM: Donald Rumsfeld *DR*
DATE: September 12, 2002
SUBJECT: Hussein Remarks

02/ 013617

Somebody ought to prepare a list of the things that Saddam Hussein and his administration have been saying so we can get them to the members on the hill who are friendly. Senator Sessions, for example, asked for them.

Thanks.

DHR/szn
091202.12

Please respond by:

9/21

ISA lead
Suspense - 9/19

09-13-02 14:26 IN

Snowflake

ADVANCE
UNSIGNED

September 13, 2002 8:58 AM

TO: Larry Di Rita
FROM: Donald Rumsfeld
SUBJECT: Paper on Iraq

Iraq

LARRY DI RITA

9/13

The *New York Times* is reporting that the White House released a paper yesterday on Iraq. Would you please see if you could get me a copy fast?

Thanks.

DHR:dh
091302-8

.....
Please respond by _____

13 Sep 02

U08428 /03

DOC.G

09M-2218

A DECADE OF DECEPTION AND DEFIANCE

SADDAM HUSSEIN'S DEFIANCE OF THE UNITED NATIONS

SEPTEMBER 12, 2002

PREFACE

A Decade of Deception and Defiance serves as a background paper for President George W. Bush's September 12th speech to the United Nations General Assembly. This document provides specific examples of how Iraqi President Saddam Hussein has systematically and continually violated 16 United Nations Security Council resolutions over the past decade. This document is not designed to catalogue all of the violations of UN resolutions or other abuses of Saddam Hussein's regime over the years.

For more than a decade, Saddam Hussein has deceived and defied the will and resolutions of the United Nations Security Council by, among other things: continuing to seek and develop chemical, biological, and nuclear weapons, and prohibited long-range missiles; brutalizing the Iraqi people, including committing gross human rights violations and crimes against humanity; supporting international terrorism; refusing to release or account for prisoners of war and other missing individuals from the Gulf War era; refusing to return stolen Kuwaiti property; and working to circumvent the UN's economic sanctions.

The Administration will periodically provide information on these and other aspects of the threat posed to the international community by Saddam Hussein.

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SADDAM HUSSEIN'S DEFIANCE OF UNITED NATIONS RESOLUTIONS

Saddam Hussein has repeatedly violated sixteen United Nations Security Council Resolutions (UNSCRs) designed to ensure that Iraq does not pose a threat to international peace and security. In addition to these repeated violations, he has tried, over the past decade, to circumvent UN economic sanctions against Iraq, which are reflected in a number of other resolutions. As noted in the resolutions, Saddam Hussein was required to fulfill many obligations beyond the withdrawal of Iraqi forces from Kuwait. Specifically, Saddam Hussein was required to, among other things: allow international weapons inspectors to oversee the destruction of his weapons of mass destruction; not develop new weapons of mass destruction; destroy all of his ballistic missiles with a range greater than 150 kilometers; stop support for terrorism and prevent terrorist organizations from operating within Iraq; help account for missing Kuwaitis and other individuals; return stolen Kuwaiti property and bear financial liability for damage from the Gulf War; and he was required to end his repression of the Iraqi people. Saddam Hussein has repeatedly violated each of the following resolutions:

UNSCR 678 – NOVEMBER 29, 1990

- Iraq must comply fully with UNSCR 660 (regarding Iraq's illegal invasion of Kuwait) "and all subsequent relevant resolutions."
- Authorizes UN Member States "to use all necessary means to uphold and implement resolution 660 and all subsequent relevant resolutions and to restore international peace and security in the area."

UNSCR 686 – MARCH 2, 1991

- Iraq must release prisoners detained during the Gulf War.
- Iraq must return Kuwaiti property seized during the Gulf War.
- Iraq must accept liability under international law for damages from its illegal invasion of Kuwait.

UNSCR 687 – APRIL 3, 1991

- Iraq must "unconditionally accept" the destruction, removal or rendering harmless "under international supervision" of all "chemical and biological weapons and all stocks of agents and all related subsystems and components and all research, development, support and manufacturing facilities."
- Iraq must "unconditionally agree not to acquire or develop nuclear weapons or nuclear-weapons-usable material" or any research, development or manufacturing facilities.
- Iraq must "unconditionally accept" the destruction, removal or rendering harmless "under international supervision" of all "ballistic missiles with a range greater than 150 KM and related major parts and repair and production facilities."
- Iraq must not "use, develop, construct or acquire" any weapons of mass destruction.
- Iraq must reaffirm its obligations under the Nuclear Non-Proliferation Treaty.
- Creates the United Nations Special Commission (UNSCOM) to verify the elimination of Iraq's chemical and biological weapons programs and mandated that the International Atomic Energy Agency (IAEA) verify elimination of Iraq's nuclear weapons program.
- Iraq must declare fully its weapons of mass destruction programs.
- Iraq must not commit or support terrorism, or allow terrorist organizations to operate in Iraq.
- Iraq must cooperate in accounting for the missing and dead Kuwaitis and others.
- Iraq must return Kuwaiti property seized during the Gulf War.

UNSCR 688 – APRIL 5, 1991

- "Condemns" repression of Iraqi civilian population, "the consequences of which threaten international peace and security."
- Iraq must immediately end repression of its civilian population.
- Iraq must allow immediate access to international humanitarian organizations to those in need of assistance.

UNSCR 707 – AUGUST 15, 1991

- "Condemns" Iraq's "serious violation" of UNSCR 687.
- "Further condemns" Iraq's noncompliance with IAEA and its obligations under the Nuclear Non-Proliferation Treaty.
- Iraq must halt nuclear activities of all kinds until the Security Council deems Iraq in full compliance.
- Iraq must make a full, final and complete disclosure of all aspects of its weapons of mass destruction and missile programs.
- Iraq must allow UN and IAEA inspectors immediate, unconditional and unrestricted access.
- Iraq must cease attempts to conceal or move weapons of mass destruction, and related materials and facilities.
- Iraq must allow UN and IAEA inspectors to conduct inspection flights throughout Iraq.
- Iraq must provide transportation, medical and logistical support for UN and IAEA inspectors.

UNSCR 715 – OCTOBER 11, 1991

- Iraq must cooperate fully with UN and IAEA inspectors.

UNSCR 949 – OCTOBER 15, 1994

- "Condemns" Iraq's recent military deployments toward Kuwait.
- Iraq must not utilize its military or other forces in a hostile manner to threaten its neighbors or UN operations in Iraq.
- Iraq must cooperate fully with UN weapons inspectors.
- Iraq must not enhance its military capability in southern Iraq.

UNSCR 1051 – MARCH 27, 1996

- Iraq must report shipments of dual-use items related to weapons of mass destruction to the UN and IAEA.
- Iraq must cooperate fully with UN and IAEA inspectors and allow immediate, unconditional and unrestricted access.

UNSCR 1060 – JUNE 12, 1996

- "Deplores" Iraq's refusal to allow access to UN inspectors and Iraq's "clear violations" of previous UN resolutions.
- Iraq must cooperate fully with UN weapons inspectors and allow immediate, unconditional and unrestricted access.

UNSCR 1115 – JUNE 21, 1997

- "Condemns repeated refusal of Iraqi authorities to allow access" to UN inspectors, which constitutes a "clear and flagrant violation" of UNSCR 687, 707, 715, and 1060.
- Iraq must cooperate fully with UN weapons inspectors and allow immediate, unconditional and unrestricted access.
- Iraq must give immediate, unconditional and unrestricted access to Iraqi officials whom UN inspectors want to interview.

UNSCR 1134 – OCTOBER 23, 1997

- "Condemns repeated refusal of Iraqi authorities to allow access" to UN inspectors, which constitutes a "flagrant violation" of UNSCR 687, 707, 715, and 1060.
- Iraq must cooperate fully with UN weapons inspectors and allow immediate, unconditional and unrestricted access.
- Iraq must give immediate, unconditional and unrestricted access to Iraqi officials whom UN inspectors want to interview.

UNSCR 1137 – NOVEMBER 12, 1997

- "Condemns the continued violations by Iraq" of previous UN resolutions, including its "implicit threat to the safety of" aircraft operated by UN inspectors and its tampering with UN inspector monitoring equipment.
- Reaffirms Iraq's responsibility to ensure the safety of UN inspectors.
- Iraq must cooperate fully with UN weapons inspectors and allow immediate, unconditional and unrestricted access.

UNSCR 1154 – MARCH 2, 1998

- Iraq must cooperate fully with UN and IAEA weapons inspectors and allow immediate, unconditional and unrestricted access, and notes that any violation would have the "severest consequences for Iraq."

UNSCR 1194 – SEPTEMBER 9, 1998

- "Condemns the decision by Iraq of 5 August 1998 to suspend cooperation with" UN and IAEA inspectors, which constitutes "a totally unacceptable contravention" of its obligations under UNSCR 687, 707, 715, 1060, 1115, and 1154.
- Iraq must cooperate fully with UN and IAEA weapons inspectors, and allow immediate, unconditional and unrestricted access.

UNSCR 1205 – NOVEMBER 5, 1998

- "Condemns the decision by Iraq of 31 October 1998 to cease cooperation" with UN inspectors as "a flagrant violation" of UNSCR 687 and other resolutions.
- Iraq must provide "immediate, complete and unconditional cooperation" with UN and IAEA inspectors.

UNSCR 1284 – DECEMBER 17, 1999

- Created the United Nations Monitoring, Verification and Inspections Commission (UNMOVIC) to replace previous weapon inspection team (UNSCOM).
- Iraq must allow UNMOVIC "immediate, unconditional and unrestricted access" to Iraqi officials and facilities.
- Iraq must fulfill its commitment to return Gulf War prisoners.
- Calls on Iraq to distribute humanitarian goods and medical supplies to its people and address the needs of vulnerable Iraqis without discrimination.

