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Australian Government

Department of Defence  
Strategic Policy Group



Minute

DEPSECS/OUT/2004/ 189

Minister for Defence

For Action By: Your office requested an urgent response to these questions.

**IRAQ – UPDATE ON DEFENCE KNOWLEDGE OF ALLEGATIONS OF ABUSE OF  
IRAQI DETAINEES**

**RECOMMENDATION**

That you note the responses to the questions below.

**OVERVIEW**

2. On 11 May 2004, your office provided DEPSEC S with a number of questions regarding our role in the apprehension and management of Iraqi detainees and our knowledge of reports of abuses. The responses to these questions are outlined below.

• **What is our role in prison management and prisoner management?**

Australia has no role in the management of Iraqi detainees or in the management of US detention centres in Iraq. ADF personnel working in the US headquarters and the Coalition Provisional Authority have:

- acted as facilitators to support International Committee of Red Cross investigation of prison management and detainee conditions;
- acted as a legal officer in the Office of Staff Judge Advocate in the US Headquarters and components of the CPA; and
- visited prisons on several occasions in these capacities.

• **What is our obligation to them?**

As Australian forces were not involved in the capture of detainees, we have not incurred any obligation under the Geneva Convention to Iraqi detainees. In all incidents involving handling of Iraqi detainees, the United States remained the Detaining Power.

• **Did we take prisoners?**

No detainees were captured by Australian forces during the recent conflict in Iraq, and Australian forces have not captured detainees since the end of combat operations in April 2003.

• **What is our knowledge of abuses and why was the Minister not briefed?**

Defence first became aware of reports of abuses of Iraqi detainees in the press reporting in mid-January (primarily the CNN report of 21 January, *Details of Army abuse allegations surface*). Reports from our personnel working in the CPA indicated general concern with the detainee situation but not to such an extent that officials briefed Ministers at that time. (See attached QTB.)

Defending Australia and its National interests

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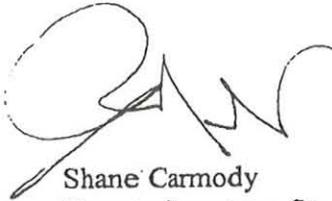
- **Were the prisoners we handled well treated?**

The Ministerial submission CDF/OUT/2004/400 and another CDF submission to be forwarded to you today respond to this question. We have no reports of inappropriate behaviour on the part of ADF personnel in providing assistance to Iraqi detainees.

- **What happened to the prisoners after we handled them?**

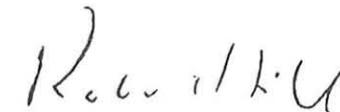
We are not aware of what happened to Iraqi detainees after ADF personnel handled them. Given we were not a Detaining Power or Accepting Power, we had no obligation to follow their progress through the detention system. We understand that one detainee died in captivity whilst being transported by coalition forces and that this death is the subject of a UK investigation.

**Sensitivity:** Yes. Reports of abuse of Iraqi detainees continues to be of considerable media and public concern.

**AUTHORISED:****NOTED**

Shane Carmody  
Deputy Secretary, Strategy

11 May, 2004



Robert Hill  
18/5/04

*contact officer details redacted here*

## IRAQI PRISONERS: KNOWLEDGE OF THE ICRC REPORT

**QUESTION:** When did you become aware of the contents of the ICRC's report into the treatment of Iraqi detainees held by the coalition?

### TALKING POINTS

- On 10 February 2004 the head of the ICRC delegation in Iraq forwarded a report on the treatment of detained persons in Iraq to the head of the Coalition Provisional Authority, Ambassador Paul Bremer and the Commander of Combined Joint Task Force – 7, General Ricardo Sanchez.
- In keeping with the usual practice of the ICRC, the report was only made available to the detaining authorities. The ICRC has stated that it “submitted its confidential reports to the authorities responsible on the basis of its mandate under the Geneva Conventions”.
- As Australia is not managing any detention centres in Iraq (nor is it a Detaining Power or Accepting Power), the ICRC did not provide the Australian Government with a copy of the report.
- In response to the report, coalition leaders in Iraq directed officials take steps to follow-up on the issues raised by the ICRC.
- Australian advisers in the Coalition Provisional Authority and the coalition's military headquarters in Iraq were involved in the issue to the extent of facilitating the ICRC's investigations and its contact with the coalition leadership in Iraq.
- The Australian officers reported back to the Department of Defence in Canberra that they were working on issues related to an ICRC investigation of detention practices in Iraq. They did not forward a copy of the ICRC's report at that time.
- I was not advised by the Department of Defence of the reporting from the officers in Iraq on the ICRC report.

- I am advised that the reporting focussed on the legal process issues rather than allegations of abuse about which the Australians did not know the full extent.
- This advice was conveyed to me by the Department of Defence yesterday.
- The Australian Government abhors any violation of international humanitarian law. We know that this abhorrence is shared by the US and UK Governments. The Australian Government welcomes the steps being taken to fully investigate the allegations, and take remedial action to ensure that abuse such as that alleged will not occur in future.