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Talking Points for Foreign Governments

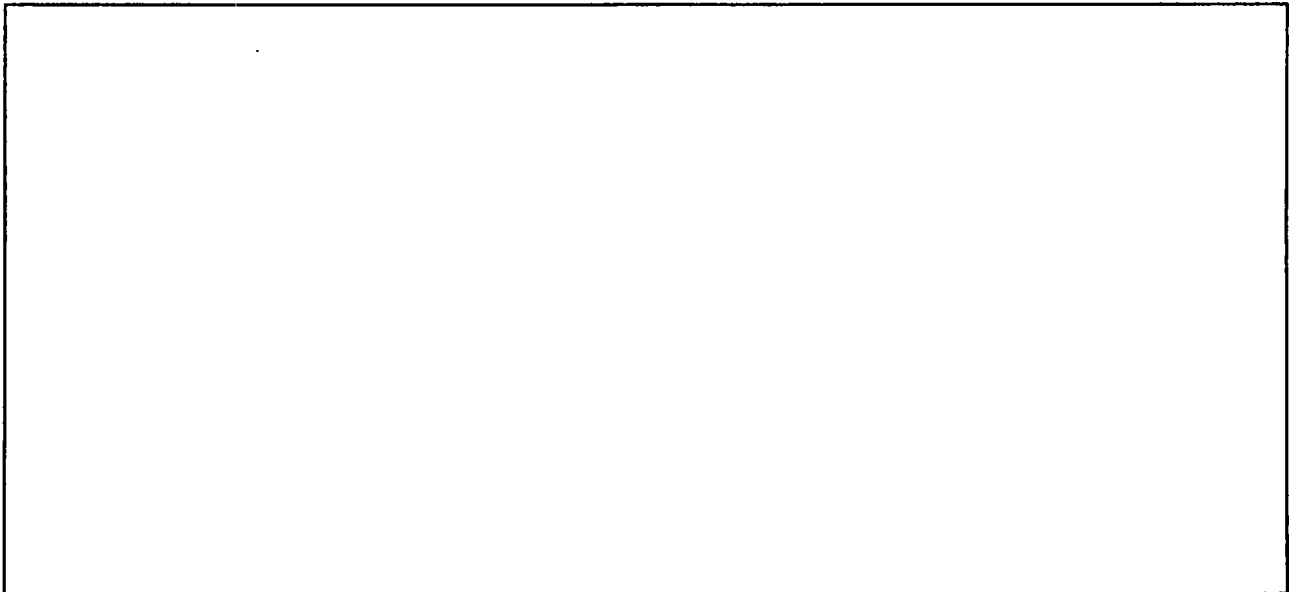
-- Responding to Government and Family Member Concerns Regarding Detainees --

**Introduction**

(C) Families of detainees under US control are resorting to publicity campaigns, parliamentary inquiries, and even lawsuits to pressure their governments to intercede more aggressively with the United States on behalf of family members detained in US control. At least one coalition partner has suggested that the mounting domestic pressures and lack of answers concerning its nationals are making it increasingly difficult domestically to support the US-led war on terrorism.

(C) We need to better educate the governments of these countries, including coalition partners, who have fundamental misunderstandings about USG policy and the legality of detaining enemy combatants in order to sustain their support. General points contained in the public diplomacy strategy will be used to emphasize that the USG has a sound legal foundation and is determined to do the right thing in this war. The USG will consider requests for information on a case-by-case basis. The policies and talking points that follow will be used to respond to these individualized concerns.