ADDITIONAL UN SECURITY COUNCIL STATEMENTS

In addition to the legally binding UNSCRs, the UN Security Council has also issued at least 30 statements from the President of the UN Security Council regarding Saddam Hussein's continued violations of UNSCRs. The list of statements includes:

- UN Security Council Presidential Statement, June 28, 1991
- UN Security Council Presidential Statement, February 5, 1992
- UN Security Council Presidential Statement, February 19, 1992
- UN Security Council Presidential Statement, February 28, 1992
- UN Security Council Presidential Statement, March 6, 1992
- UN Security Council Presidential Statement, March 11, 1992
- UN Security Council Presidential Statement, March 12, 1992
- UN Security Council Presidential Statement, April 10, 1992
- UN Security Council Presidential Statement, June 17, 1992
- UN Security Council Presidential Statement, July 6, 1992
- UN Security Council Presidential Statement, September 2, 1992
- UN Security Council Presidential Statement, November 23, 1992
- UN Security Council Presidential Statement, November 24, 1992
- UN Security Council Presidential Statement, January 8, 1993
- UN Security Council Presidential Statement, January 11, 1993
- UN Security Council Presidential Statement, June 18, 1993
- UN Security Council Presidential Statement, June 28, 1993
- UN Security Council Presidential Statement, November 23, 1993
- UN Security Council Presidential Statement, October 8, 1994
- UN Security Council Presidential Statement, March 19, 1996
- UN Security Council Presidential Statement, June 14, 1996
- UN Security Council Presidential Statement, August 23, 1996
- UN Security Council Presidential Statement, December 30, 1996
- UN Security Council Presidential Statement, June 13, 1997
- UN Security Council Presidential Statement, October 29, 1997
- UN Security Council Presidential Statement, November 13, 1997
- UN Security Council Presidential Statement, December 3, 1997
- UN Security Council Presidential Statement, December 22, 1997
- UN Security Council Presidential Statement, January 14, 1998
- UN Security Council Presidential Statement, May 14, 1998

SADDAM HUSSEIN'S DEVELOPMENT OF WEAPONS OF MASS DESTRUCTION

Saddam Hussein has continued to defy UN weapons inspectors for more than a decade, and he continues his efforts to develop or acquire weapons of mass destruction – including biological, chemical and nuclear weapons, and prohibited long-range missiles – and other means to deliver them.

BIOLOGICAL WEAPONS

- In 2001, an Iraqi defector, Adnan Ihsan Saeed al-Haidari, said he had visited twenty secret facilities for chemical, biological and nuclear weapons. Mr. Saeed, a civil engineer, supported his claims with stacks of Iraqi government contracts, complete with technical specifications. Mr. Saeed said Iraq used companies to purchase equipment with the blessing of the United Nations – and then secretly used the equipment for their weapons programs.¹
- Iraq admitted to producing biological agents, and after the 1995 defection of a senior Iraqi official, Iraq admitted to the weaponization of thousands of liters of anthrax, botulinum toxin, and aflatoxin for use with Scud warheads, aerial bombs and aircraft.²
- United Nations Special Commission (UNSCOM) experts concluded that Iraq's declarations on biological agents vastly understated the extent of its program, and that Iraq actually produced two to four times the amount of most agents, including anthrax and botulinum toxin, than it had declared.³
- UNSCOM reported to the UN Security Council in April 1995 that Iraq had concealed its biological weapons program and had failed to account for 3 tons of growth material for biological agents.⁴
- The Department of Defense reported in January 2001 that Iraq has continued to work on its weapons programs, including converting L-29 jet trainer aircraft for potential vehicles for the delivery of chemical or biological weapons.⁵
- The al-Dawrah Foot and Mouth Disease Vaccine Facility is one of two known biocontainment level-three facilities in Iraq that have an extensive air handling and filtering system. Iraq has admitted that this was a biological weapons facility. In 2001, Iraq announced that it would begin renovating the plant without UN approval, ostensibly to produce vaccines that it could more easily and more quickly import through the UN.
- Saddam Hussein continues its attempts to procure mobile biological weapons laboratories that could be used for further research and development.

¹ "Secret Sites: Iraqi tells of Renovations at Sites for Chemical and Nuclear Arms," *The New York Times*, December 20, 2001

² UNSCOM Report, January 25, 1999

³ *Ibid.*

⁴ *Ibid.*

⁵ *Proliferation: Threat and Response*; Department of Defense; January 2001

CHEMICAL WEAPONS

Saddam Hussein launched a large-scale chemical weapons attack against Iraq's Kurdish population in the late 1980s, killing thousands. On at least 10 occasions, Saddam Hussein's military forces have attacked Iranian and Kurdish targets with combinations of mustard gas and nerve agents through the use of aerial bombs, 122-millimeter rockets, and conventional artillery shells. Saddam Hussein continues his efforts to develop chemical weapons:

- Gaps identified by UNSCOM in Iraqi accounting and current production capabilities strongly suggest that Iraq maintains stockpiles of chemical agents, probably VX, sarin, cyclosarin and mustard.
- Iraq has not accounted for hundreds of tons of chemical precursors and tens of thousands of unfilled munitions, including Scud variant missile warheads.⁶
- Iraq has not accounted for at least 15,000 artillery rockets that in the past were its preferred vehicle for delivering nerve agents, nor has it accounted for about 550 artillery shells filled with mustard agent.⁷
- Iraq continues to rebuild and expand dual-use infrastructure that it could quickly divert to chemical weapons production, such as chlorine and phenol plants.
- Iraq is seeking to purchase chemical weapons agent precursors and applicable production equipment, and is making an effort to hide activities at the Fallujah plant, which was one of Iraq's chemical weapons production facilities before the Gulf War.
- At Fallujah and three other plants, Iraq now has chlorine production capacity far higher than any civilian need for water treatment, and the evidence indicates that some of its chlorine imports are being diverted for military purposes.

NUCLEAR WEAPONS

Saddam Hussein had an advanced nuclear weapons development program before the Gulf War and continues his work to develop a nuclear weapon:

- A new report released on September 9, 2002 from the International Institute for Strategic Studies – an independent research organization – concludes that Saddam Hussein could build a nuclear bomb within months if he were able to obtain fissile material.⁸
- Iraq has stepped up its quest for nuclear weapons and has embarked on a worldwide hunt for materials to make an atomic bomb. In the last 14 months, Iraq has sought to buy thousands of specially designed aluminum tubes which officials believe were intended as components of centrifuges to enrich uranium.

⁶ UNSCOM Report, January 25, 1999

⁷ Ibid.

⁸ *Iraq's Weapons of Mass Destruction: A Net Assessment*, September 9, 2002; The International Institute for Strategic Studies

- Iraq has withheld documentation relevant to its past nuclear program, including data about enrichment techniques, foreign procurement, weapons design, experimental data, and technical documents.
- Iraq still has the technical expertise and some of the infrastructure needed to pursue its goal of building a nuclear weapon.
- Saddam Hussein has repeatedly met with his nuclear scientists over the past two years, signaling his continued interest in developing his nuclear program.

BALLISTIC MISSILES

- Iraq is believed to be developing ballistic missiles with a range greater than 150 kilometers – as prohibited by the UN Security Council Resolution 687.
- Discrepancies identified by UNSCOM in Saddam Hussein's declarations suggest that Iraq retains a small force of Scud-type missiles and an undetermined number of launchers and warheads.⁹
- Iraq continues work on the al-Samoud liquid propellant short-range missile (which can fly beyond the allowed 150 kilometers). The al-Samoud and the solid propellant Ababil-100 appeared in a military parade in Baghdad on December 31, 2000, suggesting that both systems are nearing operational deployment.
- The al-Rafah-North facility is Iraq's principal site for testing liquid propellant missile engines. Iraq has been building a new, larger test stand there that is clearly intended for testing prohibited longer-range missile engines.
- At their al-Mamoun facility, the Iraqis have rebuilt structures that had been dismantled by UNSCOM that were originally designed to manufacture solid propellant motors for the Badr-2000 missile program.

⁹ UNSCOM Report

SADDAM HUSSEIN'S REPRESSION OF THE IRAQI PEOPLE

UNSCR 688 (April 5, 1991) "condemns" Saddam Hussein's repression of the Iraqi civilian population -- "the consequences of which threaten international peace and security." UNSCR 688 also requires Saddam Hussein to end his repression of the Iraqi people and to allow immediate access to international humanitarian organizations to help those in need of assistance. Saddam Hussein has repeatedly violated these provisions and has: expanded his violence against women and children; continued his horrific torture and execution of innocent Iraqis; continued to violate the basic human rights of the Iraqi people and has continued to control all sources of information (including killing more than 500 journalists and other opinion leaders in the past decade). Saddam Hussein has also harassed humanitarian aid workers; expanded his crimes against Muslims; he has withheld food from families that fail to offer their children to his regime; and he has continued to subject Iraqis to unfair imprisonment.¹⁰

REFUSAL TO ADMIT HUMAN RIGHTS MONITORS

- The UN Commission on Human Rights and the UN General Assembly issued a report that noted "with dismay" the lack of improvement in the situation of human rights in Iraq. The report strongly criticized the "systematic, widespread, and extremely grave violations of human rights" and of international humanitarian law by the Iraqi Government, which it stated resulted in "all-pervasive repression and oppression sustained by broad-based discrimination and widespread terror." The report called on the Iraqi Government to fulfill its obligations under international human rights treaties.
- Saddam Hussein has repeatedly refused visits by human rights monitors and the establishment of independent human rights organizations. From 1992 until 2002, Saddam prevented the UN Special Rapporteur from visiting Iraq.¹¹
- In September 2001 the Government expelled six UN humanitarian relief workers without providing any explanation.¹²

VIOLENCE AGAINST WOMEN

- Human rights organizations and opposition groups continued to receive reports of women who suffered from severe psychological trauma after being raped by Iraqi personnel while in custody.¹³
- Former Mukhabarat member Khalid Al-Janabi reported that a Mukhabarat unit, the Technical Operations Directorate, used rape and sexual assault in a systematic and institutionalized manner for political purposes. The unit reportedly also videotaped the rape of female relatives of suspected oppositionists and used the videotapes for blackmail purposes and to ensure their future cooperation.¹⁴

