

DCI ACTION CENTER ROUTING SLIP

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SUSPENSE DATE: NA

DOCUMENT NO: DAC-00564-02

Action Officer:

COORDINATION/ROUTING:

Memorandum from the President regarding Humane Treatment of al Queda and Taliban detainees.

Date of document: 7 February 2002 Received in DAC: 8 February 2002

PO-LIAIS 08110 1028 P 02

THE WHITE HOUSE

rebruary 7, 2002

MEMORANDUM FOR THE VICE PRESIDENT
THE SECRETARY OF STATE
THE SECRETARY OF DEFENSE
THE ATTORNEY GENERAL
CHIEF OF STAPP TO THE PRESIDENT
DIRECTOR OF CENTRAL INTELLIGENCE
ASSISTANT TO THE PRESIDENT FOR NATIONAL
SECURITY APPAIRS
CHAIRMAN OF THE JOINT CHIEFE OF STAFF

SUBJECT:

Humane Treatment of al Caeda and Taliban Detainees

- Our recent extensive discussions regarding the status of al Qaeda and Taliban detainees confirm that the application of the Geneva Convention Relative to the Treatment of Prisoners of War of August 12, 1949 (Geneva) to the conflict with al Qaeda and the Taliban involves complex legal questions. By its terms, Geneva applies to conflicts involving "High Contracting Parties," which can only be states. Moreover, it assumes the existence of "regular" armed forces fighting on behalf of states. However, the war against terrorism ushers in a new paradigm, one in which groups with broad, international reach commit horrific acts against innocent civilians, sometimes with the direct support of states. Our Nation recognizes that this new paradigm -- ushered in not by us, but by terrorists -- requires new thinking in the law of war, but thinking that should nevertheless be consistent with the principles of Geneva.
- Pursuant to my authority as Commander in Chief and Chief Executive of the United States, and relying on the opinion of the Department of Justice dated January 22, 2002, and on the legal opinion rendered by the Attorney General in his letter of February 1, 2002, I hereby determine as follows:
 - a. I accept the legal conclusion of the Department of Justice and determine that none of the provisions of Geneva apply to our conflict with al Qaeda in Afghanistan or elsewhere throughout the world because, among other reasons, al Qaeda is not a High Contracting Party to Geneva.
 - b. I accept the legal conclusion of the Attorney General and the Department of Justice that I have the authority under the Constitution to suspend Geneva as between the United States and Afghanistan, but I decline to

CONFIDENTIAL Reason: 1.5 (d)

Declassify on: 02/07/12



exercise that authority at this time. Accordingly, I determine that the provisions of Geneva will apply to our present conflict with the Taliban. I reserve the right to exercise this authority in this or future conflicts.

- c. I also accept the legal conclusion of the Department of Justice and determine that common Article 3 of Geneva does not apply to either al Qaada or Taliban detainees, because, among other reasons, the relevant conflicts are international in scope and common Article 3 applies only to "armed conflict not of an international character."
- d. Based on the facts supplied by the Department of Defense and the recommendation of the Department of Justice, I determine that the Taliban detainees are unlawful combatants and, therefore, do not qualify as prisoners of war under Article 4 of Geneva. I note that, because Geneva does not apply to our conflict with al Qaeda, al Qaeda detainees also do not qualify as prisoners of war.
- 3. Of course, our values as a Nation, values that we share with many nations in the world, call for us to treat detainees humanely, including those who are not legally entitled to such treatment. Our Nation has been and will continue to be a strong supporter of Geneva and its principles. As a matter of policy, the United States Armed Forces shall continue to treat detainees humanely and, to the extent appropriate and consistent with military necessity, in a manner consistent with the principles of Geneva.
- 4. The United States will hold states, organizations, and individuals who gain control of United States personnel responsible for treating such personnel humanely and consistent with applicable law.
- 5. I hereby reaffirm the order previously issued by the Secretary of Defense to the United States Armed Forces requiring that the detainees be treated humanely and, to the extent appropriate and consistent with military necessity, in a manner consistent with the principles of Geneva.
- 6. I hereby direct the Secretary of State to communicate my determinations in an appropriate manner to our allies, and other countries and international organizations cooperating in the war against terrorism of global reach.

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DOCUMENT NO! DAC-03404-04

Action Officer:

COORDINATION/ROUTING: NA

SUMMARY:

Momorandum from Churchlinezza Rice, Assistant to the President for National Security Affairs, The White House, regarding review of GIA's Interrogation Program.

