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Australian Government

Department of Defence
Corporate Services &
Infrastructure Group

Minute
The Defence Legal
Service

TDLS/OUT/2004/CDR 557

Minister for Defence

For Action By: No critical date.

IRAQ: ROLE OF ADF LEGAL OFFICER AT ABU GHRAIB

Recommendation

That you note the answer to the Minister's supplementary question regarding the role of the ADF Legal Officer at the Baghdad Central Confinement Facility (BCCF) at Abu Ghraib.

Overview

- A Minsub to you titled 'Iraq: Role of ADF Legal Officer at Abu Ghraib' (TDLS/OUT/2004/22880) dated 12 May 04 outlined the details of Major O'Kane's attendances at the BCCF, Abu Ghraib between August 2003 and January 2004. As a result of the brief, a supplementary question has been raised today and is answered below.

Minister's Additional Question

- **Question:** As a result of O'Kane's time with ICRC at Abu Ghraib, did he form the view that prisoners were being held or interrogated contrary to the Geneva Convention?
- I have interviewed Major O'Kane with respect to the Minister's further question and he has provided the following response.

Answer: No

- It is Major O'Kane's understanding that the persons detained at the BCCF were not Prisoners of War. The vast majority of detainees were classified as 'Security Intermees', that is those persons who have been detained as a result of, or in connection with attacks on Coalition Forces, or who were of significant military intelligence value. A number of convicted Iraqi criminals

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were also detained at the facility, although they were held in a separate area and administered and guarded by the Iraqi Prison Service.

- In forming his view about the treatment of internees, Major O'Kane took into account that Security Internees were to be treated 'with humanity' in accordance with Article 5 of Geneva Convention IV. While conditions at the BCCF were basic (and dangerous due to regular indirect fire attacks) for internees and Coalition Forces alike, there were continual efforts made to improve security and general conditions in the context of ongoing military operations. Although Major O'Kane was of the view that detention conditions of the Security Internee population required improvement, his opinion was that in the circumstances and based on his knowledge at the time, internees were not being held or interrogated contrary to Geneva Convention IV.



NOTED

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13 May, 2004

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