¹⁰ *Country Reports on Human Rights Practices* -- Iraq, March 4, 2002; US Department of State; www.state.gov

¹¹ Page 2-3, *Country Reports on Human Rights Practices* -- Iraq, March 4, 2002; US Department of State; www.state.gov

¹² *Ibid*, Page 6

¹³ *Ibid*, Page 5

¹⁴ *Ibid*, Page 5

- In June 2000, a former Iraqi general reportedly received a videotape of security forces raping a female family member. He subsequently received a telephone call from an intelligence agent who stated that another female relative was being held and warned him to stop speaking out against the Iraqi Government.¹⁵
- Iraqi security forces allegedly raped women who were captured during the Anfal Campaign and during the occupation of Kuwait.¹⁶
- Amnesty International reported that, in October 2000, the Iraqi Government executed dozens of women accused of prostitution.¹⁷
- In May, the Iraqi Government reportedly tortured to death the mother of three Iraqi defectors for her children's opposition activities.¹⁸
- Iraqi security agents reportedly decapitated numerous women and men in front of their family members. According to Amnesty International, the victims' heads were displayed in front of their homes for several days.¹⁹

TORTURE

- Iraqi security services routinely and systematically torture detainees. According to former prisoners, torture techniques included branding, electric shocks administered to the genitals and other areas, beating, pulling out of fingernails, burning with hot irons and blowtorches, suspension from rotating ceiling fans, dripping acid on the skin, rape, breaking of limbs, denial of food and water, extended solitary confinement in dark and extremely small compartments, and threats to rape or otherwise harm family members and relatives. Evidence of such torture often was apparent when security forces returned the mutilated bodies of torture victims to their families.²⁰
- According to a report received by the UN Special Rapporteur in 1998, hundreds of Kurds and other detainees have been held without charge for close to two decades in extremely harsh conditions, and many of them have been used as subjects in Iraq's illegal experimental chemical and biological weapons programs.²¹
- In 2000, the authorities reportedly introduced tongue amputation as a punishment for persons who criticize Saddam Hussein or his family, and on July 17, government authorities reportedly amputated the tongue of a person who allegedly criticized Saddam Hussein. Authorities reportedly performed the amputation in front of a large crowd. Similar tongue amputations also reportedly occurred.²²

¹⁵ Page 7, *Country Reports on Human Rights Practices – Iraq*, March 4, 2002; US Department of State; www.state.gov

¹⁶ *Ibid.*, Page 5

¹⁷ *Ibid.*, Page 2

¹⁸ *Ibid.*, Page 3

¹⁹ *Ibid.*, Page 3

²⁰ *Ibid.*, Page 4

²¹ *Ibid.*, Page 6

²² *Ibid.*, Page 4-5

- Refugees fleeing to Europe often reported instances of torture to receiving governments, and displayed scars and mutilations to substantiate their claims.²³
- In August 2001 Amnesty International released a report entitled *Iraq -- Systematic Torture of Political Prisoners*, which detailed the systematic and routine use of torture against suspected political opponents and, occasionally, other prisoners. Amnesty International also reports "Detainees have also been threatened with bringing in a female relative, especially the wife or the mother, and raping her in front of the detainee. Some of these threats have been carried out."²⁴
- Saad Keis Naoman, an Iraqi soccer player who defected to Europe, reported that he and his teammates were beaten and humiliated at the order of Uday Saddam Hussein for poor performances. He was flogged until his back was bloody, forcing him to sleep on his stomach in the tiny cell in Al-Radwaniya prison.²⁵

EXECUTIONS AND REPRESSION OF POLITICAL OPPOSITION

- Former UN Human Rights Special Rapporteur Max Van der Stoep's report in April 1998 stated that Iraq had executed at least 1,500 people during the previous year for political reasons.
- The government continues to execute summarily alleged political opponents and leaders in the Shi'a religious community. Reports suggest that persons were executed merely because of their association with an opposition group or as part of a continuing effort to reduce prison populations.²⁶
- In February 2001, the Government reportedly executed 37 political detainees for opposition activity.²⁷
- In June 2001, security forces killed a Shi'a cleric, Hussein Bahar al-Uloom, for refusing to appear on television to congratulate Qusay Saddam Hussein for his election to a Ba'th Party position. Such killings continue an apparent government policy of eliminating prominent Shi'a clerics who are suspected of disloyalty to the government. In 1998 and 1999, the Government killed a number of leading Shi'a clerics, prompting the former Special Rapporteur in 1999 to express his concern to the government that the killings might be part of a systematic attack by government officials on the independent leadership of the Shi'a Muslim community. The government did not respond to the Special Rapporteur's letter.²⁸
- There are persistent reports that families are made to pay for the cost of executions.²⁹
- Saddam Hussein destroyed the southern Iraqi town of Albu 'Aysh sometime between September 1998 and December 1999.³⁰

²³ Page 4, *Country Reports on Human Rights Practices -- Iraq*, March 4, 2002; US Department of State; www.state.gov

²⁴ *Iraq -- Systematic Torture of Political Prisoners*; Amnesty International; web.amnesty.org

²⁵ Page 4, *Country Reports on Human Rights Practices -- Iraq*, March 4, 2002; US Department of State; www.state.gov

²⁶ *Ibid*, Page 1

²⁷ *Ibid*, Page 2

²⁸ *Ibid*, Page 2

²⁹ *Ibid*, Page 4

³⁰ *Iraq -- Systematic Torture of Political Prisoners*; Amnesty International; web.amnesty.org

- Iraq has conducted a systematic "Arabization" campaign of ethnic cleansing designed to harass and expel ethnic Kurds and Turkmen from government-controlled areas. Non-Arab citizens are forced to change their ethnicity or their identity documents and adopt Arab names, or they are deprived of their homes, property and food-ration cards, and expelled.

SADDAM HUSSEIN'S ABUSE OF CHILDREN

- Saddam Hussein has held 3-week training courses in weapons use, hand-to-hand fighting, rappelling from helicopters, and infantry tactics for children between 10 and 15 years of age. Camps for these "Saddam Cubs" operated throughout the country. Senior military officers who supervised the courses noted that the children held up under the "physical and psychological strain" of training that lasted for as long as 14 hours each day. Sources in the opposition report that the army found it difficult to recruit enough children to fill all of the vacancies in the program. Families reportedly were threatened with the loss of their food ration cards if they refused to enroll their children in the course. The Supreme Council for the Islamic Revolution in Iraq reported in October 1999 that authorities were denying food ration cards to families that failed to send their young sons to Saddam Cubs compulsory weapons-training camps. Similarly, authorities reportedly withheld school examination results to students unless they registered in the Fedayeen Saddam organization.³¹
- Iraq often announces food ration cuts for the general population, blaming US or UK actions. Among the most controversial have been cuts in baby milk rations. Iraq has blamed the shortages on US and UK contract rejections, although the UN has approved all baby milk contracts submitted.
- Child labor persists and there are instances of forced labor.
- There are widespread reports that food and medicine that could have been made available to the general public, including children, have been stockpiled in warehouses or diverted for the personal use of some government officials.³²

DISAPPEARANCES

- Amnesty International reported that Iraq has the world's worst record for numbers of persons who have disappeared or remain unaccounted for.³³
- In 1999, the UN Special Rapporteur stated that Iraq remains the country with the highest number of disappearances known to the UN: over 16,000.

BASIC FREEDOMS: FREEDOM OF SPEECH, FREEDOM OF THE PRESS, FREEDOM OF INFORMATION

- In practice, Saddam Hussein does not permit freedom of speech or of the press, and does not tolerate political dissent in areas under its control. In November 2000, the UN General Assembly criticized Saddam Hussein's "suppression of freedom of thought, expression, information, association, and assembly." The Special Rapporteur stated in October 1999 that citizens lived "in a climate of fear," in

³¹ Page 1, *Country Reports on Human Rights Practices – Iraq*, March 4, 2002; US Department of State; www.state.gov

³² *Ibid.*, Page 16

³³ *Ibid.*, Page 3

which whatever they said or did, particularly in the area of politics, involved "the risk of arrest and interrogation by the police or military intelligence." He noted that "the mere suggestion that someone is not a supporter of the President carries the prospect of the death penalty."³⁴

- In June 2001, the Human Rights Alliance reported that Saddam Hussein had killed more than 500 journalists and other intellectuals in the past decade.³⁵
- Saddam Hussein frequently infringes on citizens' constitutional right to privacy. Saddam routinely ignores constitutional provisions designed to protect the confidentiality of mail, telegraphic correspondence, and telephone conversations. Iraq periodically jams news broadcasts from outside the country, including those of opposition groups. The security services and the Ba'th Party maintain pervasive networks of informers to deter dissident activity and instill fear in the public.³⁶
- Foreign journalists must work from offices located within the Iraqi ministry building and are accompanied everywhere they go by ministry officers, who reportedly restrict their movements and make it impossible for them to interact freely with citizens.³⁷
- The Iraqi Government, the Ba'th Party, or persons close to Saddam Hussein own all print and broadcast media, and operate them as propaganda outlets. They generally do not report opposing points of view that are expressed either domestically or abroad.³⁸
- In September 1999, Hashem Hasan, a journalist and Baghdad University professor, was arrested after declining an appointment as editor of one of Uday Hussein's publications. The Paris-based Reporters Sans Frontieres (RSF) sent a letter of appeal to Uday Hussein; however, Hassan's fate and whereabouts remained unknown at year's end.³⁹
- Saddam Hussein regularly jams foreign news broadcasts. Satellite dishes, modems, and fax machines are banned, although some restrictions reportedly were lifted in 1999.⁴⁰
- In government-operated Internet cafes, users only are permitted to view web sites provided by the Ministry of Culture and Information.⁴¹
- In 1999, Uday Hussein reportedly dismissed hundreds of members of the Iraqi Union of Journalists for not praising Saddam Hussein and the Government sufficiently.⁴²