**Factual Inquiries Concerning Welfare/Whereabouts of Individual Detainees**



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**(C) Talking Points for Governments and Families**

(U) When asked for detainee-specific information to be shared with family members or other domestic constituencies:

- (U) It is USG policy not to publicly confirm or deny the identity of detained enemy combatants. In particular, we urge that your government make no information publicly available concerning individual detainees-- no press releases, internet postings or other listings. Where information has been shared on a confidential basis, we expect your government to honor those understandings.
- (U) For operational and security reasons, we will not respond to inquiries concerning the specific circumstances pertaining to the detention of any particular enemy combatant at Guantanamo Bay.
- (U) The success of our mission rests in part on the protection of certain information about detainees, the disclosure of which could undermine US and coalition objectives endangering our military and coalition forces engaged in the war on terrorism.



- (U) Among the reasons for not disclosing information about detainees outside special channels:
  - (U) the information can provide terrorist organizations or their supporters valuable intelligence that can lead to grave injury to the United States and the international community;
  - (U) disclosure of the information can compromise ongoing operations against terrorist organizations and their supporters; and
  - (U) even limited amounts of information can give terrorist organizations and their supporters insight into coalition operations and facilities.

**(U) Mail delivery**

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(U) If asked why the USG cannot confirm that mail from a family member has been delivered

- (U) Detainees are allowed to correspond by mail with family members, subject to screening for security and operational purposes. Not all detainees have been sent mail, and not all elect to write letters home. For operational reasons, the USG cannot confirm receipt of mail by individual detainees or determine the extent to which specific pieces of mail have been received by a particular detainee.

(U) Visits

- (U) Representatives of the International Committee of the Red Cross ("ICRC") individually and privately visit the enemy combatants under US control on a regular basis.
- (U) Foreign Governments are permitted to schedule visits to their own nationals and on occasion to other detainees in whom they have specific law enforcement or intelligence need for access. These visits are only authorized for law enforcement and intelligence purposes. Government visits of a consular nature are not authorized.
- (U) Visits by attorneys, family members, international organizations or public interest groups are not permitted

## (U) Visits of a Consular Nature

(U) If asked why governments may not conduct visits of a consular nature to determine and report on the health and welfare of their nationals or include such purpose in otherwise authorized visits:

- We are at war and the threat of attack is constant. US Military authorities cannot accept any visits to enemy combatants that are not deemed mission-essential or that further intelligence gathering.
- Needless to say, the right of access under consular conventions does not extend to enemy combatant detainees held under U.S. Military control outside the territory of the United States (as that would be outside any approved consular district under any such convention).

## (U) Attorney Visits

(U) If asked why attorneys may not visit their client/detainees:

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- (U) In this war, as in every modern war, enemy combatants have no legal right to counsel or courts for the purpose of challenging their detention while hostilities are ongoing.
- (U) If and when an enemy combatant is charged with a crime, he would have the right to counsel and fundamental procedural safeguards.
- (U) Access to counsel by enemy combatants would directly interfere with ongoing efforts of the United States and its coalition partners to gather and evaluate intelligence about the enemy, its capabilities, and its plans.
- (U) Gaining intelligence is critical to the war effort and instrumental in preventing further attacks against the United States, our coalition partners, and others.
- (U) To date, no enemy combatant at Guantanamo has been charged with a particular crime.
- (U) If and when a detainee is charged with a crime, the individual would be provided fundamental procedural safeguards to include counsel.

### **(U) Family Visits**

(U) If asked why families may not visit their client/detainees:

- (U) We are at war. Those detained by the United States are enemy combatants. No law or custom of war requires families to have access to detained enemy combatants.
- (U) For operational, security and force protection reasons it is not possible for family members to visit enemy combatants.
- (U) Visits by families would directly interfere with the ongoing efforts of the United States [Why? We to allow then in for this prupose] to gather and evaluate intelligence about the enemy, its capabilities, and its plans.
- (U) The disclosure of information obtained from detainees is strictly controlled. This information could provide terrorist organizations or their supporters valuable intelligence that could lead to grave injury to the US and/or international community at large. Disclosure could also compromise ongoing military operations against terrorist organizations or their supporters.

