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Speechwriting, White House Office of Michel, Christopher - Chron Files

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W	17	6	5	2	8963	21826	8061	8127

Folder Title:

Hamdan Policy [Folder 2]

Withdrawn/Redacted Material

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DOCUMENT NO.	FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
001	Report	Effects of Hamdan's Determination Regarding Common Article 3 of the Geneva Conventions	8	07/06/2006	P5;
002	Email	Re: Hamdan speech - To: Christopher G. Michel - From: David S. Addington	1	07/14/2006	P5;
003	Report	Effects of hamdan's Determination Regarding Common Article 3 of the Geneva Conventions	8	07/06/2006	P5;
004	Draft	Summary of Proposed Legislation	5	N.D.	P5;
005	Bill	Enemy Combatant Military Commissions Act	29	N.D.	P5;
006	Report	Legislative Options to Address Hamdan v. Rumsfeld	8	07/05/2006	P5;

COLLECTION TITLE:

Speechwriting, White House Office of

SERIES:

Michel, Christopher - Chron Files

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RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
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PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

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Freedom of Information Act - [5 U.S.C. 552(b)]

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DOCUMENT NO.	FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
007	Report	Summary of Legislative/Policy Options	2	N.D.	P5;
008	Bill	Enemy Combatant Military Commissions Act	11	07/06/2006	P5;
009	Presentation	US Detention Facilities - From: Detainee Affairs Division, J-5 Deputy Director for the War on Terrorism, Joint Chiefs of Staff	26	06/2006	P5; P6/b6;

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2014-0224-F

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AQ / GENEVA

THE WHITE HOUSE

WASHINGTON

February 7, 2002

MEMORANDUM FOR: THE VICE PRESIDENT
THE SECRETARY OF STATE
THE SECRETARY OF DEFENSE
THE ATTORNEY GENERAL
CHIEF OF STAFF TO THE PRESIDENT
DIRECTOR OF CENTRAL INTELLIGENCE
ASSISTANT TO THE PRESIDENT FOR NATIONAL
SECURITY AFFAIRS
CHAIRMAN OF THE JOINT CHIEFS OF STAFF

SUBJECT: Humane Treatment of Taliban and al Qaeda Detainees

1. Our recent extensive discussions regarding the status of al Qaeda and Taliban detainees confirm that the application of 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. *we did not do*
2. 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: *get free*
 - 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 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 the 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

Qaeda 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.

/s/ George W. Bush

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al Qaeda
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care



6/20/06

OFFICE OF THE SECRETARY OF DEFENSE
WASHINGTON, DC 20301

JUL 7 2006

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS
CHAIRMAN OF THE JOINT CHIEFS OF STAFF
UNDER SECRETARIES OF DEFENSE
COMMANDERS OF THE COMBATANT COMMANDS
ASSISTANT SECRETARIES OF DEFENSE
GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE
DIRECTOR, OPERATIONAL TEST AND EVALUATION
INSPECTOR GENERAL OF THE DEPARTMENT OF DEFENSE
ASSISTANTS TO THE SECRETARY OF DEFENSE
DIRECTOR, ADMINISTRATION AND MANAGEMENT
DIRECTOR, PROGRAM ANALYSIS AND EVALUATION
DIRECTOR, NET ASSESSMENT
DIRECTOR, FORCE TRANSFORMATION
DIRECTORS OF THE DEFENSE AGENCIES
DIRECTORS OF THE DOD FIELD ACTIVITIES

SUBJECT: Application of Common Article 3 of the Geneva Conventions to the Treatment of Detainees in the Department of Defense

The Supreme Court has determined that Common Article 3 to the Geneva Conventions of 1949 applies as a matter of law to the conflict with Al Qaeda. The Court found that the military commissions as constituted by the Department of Defense are not consistent with Common Article 3.

It is my understanding that, aside from the military commission procedures, existing DoD orders, policies, directives, execute orders, and doctrine comply with the standards of Common Article 3 and, therefore, actions by DoD personnel that comply with such issuances would comply with the standards of Common Article 3. For example, the following are consistent with the standards of Common Article 3: U.S. Army Field Manual 34-52, "Intelligence Interrogation," September 28, 1992; DoD Directive 3115.09, "DoD Intelligence Interrogation, Detainee Debriefings and Tactical Questioning," November 3, 2005; DoD Directive 2311.01E, "DoD Law of War Program," May 9, 2006; and DoD Instruction 2310.08E, "Medical Program Support for Detainee Operations," June 6, 2006. In addition, you will recall the President's prior directive that "the United States Armed Forces shall continue to treat detainees humanely," humane treatment being the overarching requirement of Common Article 3.