³⁴ Page 9, *Country Reports on Human Rights Practices – Iraq*, March 4, 2002; US Department of State; www.state.gov

³⁵ *Ibid.*, Page 9

³⁶ *Ibid.*, Page 7

³⁷ *Ibid.*, Page 9

³⁸ *Ibid.*, Page 9

³⁹ *Ibid.*, Page 10

⁴⁰ *Ibid.*, Page 10

⁴¹ *Ibid.*, Page 10

⁴² *Ibid.*, Page 10

WITHHOLDING OF FOOD

- Relatives who do not report deserters may lose their ration cards for purchasing government-controlled food supplies, be evicted from their residences, or face the arrest of other family members. The Supreme Council for the Islamic Revolution in Iraq reported in October and December 1999 that authorities denied food ration cards to families that failed to send their young sons to the "Saddam's Cubs" compulsory weapons training camps.⁴³

CRIMES AGAINST MUSLIMS

- The Government consistently politicizes and interferes with religious pilgrimages, both of Iraqi Muslims who wish to make the Hajj to Mecca and Medina and of Iraqi and non-Iraqi Muslim pilgrims who travel to holy sites within the country. For example, in 1998 the UN Sanctions Committee offered to disburse vouchers for travel and expenses to pilgrims making the Hajj; however, the Government rejected this offer. In 1999 the Sanctions Committee offered to disburse funds to cover Hajj-related expenses via a neutral third party; the Government again rejected the offer. Following the December 1999 passage of UN Security Council Resolution 1284, the Sanctions Committee again sought to devise a protocol to facilitate the payment for individuals making the journey. The Sanctions Committee proposed to issue \$250 in cash and \$1,750 in travelers checks to each individual pilgrim to be distributed at the U.N. office in Baghdad in the presence of both U.N. and Iraqi officials. The Government again declined and, consequently, no Iraqi pilgrims were able to take advantage of the available funds or, in 2000, of the permitted flights. The Government continued to insist that these funds would be accepted only if they were paid in cash to the government-controlled central bank, not to the Hajj pilgrims.⁴⁴

More than 95 percent of the population of Iraq are Muslim. The (predominantly Arab) Shi'a Muslims constitute a 60 to 65 percent majority:

- The Iraqi government has for decades conducted a brutal campaign of murder, summary execution, and protracted arbitrary arrest against the religious leaders and followers of the majority Shi'a Muslim population. Despite nominal legal protection of religious equality, the Government has repressed severely the Shi'a clergy and those who follow the Shi'a faith.⁴⁵
- Forces from the Mukhabarat, General Security (Amn Al-Amm), the Military Bureau, Saddam's Commandos (Fedayeen Saddam), and the Ba'th Party have killed senior Shi'a clerics, desecrated Shi'a mosques and holy sites, and interfered with Shi'a religious education. Security agents reportedly are stationed at all the major Shi'a mosques and shrines, where they search, harass, and arbitrarily arrest worshippers.⁴⁶

⁴³ Page 8, *Country Reports on Human Rights Practices – Iraq*, March 4, 2002; US Department of State; www.state.gov

⁴⁴ *Ibid.*, Page 11-12

⁴⁵ *Ibid.*, Page 11

⁴⁶ *Ibid.*, Page 11

- The following government restrictions on religious rights remained in effect during 2001: restrictions and outright bans on communal Friday prayer by Shi'a Muslims; restrictions on the loaning of books by Shi'a mosque libraries; a ban on the broadcast of Shi'a programs on government-controlled radio or television; a ban on the publication of Shi'a books, including prayer books and guides; a ban on funeral processions other than those organized by the Government; a ban on other Shi'a funeral observances such as gatherings for Koran reading; and the prohibition of certain processions and public meetings that commemorate Shi'a holy days. Shi'a groups report that they captured documents from the security services during the 1991 uprising that listed thousands of forbidden Shi'a religious writings.⁴⁷
- In June 1999, several Shi'a opposition groups reported that the Government instituted a program in the predominantly Shi'a districts of Baghdad that used food ration cards to restrict where individuals could pray. The ration cards, part of the UN oil-for-food program, reportedly are checked when the bearer enters a mosque and are printed with a notice of severe penalties for those who attempt to pray at an unauthorized location.⁴⁸

⁴⁷ Page 11, *Country Reports on Human Rights Practices – Iraq*, March 4, 2002; US Department of State; www.state.gov

⁴⁸ *Ibid*, Page 11

SADDAM HUSSEIN'S SUPPORT FOR INTERNATIONAL TERRORISM

Iraq is one of seven countries that have been designated by the Secretary of State as state sponsors of international terrorism. UNSCR 687 prohibits Saddam Hussein from committing or supporting terrorism, or allowing terrorist organizations to operate in Iraq. Saddam continues to violate these UNSCR provisions.⁴⁹

- In 1993, the Iraqi Intelligence Service (IIS) directed and pursued an attempt to assassinate, through the use of a powerful car bomb, former U.S. President George Bush and the Emir of Kuwait. Kuwaiti authorities thwarted the terrorist plot and arrested 16 suspects, led by two Iraqi nationals.
- Iraq shelters terrorist groups including the Mujahedin-e-Khalq Organization (MKO), which has used terrorist violence against Iran and in the 1970s was responsible for killing several U.S. military personnel and U.S. civilians.⁵⁰
- Iraq shelters several prominent Palestinian terrorist organizations in Baghdad, including the Palestine Liberation Front (PLF), which is known for aerial attacks against Israel and is headed by Abu Abbas, who carried out the 1985 hijacking of the cruise ship *Achille Lauro* and murdered U.S. citizen Leon Klinghoffer.⁵¹
- Iraq shelters the Abu Nidal Organization, an international terrorist organization that has carried out terrorist attacks in twenty countries, killing or injuring almost 900 people. Targets have included the United States and several other Western nations. Each of these groups have offices in Baghdad and receive training, logistical assistance, and financial aid from the government of Iraq.⁵²
- In April 2002, Saddam Hussein increased from \$10,000 to \$25,000 the money offered to families of Palestinian suicide/homicide bombers. The rules for rewarding suicide/homicide bombers are strict and insist that only someone who blows himself up with a belt of explosives gets the full payment. Payments are made on a strict scale, with different amounts for wounds, disablement, death as a "martyr" and \$25,000 for a suicide bomber. Mahmoud Besharat, a representative on the West Bank who is handing out to families the money from Saddam, said, "You would have to ask President Saddam why he is being so generous. But he is a revolutionary and he wants this distinguished struggle, the *intifada*, to continue."⁵³
- Former Iraqi military officers have described a highly secret terrorist training facility in Iraq known as Salman Pak, where both Iraqis and non-Iraqi Arabs receive training on hijacking planes and trains, planting explosives in cities, sabotage, and assassinations.

⁴⁹ *Patterns of Global Terrorism 2001: Overview of State-Sponsored Terrorism*, US Department of State, May 21, 2002.

⁵⁰ *Ibid.*

⁵¹ *Ibid.*

⁵² *Ibid.*

⁵³ "Jenin Families Pocket Iraqi Cash"; *The Washington Times: London Daily Telegraph*, May 31, 2002.

SADDAM HUSSEIN'S REFUSAL TO ACCOUNT FOR GULF WAR PRISONERS

UNSCRs 686, 687 and others require Saddam Hussein to release immediately any Gulf War prisoners and to cooperate in accounting for missing and dead Kuwaitis and others from the Gulf War. Saddam has continued to violate these resolutions.

- Saddam Hussein has failed to return, or account for, a large number of Kuwaiti citizens and citizens of other countries who were detained during the Iraqi occupation of Kuwait and continues to refuse to cooperate with the Tripartite Commission to resolve the cases.
- Of 609 cases of missing Gulf War POWs/MIAs representing 14 nationalities – including one American pilot – under review by the Tripartite Commission on Gulf War Missing, only 4 have been resolved. Because of continued Iraqi obfuscation and concealment, very few cases have been resolved since the Gulf War. Saddam Hussein denies having any knowledge of the others and claims that any relevant records were lost in the aftermath of the Gulf War.
- In a December 2001 report to the UN Security Council, the UN Secretary-General criticized the Iraqi Government's refusal to cooperate with the U.N. on the issue of the missing POWs/MIAs citizens. Iran reports that the Iraqi Government still has not accounted for 5,000 Iranian POW's missing since the Iran-Iraq War.
- "Secretary General reiterates little progress on the issue of repatriation or return of all Kuwaiti and third country nationals or their remains, as Iraq refused to cooperate with the Tripartite Commission."⁵⁴
- In August 2001, Amnesty International reported that Saddam Hussein has the world's worst record for numbers of persons who have disappeared and remain unaccounted for.⁵⁵
- The Iraqi Government continued to ignore the more than 16,000 cases conveyed to it in 1994 and 1995 by the UN, as well as requests from the Governments of Kuwait and Saudi Arabia to account for the whereabouts of those who had disappeared during Iraq's 1990-91 occupation of Kuwait, and from Iran regarding the whereabouts of prisoners of war that Iraq captured in the 1980-88 Iran-Iraq War.⁵⁶
- "Security Council regrets that no progress made on return of Kuwaiti national archives, reiterate need for Iraq to immediately fulfill all requirements under the relevant resolutions, including repatriation or return of all Kuwaiti and third country nationals or their remains."⁵⁷

⁵⁴ Vorontsov Report; UN SG/2002/931 on Iraqi Non-Compliance With UNSCR 1284

⁵⁵ Page 3, *Country Reports on Human Rights Practices – Iraq*, March 4, 2002; US Department of State; www.state.gov

⁵⁶ *Ibid.*, Page 3

⁵⁷ Vorontsov Report; UN SG/2002/931 on Iraqi Non-Compliance With UNSCR 1284

SADDAM HUSSEIN'S REFUSAL TO RETURN STOLEN PROPERTY

Iraq destroyed much stolen property before it could be returned, and Kuwait claims that large quantities of equipment remain unaccounted for:

- The UN and Kuwait say Iraq has not returned extensive Kuwaiti state archives and museum pieces, as well as military equipment, including eight Mirage F-1 aircraft, 245 Russian-made fighting vehicles, 90 M113 armored personnel carriers, one Hawk battery, 3,750 Tow and anti-tank missiles, and 675 Russian-made surface-to-air missile batteries.