Date of Document: 11 June 2004 Received in PAC: 14 June 2004

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NATIONAL SECURITY COUNCIL INFORMATION

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THE WATE HOUSE ASH IGTON Use 1, 2004

MEMORANDUM FOR THE HONORABLE GEOGGE J. TENET
Director of Control Intelligence

SUBJECT:

Review of CIA's Interrogation Program (T8

REFERENCE:

DCI Memo - Review of CIA Interrogation Program,

June 4, 2004 (18)

I have reviewed your memorandum to me of June 4, 2004. As we have already discussed, the next logical step is for the Attorney General to complete the relevant legal analysis now in preparation. Once this work is completed and you have returned from your current travel, can convene a Principals Committee meeting on this subject. In the interim, I will contact Attorney General Ashcrotter and rescore the priority we attach to completing expeditiously he separtment of Justice's legal analysis. I also encourage out a carry through on your expressed intention of talking to the Attorney General directly on this subject before any P incepals Committee meeting.

Condoleerra Rice

Condoleezza Rice

Assistant to the President or National Security Affairs

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Classified by: Condoleezza Rice

Reason: 1.5(c)

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Coordination and Routing	RE-ISSUE: ACTION RE-DIRECTED TO GC FROM OCA.				
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Document Summary	Fax from Stephen J. Hadley, Assistant to the President for National Security Affairs. The White House, providing for review, the most recent draft of the Executive Order entitled, "Interpretation of the Geneva Conventions Common Article 3 as Applied to Certain Detentions and Interrogations," and a draft memorandum to OMB Director Robert Portman. A telephone call will be arranged to confirm that the draft accurately reflects your views or to suggest any changes required.				
Document Date	05/25/2007	good and a see light a reader and			
Date Received in DAC		05/29/2007			

As of: 29 May 2007 11:48 AM



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FROM:	NSC PH: 456-842	5 ROOM: 373
SUBJECT:	DRAFT EXECUTIVE ORDER INTERPRETING GÉNEVA CONVENTIONS COMMON ARTICLE 3	PAGES: 13
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9	STATE	THE SECRETARY OF STATE		
12	DEFENSE	THE SECRETARY OF DEFENSE		
15	JUSTICE	THE ATTORNEY GENERAL		
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3	CIA	DIRECTOR, CENTRAL INTELLIGENCE AGENCY		
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SPECIAL DELIVERY INSTRUCTIONS/REMARKS:

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THE WHITE HOUSE
WASHINGTON

May 25, 2007

MEMORANDUM FOR THE SECRETARY OF STATE

THE SECRETARY OF DEFENSE

THE ATTORNEY GENERAL

DIRECTOR OF NATIONAL INTELLIGENCE

COUNSEL TO THE PRESIDENT

DIRECTOR, CENTRAL INTELLIGENCE AGENCY

SUBJECT:

Draft Executive Order Interpreting Geneva

Conventions Common Article 3

Attached are the most recent draft of the Executive Order entitled "Interpretation of the Geneva Conventions Common Article 3 as Applied to Certain Detentions and Interrogations" (including a recent revision to section 5) and a draft memorandum from me to OMB Director Robert Portman.

I provide the draft memorandum to you to ensure that I accurately convey your position regarding the Executive Order and the associated CIA interrogation program, in a form that can supplement Director Portman's own memorandum to the President addressing the matter. I ask that you please, consistent with the sensitive nature of the documents, review the draft memorandum and Executive Order. My office will try to arrange separate telephone calls by me to each of you on Monday (or Tuesday morning if more convenient) to confirm that the draft memorandum accurately reflects your views or to suggest any changes required to ensure its accuracy.

Skephen J. Hadley Assistant to the President

for National Security Affairs

Attachment

Tab A

Draft Memorandum to Director Portman

Tab B Draft Executive Order

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Classified by: Stephen J. Hadley

Reason: 1.4(d)

Declassify on: 5/24/17

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TAB A

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DRAFT: May 24, 2007

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MEMORANDUM FOR THE HONORABLE ROBERT J. PORTMAN
DIRECTOR, OFFICE OF MANAGEMENT AND BUDGET

SUBJECT:

Draft Executive Order Interpreting Geneva

Conventions Common Article 3

This memorandum further confirms and elaborates the positions of the heads of relevant departments and agencies and certain other officials concerning whether they object to the President's signing the draft Executive Order entitled "Interpretation of Geneva Conventions Common Article 3 as Applied to Certain Detentions and Interrogations."

I provided to the Secretary of State, the Secretary of Defense, the Attorney General, the Director of National Intelligence, the Counsel to the President, and the Director of the Central Intelligence Agency the draft Executive Order and a draft of this memorandum. Each of those officials has confirmed, directly to me, that the following passage accurately reflects that official's view:



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I confirm that the preceding passage also accurately reflects my own views.

Stephen J. Hadley Assistant to the President for National Security Affairs

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