### **Factual Circumstances Surrounding Capture of Individual Detainees (U)**

#### **(U) Background**

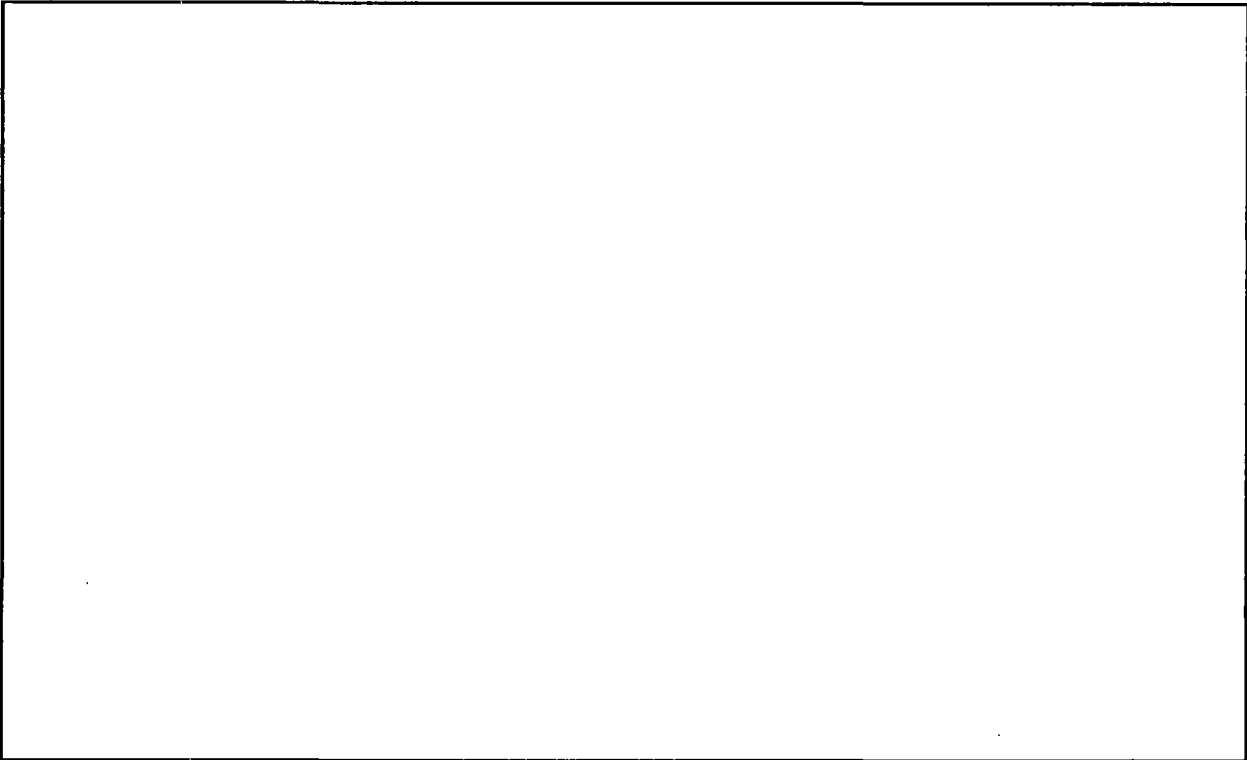
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(U) Family members often question the circumstances surrounding the capture of individuals. As we press governments to take a more supportive stand in defending publicly the detention of their nationals as enemy combatants, they may request information to support our determination in a form that they can use publicly to dispel any public doubt.

**(U) Talking Points for Governments and Families**

- (U) The detainees under US control are, in fact, enemy combatants. At the time of capture, they were bearing arms against us or otherwise acting in direct support of hostile armed forces engaged in an on-going armed conflict
- (U) As a general rule, the specific circumstances surrounding the capture of a particular detainee may not be disclosed.
- (U) Operational and security concerns are paramount and therefore will normally prevent the disclosure of the specific details of an individual detainee's capture.



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