SADDAM HUSSEIN'S EFFORTS TO CIRCUMVENT ECONOMIC SANCTIONS AND IMPEDE THE OIL-FOR-FOOD PROGRAM

- Saddam Hussein has illegally imported hundreds of millions of dollars in goods in violation of economic sanctions and outside of the UN's Oil-for-Food program. For example, Iraq has imported fiber optic communications systems that support the Iraqi military.
- Iraq has diverted dual-use items obtained under the Oil for Food program for military purposes. For example, Iraq diverted UN approved trucks from humanitarian relief purposes to military purposes, and has used construction equipment to help rebuild WMD-affiliated facilities.
- The Iraqi regime illicitly exports hundreds of thousands of barrels of oil each day in flagrant violation of UNSCRs and blatant disregard for the humanitarian well-being of the Iraqi people. In so doing, it has deprived the Iraqi people of billions of dollars in food, medicine, and other humanitarian assistance that would have been provided if the regime had exported the oil under the UN Oil-for-Food program. Instead, Saddam Hussein has used these billions to fund his WMD programs, pay off his security apparatus, and supply himself and his supporters with luxury items and other goods.
- In January 2002, President Bush reported to Congress that "as most recently stated in a November 19 UN report, the government of Iraq is not committed to using funds available through the Oil for Food program to improve the health and welfare of the Iraqi people...Iraq's contracting delays, cuts in food, medicine, educational and other humanitarian sector allocations, government attempts to impede or shut down humanitarian NGO operations in northern Iraq, and Baghdad's delays in the issuance of visas for UN personnel demonstrate that the Iraqi regime is trying to undermine the effectiveness of the program."⁵⁸
- Saddam Hussein spends smuggled oil wealth on his lavish palaces and inner circle, rather than on the humanitarian needs of the Iraqi people.
- Saddam Hussein has used water pumps, piping, and other supplies that could have been used to repair urban sewer and water systems in order to construct moats and canals at his palaces.

⁵⁸ President's Report to Congress; January 2002; under P.L. 102-1

UNITED NATIONS GENERAL ASSEMBLY
THE PRESIDENT'S ADDRESS AND PLANNED MEETINGS
SEPTEMBER 12-13, 2002

- President Bush speaks tomorrow to the United Nations General Assembly and begins a series of important meetings with world leaders.
- The President's address will challenge the international community to deal with the outlaw regime in Iraq.
- Saddam's regime poses a serious threat to peace and stability in the world. For 11 years, this regime has defied the United Nations. Saddam is systematically and continually violating 16 UN Security Council resolutions.
- The President will call attention to Saddam's cruelty to his own people, his aggressive pursuit of weapons of mass destruction, his support for terror, and his repression of minorities within Iraq. In each of these, Saddam flouts the UN.
- After a decade of deception and defiance, the President sees this as a problem that has festered too long.
- Saddam Hussein and his regime are not just problems for the United States, but problems for international peace and stability.
- President Bush has not decided on a particular course of action, but he will say that there must be action to eliminate the threat Saddam poses. He is consulting with world leaders, as he is with members of Congress, on what action is necessary.
- A growing number of leaders are echoing that we can't wait any longer to take action against Saddam Hussein.
- While in New York, the President will work on a wide range of issues, including poverty, AIDS, regional stability and Afghan reconstruction. He will meet with ten Central African leaders, President Karzai (Afghanistan), Prime Minister Koizumi (Japan), President Musharraf (Pakistan), Prime Minister Vajpayee (India), and United Nations Secretary General Annan.

Snowflake

September 12, 2002 9:16 AM

TO: Paul Wolfowitz
Doug Feith
Bill Luti

FROM: Donald Rumsfeld *DR*

SUBJECT: Shultz Article

Iraq

Attached is a piece by George Shultz on Iraq. I think we ought to get it fed into the interagency process.

Thanks.

Attach.
Shultz, George, "Iraq: After Victory, What?"

DHR:dh
091202-20

.....
Please respond by 10/04/02

12 Sep 02

U08276 103

Doc. 7

09M-2218 1

JUL 29 2002 11:02AM

GEORGE SHULTZ

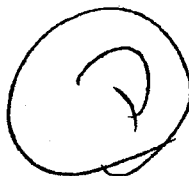
NO. 467 P. 1



GEORGE P. SHULTZ
DISTINGUISHED FELLOW

HOOVER INSTITUTION
ON WAR, REVOLUTION AND PEACE

VIA FACSIMILE
(703) 697-8339



7/29
To: SecDef

Copy to: USD(P) Feith
DepSec done 7/30

4/3

Larry Di Filippo

July 29, 2002

SECDEF HAS SEEN

SEP 12 2002

The Honorable Donald Rumsfeld
U.S. Secretary of Defense
Department of Defense
1000 Defense Pentagon, Room 3E880
Washington, D.C. 20330

Dear Don:

Here are some thoughts about what to do in Iraq after victory. It is the product of discussions I have had with Harry Rowen and Charlie Hill, and we hope it will be helpful. I have sent this statement along to the President this morning.

With my respect and admiration,

Sincerely yours,

A handwritten signature in cursive script, appearing to read "George P. Shultz".

George P. Shultz

Enclosure

SP3 7/30



HOOVER INSTITUTION
ON WAR, REVOLUTION AND PEACE

IRAQ:
After Victory, What?

A desirable sense of inevitability born of necessity has taken hold about a military operation to bring about a change in the Iraqi regime. Congressional support is critical and obtainable. Many Democrats remember and rue their negative vote against Desert Storm.

As we will be taking preemptive action, specific details will have to be provided to demonstrate that Saddam Hussein is at present conducting an ongoing and worsening act of aggression against the national security of the United States. With each passing day, his actions do further damage to American interests. Making this case will require tough decisions about releasing information acquired through intelligence collection. But as the operation will bring an end to the Iraqi regime, there will be no need to preserve some channels for future use. To judge just from the publicly available record, the case seems airtight.

What is far less clear, and what Congress will focus on, is what will happen in Iraq after Saddam? What will we do to ensure that the end of his regime will not result in something even worse?

This is a wholly legitimate concern. We can respond to it by making clear that following the end of the present Iraqi regime, a new governmental structure will take shape based on the principles that:

- Iraq will remain a territorially integral sovereign state.
- A federal-style form that respects the traditional Kurdish, Sunni, and Shia communities will emerge.
- A set of phased transitional steps, including referendums and elections, will be carried out and involve the range of Iraqi political parties, factions, and groups in exile and internally opposed to the Saddam Hussein regime over the years.

As a long-standing illegitimate and brutally repressive dictatorship, the regime's departure will leave no usable structure of governance in its wake. A major international effort at nation building will be required.

Iraq: After Victory, What?
Page Two

To oversee and assist in this effort, the present septet of external parties now cooperating to help establish the foundations for a Palestinian state could also act in concert with regard to the reconstruction of Iraq (United States, European Union, Russia, the United Nations, and key members of the Arab League: Egypt, Saudi Arabia, and Jordan).

This group would act in the recognition that the problems of Iraq and the Israeli-Palestinian situation are inextricably linked. Iraq's role as a violent opponent of any peace in the latter case means that no phased approach can succeed; approaches to both must go forward together.

The reconstruction of Iraq will require an international effort of the first magnitude. The United Nations' effort in Cambodia from 1992 to 1994 provides an example of the scale of undertaking required. Just as an international conference in Paris set out the design for the UN mission in Cambodia then, you would propose a similar conference and a similar UN transitional authority for Iraq now.

I am suggesting that we use the UN for this purpose because in the early 1990s the UN was given, and, with adult supervision, effectively performed, some difficult and large-scale post conflict nation-building missions. Cambodia was the biggest one; others were Namibia, Mozambique, and El Salvador. Then, of course, the peacekeeping function was devastated by its misuse in Bosnia. ✓

The impact of our victory in Iraq can have a profoundly positive effect on the entire Middle East region if it is followed by a sustained and internationally supported reconstruction effort. The Arab League, as a recognized "regional arrangement" under the UN Charter, could be part of this from the planning stages and would benefit from being challenged to some greater cause than being anti-Israel. Most importantly, our operation will break up the terrorist-rejectionist connection that runs from Iran across Iraq to Syria into south Lebanon and the West Bank. The present regimes in Tehran and Damascus will be further isolated and closer to collapse, and Lebanon could emerge as whole and independent for the first time since occupied by Syria in 1978. Jordan will benefit from an end to the Saddam threat on its border. The same should be true for Saudi Arabia, but the pathologies that recent events have revealed in the kingdom make its future less certain, with or without Saddam Hussein.

The stakes here are high, not only for the region of the Middle East but for the international system as a whole. As was made clear in "The Arab Human Development Report 2002" released by the UN in Cairo on July 1, 2002, Arab societies "are being crippled by a lack of political freedom, the repression of women, and an isolation from the world of ideas that stifles creativity." The international system of states has been weakened in the past decade by political neglect, by economic, social, and cultural

Iraq: After Victory, What?
Page Three

changes accompanying globalization, and by a tendency among intellectuals to declare the state outmoded and to look for new forms in the future. The reality is that the state, the international system of sovereign states, and the United Nations, which is the world organization of its member states, are the foundation stones of international cooperation and progress. This is what we have to work with; we need to make it work better. The Arab states, as the UN report specifies, are in immediate need of reform and renovation. The establishment of a legitimate state and government in Iraq, along with that of a State of Palestine, and universal recognition of the State of Israel, are urgent and vital tasks before us.

What I am proposing here is not only a way to bring Congress to support strongly our operation in Iran, but also a big organizing principle for our whole foreign policy. A new and responsible government in Iraq, brought to maturity through skillful use of the UN, can change the entire Middle East scene. By getting to work on this diplomatically now, we can provide a vision for a strengthened international system overall, and do much to gain support around the world, and especially from the Europeans and at the UN, for our decision on Iraq.

July 29, 2002

Snowflake

August 16, 2002 11:15 AM

TO: President George W. Bush
FROM: Donald Rumsfeld *DR*
SUBJECT: Iraq

Attached is an interesting article on the subject we discussed this morning at the NSC meeting.

Respectfully,

Attach.

Dionne, E.J. Jr. "In Search of a War Rationale," *Washington Post*, August 16, 2002

DHR:dh
081602-7

Iraq

16 Aug 02

W00943-02

Doc. 8

09M-2218

Washington Post
August 16, 2002
Pg. 25

In Search Of A War Rationale

By E. J. Dionne Jr.

Supporters of going to war against Iraq offer two very different rationales for American action. Before the shooting starts, we had better be clear about which war we're fighting.

One Iraq war would be preemptive but, in principle, defensive in character. The argument for it is that Saddam Hussein is building weapons of mass destruction that he will someday use or pass on to others. In this view, Hussein will always manage to foil the outside inspections he agreed to after his defeat in 1991. We need to take him out because that is the only way we can be sure of taking out his weapons.

The second Iraq war would be a much bolder enterprise. Its goal is to revolutionize the entire Middle East. If Hussein is driven from power, the idea goes, Iraqis will then build a thriving democracy. A free Iraq will become a model for Arab and Muslim nations. The Arab-Israeli dispute will become less intractable and moderation will become contagious.

The staunchest advocates of military action embrace both arguments. Their assumption is that once we get involved in a war for defensive purposes, we will have no choice but to move to the next step of occupying and rebuilding Iraq under benign leadership.

But it would be a great mistake to sell the Iraq war as a defensive action when its real purpose is much broader. Here is a recipe for disillusionment that could undermine the operation's long-term success.

Already, this has looked too much like a war in search of a justification. Advocates of taking on Hussein keep trying, almost desperately, to link him to the attacks of Sept. 11. Their case hangs almost entirely on two alleged meetings in Prague between Mohamed Atta, the leader of the hijackers, and an Iraqi agent. Because there is great dispute about whether these meetings even took place, they provide a thin rationale for full-scale war.

Supporters of war know this. That's why they have shifted to arguments about the more general threat that Hussein poses. But the shifting rationales for war create a credibility problem. It raises the burden on the war's supporters to offer more convincing evidence than they have that Hussein really is on the verge of breakthroughs in the production of dangerous weapons -- or that he is prepared to use what he has sooner than we once thought.

As recently as July 2001, Secretary of State Colin Powell was arguing that "smart sanctions" could contain Hussein's threat. At the same time, Condoleezza Rice, the president's national security adviser, was endorsing "a sanctions regime that actually works." The goal, she said, would be to make sure that Hussein "couldn't rebuild his military power" and "that he would have great difficulty in acquiring weapons of mass destruction." The administration needs to be very clear -- beyond generalized talk about Sept. 11 changing everything -- on why what was true a year ago is no longer true now.

If the real purpose of this exercise is the larger one -- to make the Middle East safe for democracy -- the administration has to make a long-term commitment upfront to rebuilding Iraq and supporting a new regime. As our experience in Afghanistan shows, this will be no piece of cake.

Gary Schmitt, an Iraq hawk who is executive director of the Project for the New American Century, has been entirely candid in saying that this war could entail at least a five-year commitment of American troops to Iraq. There's been a lot of leaking of conflicting military plans. What really needs public airing is the postwar strategy -- how to make sure we don't squander a victory.

There's a reason why President Bush has not run into much domestic opposition to his Iraq plans, and it's not because most Democrats are too timid to take Bush on. There is broad agreement that the status quo in Iraq is dangerous for the long haul. The question is: What's the most effective way to change it?

If the issue is Hussein's weaponry, one last try with tough, intrusive and uncompromising inspections would have one of two effects. The inspections could succeed and rid us of the threat. Or Hussein would obstruct them and, in the process, force our reluctant allies to the view that there is no alternative to war.

But if the war with Iraq is really about a grander strategy to remake the Middle East, Americans need to know what we're getting into. A more democratic Middle East would do much practical good. It will also be hellishly hard for an outside power, even the world's only superpower, to create.

Snowflake

January 8, 2002 3:10 PM

ACTION
118
1922

TO: Paul Wolfowitz

FROM: Donald Rumsfeld PA

SUBJECT: Iraqi Exile Support

I talked to Colin Powell at lunch today on the subject of why State is halting support for the Iraqi exile group. He said they are not, but are continuing at \$500,000 per month so they can keep functioning. However, they have an audit problem, and the group seems unwilling to tell them how they are spending the money.

You ought to get the Deputies back on this subject, I would think.

Thanks.

Attach.

01/06/02 New York Times, "U.S. Halts Support for Iraqi Exile Group"

DHR:dh
010802-17

.....
Please respond by _____

IRAQ

8 JAN 02

U16440 02

DOC. 9
09-M-2218

there is no opposition ready to take power in Baghdad.

"Even those who argue that he is dangerous because of weapons of mass destruction have nothing to say about our lack of preparation," said Leon Fuerth, who was the national security adviser to Vice President Al Gore and now teaches international relations at George Washington University. "There are other ways to really, really increase the pressure on Saddam Hussein without making this the next top order of business."

New York Times
January 6, 2002

43. U.S. Halts Support For Iraqi Exile Group By The New York Times

WASHINGTON, Jan. 5 — The United States has suspended most financial support for a group of Iraqi exiles who oppose the rule of Saddam Hussein, after an audit by the State Department found irregularities in the group's accounting practices, the department said this week.

In 1998, Congress authorized millions of dollars in aid to groups seeking to overthrow Mr. Hussein. The Iraqi National Congress, an umbrella group based in London, has been one of the main recipients of that assistance.

"A recent audit conducted by the State Department's Office of the Inspector General identified financial management and internal control weaknesses regarding the accounting of U.S. funds," the department said in a statement this week. It said the inspector general instructed the State Department to "withhold, or at least restrict, future funding" of the foundation linked to the Iraqi National Congress until the bookkeeping improved.

The temporary restrictions on financing were first reported on Saturday by The Los Angeles Times.

The State Department said it hoped to continue supporting the group, calling it "part of a broad-based effort by Iraqis to confront the Iraqi regime."

"We believe regime changes would be good for the Iraqi people, and good for the

region, and there is value in supporting an umbrella organization for many groups and individuals who oppose the Iraqi regime working towards that day when the Iraqi people have a better government," the department said in a prepared statement.

The department has provided the group \$500,000 to keep its operations going until new accounting procedures are put in place, the statement said.

Korea Times

January 7, 2002

44. ROK, US Foreign Ministers Set To Meet Over N.Korea

By Shim Jae-yun, Staff Reporter

South Korean Foreign Affairs-Trade Minister Han Seung-soo plans to meet U.S. Secretary of State Colin Powell in late January to discuss pending issues, including the resumption of dialogue with North Korea, the Foreign Affairs-Trade Ministry said yesterday.

"Working-level officials from the two allies are now discussing details to realize the meeting," Yim Sung-joon, deputy foreign minister, told The Korea Times.

The exact place and agenda for the envisioned meeting have yet to be determined.

"For now, the meeting is likely to be held in Washington or New York. But it could also take place in Tokyo, depending on the situation," Yim said.

Explaining the background for the proposed meeting, Yim cited the need for South Korea to start the diplomacy involving the four powers surrounding the Korean peninsula. Han is set to visit Japan in mid-January.

Seoul officials said Han and Powell will also discuss a possible visit to Seoul by U.S. President George W. Bush and other bilateral economic and trade issues.

Prior to the Han-Powell meeting, senior officials from the two allies and Japan will get together in Seoul to coordinate policy on North Korea.

During the so-called Trilateral Coordination and Over-

sight Group (TCOG) meeting, the officials will exchange opinions on the latest state of inter-Korean relations which have remained stalled since the sixth inter-Korean ministerial talks ended without reaching any agreement in November.

In particular, the officials will focus on how to draw North Korea back into dialogue.

The two Koreas have organized reunions of separated families and other reconciliation events since their landmark summit in June 2000.

But inter-Korean ties faltered last year over Washington's tough stance toward Pyongyang.

They will also discuss food aid to the famine-stricken North by the World Food Program (WFP) and the sinking of a suspected North Korean spy boat by Japan's coast guard in the East China Sea.

Yim will represent South Korea at the TCOG meeting. James Kelly, U.S. assistant secretary of state for East Asian and Pacific affairs, and Hitoshi Tanaka, director-general of the Japanese Foreign Ministry, will attend the meeting.

In the meantime, U.S. Secretary of Defense Donald Rumsfeld is reportedly planning to visit South Korea and Japan later this month. The visit, if realized, will be Rumsfeld's first trip to Seoul and Tokyo since taking office in early 2001.

While in Seoul, Rumsfeld is expected to meet with his South Korean counterpart Kim Dong-shin to discuss security issues, including the missile defense project now being pursued by the U.S.

Rumsfeld originally planned to visit the two countries last November but the visit was postponed due to the Sept. 11 terrorist attacks on his country.

Korea Herald

January 7, 2002

45. IAEA Officials To Visit Nuclear Laboratory In North Korea

By Hwang Jang-jin, Staff reporter

A delegation of the International Atomic Energy Agency (IAEA) will begin a week-long visit to North Korea Saturday to discuss Pyongyang's implementation of nuclear safeguard obligations, a Seoul official said yesterday.

Officials of the U.N. nuclear watchdog will visit an isotope production laboratory in the North's Yongbyon nuclear complex. They will also discuss measures to inspect other nuclear facilities, a South Korean Foreign Ministry official said.

The North offered to open the laboratory to IAEA inspectors during talks in Vienna early November.

Olli Heinonen, director of the safeguards department of the IAEA, will lead the delegation.

The U.N. officials are expected to discuss wider inspections of the communist country's key nuclear facilities, the official said.

The United States and the IAEA urged the North to allow inspections of used fuel rods from a 5-megawatt reactor and reprocessing facilities that could show whether North Korea has developed nuclear weapons.

The IAEA demanded that the North allow an early inspection of its past nuclear activities, which will last at least three to four years.

The North rejected the demand, insisting that it is only required to admit inspectors when a significant portion of a nuclear reactor construction project is completed, as defined in the 1994 Agreed Framework agreement.

The North froze its suspected nuclear weapons program under the 1994 accord with the United States in exchange for nuclear reactors producing less weapons-grade plutonium.

The \$4.6 billion project was to be completed by 2003, but delays have pushed back the finish until at least 2008.

Snowflake



12:32 PM

TO: ✓ Larry Di Rita
Torie Clarke - distributed

FROM: Donald Rumsfeld

DATE: December 9, 2002

SUBJECT:

Here's an email from Ambassador Eagleton who was the US Ambassador in Baghdad when I was there in the mid '80s. It certainly puts duress on a lot of these articles that are being sent around.

You might want to encourage him to do an op-ed piece.

Thanks.

DHR/azn
120902.05

Attach: Email 12/3/02 from Amb. Eagleton

Please respond by:

12/24

TORIE -
I SPOKE WITH BILL
EAGLETON TODAY (11/2/03) - HE HAD
BEEN TRAVELLING IN THE CONGO.
HE WILL DO AN OP ED. HE ASKS
THAT WE HELP GET IT PLACED.

Bill Lutz

U13192 /03

01-11-03 13:51 IN

09M-2218 Doc. 12

Mr. Di Rita

Page 1 of 2

12/3
0930

(b)(6) CIV, OSD

From: (b)(6) CIV, OSD-POLICY
Sent: Tuesday, December 03, 2002 9:20 AM
To: (b)(6) CIV, OSD
Subject: FW: Your report to Secretary Rumsfeld

(b)(6) Ambassador Eagleton sent this to us for forwarding. v/r, (b)(6)

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

From: (b)(6) OSD-POLICY
Sent: Monday, December 02, 2002 11:34 PM
To: (b)(6) CIV, OSD-POLICY
Subject: FW: Your report to Secretary Rumsfeld

FYA

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

From: William Eagleton (b)(6)
Sent: Monday, December 02, 2002 3:04 PM
To: (b)(6) OSD-POLICY
Subject: Re: Your report to Secretary Rumsfeld

Dear (b)(6)

Please pass the following message to Secretary Rumsfeld from Eagleton:

Don:

We are in Morocco at this moment, but with CNN and the International Herald Tribune as well as a great output on email by the Kurdish Institute in Washington, we are trying to keep up with Iraqi developments. I have recently seen several media items from geniuses of hindsight suggesting that we should have done more about Iraqi use of chemical weapons in 1983-84 when you visited Baghdad. In the latest, by a Joost R. Hiltermann of the International Crisis Group, he goes so far as to claim that US leadership at that time gave a green light to Iraqi use of chemical weapons.

My recollection of what we were doing at that time is that we, the Americans, were the only ones who were doing anything about Iraq's use of mustard gas and other chemical weapons. At the beginning we and the British were the only ones who had the ability to know what Saddam was up to although we let the Iraqis know that such use was not in their interest. Given their difficult military situation it did not seem likely that we could persuade them to give up the chemical option. Instead, our efforts were centered on trying to stop the supply of weapons and technical help by European sources, mainly German. In Baghdad I tried to sensitize diplomats from friendly countries to what was going on without much effect except in the case of the German Ambassador who did what he could through back channels to Bonn. The official German position at that time was that these were chemicals that anyone could buy off the shelf, though in fact German technicians were working with the Iraqis in setting up the insecticide plant facilities. Later the German Government did take some action against several of the German chemical companies.

Certainly no one in the US Government gave a green or even an amber light to the Iraqis on the use of chemicals. Yes, with hindsight we would like to have done more, but there was certainly no international pressure to raise the issue with the Iraqis. A number of my diplomatic colleagues

12/3/2002

suggested it was okay to use chemical weapons defensively on your own territory.

I believe I am right in recalling that this was one of the issues that concerned you and us during your two visits to Baghdad. The Iraqis certainly never thought they had a green light from us and they did what they could to keep the use of chemicals secret. Another charge is that we sold conventional weapons to Iraq during the Iraq-Iran war. This, as you know, is entirely false. We held the line on weapons sales even though some of our best friends in the area were urging that we allow such sales.

Good luck with all that you are doing. Bill Eagleton

(b)(6) "OSD-POLICY" <(b)(6)@osd.mil> wrote:

Good Day Sir-

My name is (b)(6). I work in Bill Luti's office in the Pentagon. I am writing to ask for your mailing address. It is to be included in the package to the Secretary with your report.

Please let me know if there is anything I can help you with in the future.

Very Respectfully,

(b)(6) USAF
Administrative Secretary
OASD/ISA/NESA
2400 Defense Pentagon
Washington DC 20301-2400

(b)(2)

Do you Yahoo!?

Yahoo! Mail Plus - Powerful. Affordable. Sign up now

12/3/2002

7:27 AM

TO: Jim Haynes
CC: Dan Dell'Orto
Paul Wolfowitz
Gen. Myers
Gen. Pace
Larry Di Rita

FROM: Donald Rumsfeld. *DR*

DATE: January 16, 2002

SUBJECT:

We need a statement as to why we are holding people, what we do with them, how we are treating them, how we categorize them, and why it is perfectly legal, proper and historically correct.

If you can get me that by Friday, fine. If not, immediately let me know and we will get a team of people working on it to get it done.

Thank you.

DFR/azn
011602.03

Please respond by: _____

1/18

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Doc. 13

09-M-2218

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16 Jan 02

Action
Done
4/18
1988-15



GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE

WASHINGTON, D.C. 20301-1600

2002 1/18

January 18, 2002

Note for Sec Def

- (GMA) (118)
- Attached is a response to your snowflake on detainees.
 - Al Gonzales has seen an earlier version of this. He agrees, but is concerned about the assertions on the second page that the "United States has determined that" the detainees are not entitled to POW status, because of diplomatic sensitivities, and because some disagree with the conclusion.
 - Other conclusions stated here provoke the same sensitivities.
 - Gonzales plans to meet with the President later today or tomorrow, and asks that this paper and its conclusions not be distributed yet.

W. H. Hagman



GENERAL COUNSEL

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

INFO MEMO

January 18, 2002, 11:30 a.m.

FOR: SECRETARY OF DEFENSE

FROM: William J. Haynes II, General Counsel

SUBJECT: Detainees

"We need a statement as to why we are holding people, what we do with them, how we are treating them, how we categorize them, and why it is perfectly legal, proper, and historically correct."

- Why we are holding people.
 - United States has been attacked and is acting in accordance with its right to self-defense.
 - Detainees have been captured in combat or detained as threats to the safety of U.S. forces, allies and the American people. We should not release individuals who have pledged to kill Americans and to spread terror to other countries.
 - Under the law of war, they may be detained until the end of hostilities in the war on terrorism; they may also be held until trial for violations of the laws of war, and if convicted, held for punishment in accordance with sentencing.
- What we do with them.
 - In Afghanistan, they are photographed, fingerprinted, interrogated, provided shelter, and are detained in secure facilities. Some detainees are then transferred to U.S. Navy ships.
 - After screening to determine nationality and affiliation with terrorist organizations, detainees are flown to Guantanamo Bay Naval Station (GTMO).
 - In GTMO, they are checked and cared for medically, and housed in a secure, temporary detention facility. The Department of Defense will construct additional facilities appropriate for the detainees.
- How we are treating them.
 - As a matter of policy, we are treating and will treat them consistent with the principles of the Geneva Conventions of 1949.



- We treat them humanely – providing food and water, shelter, clothing, medical care, and allowing them freedom to practice their religion.
- We are not, for example, providing them:
 - Monthly pay (equivalent to 8 or more Swiss francs)
 - The opportunity to work with the kitchen staff to prepare their own food
 - A small canteen to purchase personal items and tobacco products (the profits of which must be used to benefit prisoners)
 - The opportunity to elect representatives among them
- Conditions of detention must satisfy legitimate security requirements to protect American forces.
- How we categorize them.
 - Based on the legal advice of the Department of Justice, the United States has determined that members of Al Qaeda and Taliban are not entitled to the status of prisoners of war under the Geneva Conventions.
- Why it is perfectly legal, proper, and historically correct.
 - This is a new kind of war, not contemplated by the architects of the Geneva Conventions of 1949.
 - As a function of our inherent right to self-defense, we are fighting with Al Qaeda, the Taliban, and other terrorists. Members of these organizations do not legitimately operate under the direction and control of a High Contracting Party to the Geneva Conventions. Therefore, for this and other reasons, provisions relating to prisoner of war status do not apply to them.
 - Even if some wish to argue that the Geneva Conventions apply, most if not all detainees clearly fail to meet the time honored tests for prisoner of war status for an “other militia” or “volunteer corps.”:
 - That of being commanded by a person responsible for his subordinates,
 - That of having a fixed distinctive sign recognizable at a distance
 - That of carrying arms openly
 - That of conducting their operations in accordance with the laws and customs of war.
 - Nevertheless, the United States will treat Al Qaeda, Taliban, and those detained in our war against terrorists consistent with the principles of the Geneva Conventions.



GENERAL COUNSEL

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

~~EXTREMELY SENSITIVE - LAW ENFORCEMENT INFORMATION~~

ACTION MEMO

2002 JAN 10 PM 3:18

SECDEF HAS SEEN

JAN 11 2002

January 10, 2002, 9:00 A.M.

FOR: SECRETARY OF DEFENSE

FROM: William J. Haynes II, General Counsel *WJ Haynes*
1/10/02

SUBJECT: Talking Points - Walker

- On Saturday, January 5, you and the Attorney General agreed to make a joint recommendation, and asked me and Larry Thompson (the Deputy AG), to prepare a memo for that purpose.
- Immediately thereafter, I spoke with Thompson and Adam Ciongoli (The Attorney General's special counsel) about this task. They recommended that a memo not go, but rather that they should prepare talking points for our review.
- When we did not receive their talking points, I prepared a set of talking points, which we sent to DOJ for their review and comment.
- We received DOJ's revisions last evening. The talking points at Tab A reflect their changes and represent the coordinated position of the Department of Justice and me.
- If you agree with the Attorney General that Walker should be transferred, DOJ would like Walker's first arrival in U.S. territory to be in the Eastern Judicial District of Virginia (i.e., he should fly into a northern Virginia airport).
 - If you approve, you and the Attorney General will communicate your decision to the President.
 - If *you* approve, I will ensure CENTCOM and DOJ coordinate the transfer. I have warned the Deputy Attorney General that you likely will require reimbursement for costs of the transfer if done by DOD.

RECOMMENDATION: The Attorney General and I recommend that you transfer control of Mr. Walker to the Attorney General for prosecution in a federal district court.

Approve *WJ* JAN 11 2002 Disapprove _____ Other _____

COORDINATION: None

Attachment: As Stated

SPI. ASSISTANT DI RITA	<i>1/10</i>
SR MA GIAMBASTIANI	<i>1/10</i>
MA BUCCI	<i>1/10</i>
EXECSEC WHITMORE	<i>1/10</i>

U00533 /02

mm2218

DOC.14

There are three principal options for dealing with John Walker: Military Prosecution, Federal Criminal Prosecution, and Continued Detention. Pros and cons follow.

• **MILITARY PROSECUTION**

- A military prosecution of a U.S. civilian otherwise not associated with the U.S. Military could be based on a violation of Article 104 of the Uniform Code of Military Justice (UCMJ) "aiding the enemy" or on violations of the law of war.

PROS

- There is some limited historical precedent for the military trial of such persons under the antecedent Articles of War (replaced in 1950, by the Uniform Code of Military Justice -- UCMJ)
- Article 104 of the UCMJ -- "Aiding the Enemy" -- provides for the death penalty as do, potentially, violations of the law of war.

CONS

- No U.S. civilian has ever been prosecuted under Article 104 of the UCMJ and no U.S. civilian has been prosecuted under the antecedent Articles of War provision since the Civil War.
 - A court may conclude that Walker, a civilian, did not have sufficient notice that his conduct would be punishable under the UCMJ. However, by engaging in military combat against the U.S., Walker should not be able to deny that he was on notice that his actions were inherently military and wrong.
 - A court might also conclude that the absence of any military prosecutions of U.S. civilians over the last nearly 140 years, at least with respect to Article 104, precludes a UCMJ trial on a theory of due process or desuetude (disuse).
 - Post Korean Conflict U.S. Supreme Court case law raises the question as to whether such a civilian is amenable to a military prosecution.
- Much of the evidence as to Walker's conduct is derived solely from his statements. Under the Military Rules of Evidence, an admission or confession may be considered as evidence only if independent evidence has been introduced that corroborates the essential facts admitted.

• **FEDERAL CRIMINAL CHARGES**

- Based upon the facts currently available, the Department of Justice (DOJ) is considering two principal charges - providing material support or resources to designated foreign terrorist organizations (18 U.S.C. 2339B) and providing material support to terrorists (18 U.S.C. 2339A).

PROS

- DOJ is confident of the above case against Walker based on the evidence it already has.
- Unlike the Military Rules of Evidence, the Federal Rules of Evidence (which would govern in a federal criminal trial) do not require independent corroboration of a defendant's admission or confession.
- There is no legal question about the ability to try Walker, as a U.S. citizen charged with federal crimes, in Federal District Court.
- The federal statutes allow for more flexibility than the UCMJ in defining the nature of the support provided.
- If convicted of providing material support to a terrorist organization, Walker could receive a life sentence without parole.
- Prosecution in federal court for these crimes still permits DOJ to charge additional crimes, including treason, based on newly discovered evidence.

CONS

- For any charges brought under 18 U.S.C. 2339B, the government would need to connect all of Walker's support to al'Qaida or HUM (a terrorist organization primarily involved in the conflict in Kashmir) because the Taliban is not a designated foreign terrorist organization.
- For any charges brought under 18 U.S.C. 2339A, the government would need to prove that Walker knew his support would be used in furtherance of terrorist acts. In addition, any charges under this section for Walker's conduct in Afghanistan would have to focus on his activities after October 26, 2001.

• **CONTINUED DETENTION**

- The Geneva Conventions and customary laws of war allow an individual captured during a time of hostilities to be detained until the cessation of hostilities. The United States has the option of detaining Walker until then.

PROS

- Currently, the facts do not support a federal criminal prosecution on the most serious charge - treason. While DOJ can continue to develop a treason case at the same time it was trying Walker on other charges, investigators would enjoy greater flexibility if such an investigation preceded any charges being brought.
- If the ultimate decision was to try Walker before a court-martial, continued detention would provide the military with an opportunity to determine whether the facts support a prosecution for violations of the law of war and to strengthen its case for a charge under Article 104.
- Notwithstanding that DOJ is confident in the strength of its case, if the DOJ tries the case, relying upon the facts currently available, and they do not obtain a conviction, the Double Jeopardy Clause would prohibit the government from retrying Walker for the same offense. He could, however, be retried for other offenses based on new information, but not for offenses of which he was acquitted.

CONS

- Continued detention without charges increases the likelihood that Walker's parents' lawyer will file constitutional challenges to Walker's detention. Litigation of collateral issues brought on Walker's terms (and potentially Walker's choice of forum) would distract and hamper prosecutorial efforts by either DOJ or DoD and diminish one of the primary advantages we have to set the litigation's terms.
- Public speculation about Walker will only increase with continued detention and no charges.
- The duration of detention would be subject to judicial review. The Geneva Convention on Prisoners of War (probably not applicable, but a relevant measure nonetheless) requires that detainees be released upon the "cessation of hostilities."

- The U.S. could hold Walker in detention for an extended period of time, and investigators might not develop stronger facts to support prosecution. Depending upon how much time has passed, it may then be difficult to prevail in a trial because the defendant may claim that he was prejudiced by the passage of time because he could no longer locate witnesses favorable to his case.
- Delay would also shift focus onto the government's conduct in detaining Walker, distracting focus from Walker's own conduct, especially harming to a prosecution built heavily on Walker's statements.
- This certainly would be subject to early litigation, perhaps the first non-traditional litigation associated with the conduct of the war. We would prefer that our first cases would be ones of our own choosing, ones that involve defendants that provoke no sympathy, and ones that offer the prosecution the strongest cases.

RECOMMENDATION

Because DOJ has a strong case based on the evidence it already has, because a military prosecution necessarily entails significant collateral litigation hurdles, and because the risks of continued detention probably outweigh any benefits from such detention, we recommend that Walker be prosecuted on federal criminal charges as soon as possible.

January 14, 2002 2:17 PM

TO: Jim Haynes
FROM: Donald Rumsfeld *DR*
SUBJECT: Disposition of Walker

I agree that eventually the Department of Justice ought to get Walker. I just wonder if the Department of Justice knows we can keep him for a while, and maybe there will be some cross-referencing and some additional information that would help their case.

I am curious to know what the rush is.

Thanks.

Attach.
01/10/02 GC Action Memo to SecDef, Walker [U00533/02]

DHR:dh
011402-50

.....
Please respond by 01/16/02.

January 14, 2002 8:06 AM

TO: Jim Haynes
FROM: Donald Rumsfeld 
SUBJECT: Walker

I don't really care what happens to Walker at this stage. I know he is going to go to the Department of Justice—the question is when.

He is on the USS BATAAN, and the military doesn't want him anymore. We could put him in Guantanamo Bay until we are absolutely certain we are not going to get anymore information about him or from him, or we could just give him to DoJ now.

Please come up with a recommendation.

Thanks.

DHR:dh
011402-5

.....
Please respond by 01/15/02

T for PATH

April 25, 2002 10:55 AM

Done 5/15

TO: Larry Di Rita
FROM: Donald Rumsfeld *DR*
SUBJECT: Millennium Challenge

353

What is my role going to be in the Millennium Challenge?

Thanks.

DHR:dh
642502-14

.....
Please respond by 05/10/02

5/29 143/10
→ *SECDER*
You have been invited
to observe, but we haven't
scheduled anything
You have written
General Kernan to ask him
to consider lessons learned
from Afghanistan ~~and to~~
as he preps for it (attached)
He's briefing you next week.
Di Rita

ASAPROGA

U17104 02 · 17 May 1715-000.

Larry Di Rita

DOC. 15

nam2218

~~SECRET~~

TO: Doug Feith
CC: GEN Meyers
FROM: Donald Rumsfeld

7:38 AM
IN REPLY REFER TO:
I-03/010443
EF-6293

DATE: July 25, 2003

NESA

SUBJECT:

Here is a memo from Gen. Myers on police for Iraq. It says that the Department of State policy against inviting Arab nations to send police remains firm. The Department of State doesn't have the authority to have a policy against sending Arab nations police.

We need police in Iraq. Let's go get them, and tell State we disagree and if they want to go to the President and make an issue out of it, we will go up there and take care of it.

Thanks.

DHR/azn
072503.10

Attach: Memo from Gen. Myers

✓ 8/12
Sir,
MR FEITH'S
Response is
on the next
page.
✓ CDR Nozenc
8/11

Please respond by: 7/30/03

Upon removal of attachments
this document becomes
UNCLASSIFIED

~~SECRET~~

SECDEF CONTROL

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Doc. 16

NO M A 210