You will ensure that all DoD personnel adhere to these standards. In this regard, I request that you promptly review all relevant directives, regulations, policies, practices, and procedures under your purview to ensure that they comply with the standards of Common Article 3.

OSD 10735-06



7/7/2006 4:37:09 PM



Your reply confirming completion of this review should be submitted by a Component Head, General/Flag Officer, or SES member, including a reply of "reviewed and no effect" where applicable, to the Deputy Assistant Secretary of Defense (DASD) for Detainee Affairs, Office of the Under Secretary of Defense for Policy, no later than three weeks from the date of this memorandum. The DASD for Detainee Affairs may be reached at (703) 697-4602.

The text of Common Article 3 follows:

In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each Party to the conflict shall be bound to apply, as a minimum, the following provisions:

(1) Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed *hors de combat* by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria.

To this end, the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons:

(a) violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;

(b) taking of hostages;

(c) outrages upon personal dignity, in particular, humiliating and degrading treatment;

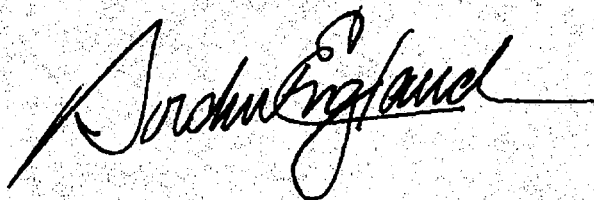
(d) the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court affording all the judicial guarantees which are recognized as indispensable by civilized peoples.

(2) The wounded and sick shall be collected and cared for.

An impartial humanitarian body, such as the International Committee of the Red Cross, may offer its services to the Parties to the conflict.

The Parties to the conflict should further endeavour to bring into force, by means of special agreements, all or part of the other provisions of the present Convention.

The application of the preceding provisions shall not affect the legal status of the Parties to the conflict.

A handwritten signature in black ink, appearing to read "John England", with a long horizontal flourish extending to the right.

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INTERROGATION

U.S. DEPARTMENT of STATE

Opening Remarks to the Committee Against Torture

John B. Bellinger III, Legal Adviser

Opening Remarks at the U.S. Meeting With the UN Committee Against Torture
Geneva, Switzerland
May 5, 2006

Mr. Chairman, Distinguished Members of the Committee, Members of Civil Society and Other Observers,

My name is John Bellinger. I am the Legal Adviser of the Department of State, and I serve as head of the United States delegation to the Committee Against Torture.

The United States recognizes the importance of our international legal obligations and the key role this Committee plays in the treaty-monitoring process. The United States greatly appreciates this opportunity to meet with the Committee and to explain the measures we have taken to give effect to the obligations we have undertaken as a State Party to the Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment. Secretary of State Rice has emphasized that the United States takes its international obligations seriously. This is reflected in the great lengths to which we have gone to provide you with an extensive report and thorough answers to the many questions you have posed. Our delegation is composed of senior-level officials involved in implementing the Convention. This further demonstrates our commitment not only to fulfilling our obligations under the Convention, but also to engaging in what we expect will be a productive dialogue with you.

At the outset I want to reiterate the United States Government's absolute commitment to upholding our national and international obligations to eradicate torture and to prevent cruel, inhuman, or degrading treatment or punishment worldwide. The President of the United States has made clear that "torture anywhere is an affront to human dignity everywhere" and that "freedom from torture is an inalienable human right." Beyond the protections in our Constitution that Mr. Lowenkron mentioned, United States criminal laws prohibit torture. There are no exceptions to this prohibition. Within the United States, our 50 states and the federal government prohibit conduct that would constitute torture under their civil and criminal laws. Our Congress has also passed laws that provide for severe federal sanctions, both civil and criminal, against those who engage in torture outside the territory of the United States.

And our laws have gone further. Our focus on eradicating torture and punishing its perpetrators would be incomplete without a parallel effort to help its victims recover from abuses. The United States has comprehensive legislation that enables citizens and non-citizens of the United States who are victims of torture to bring claims for damages against foreign government officials in U.S. federal courts. Congress has also established and funded programs that assist victims of torture, domestically and overseas. The United States has contributed far more than any other country in the world to the United Nations Voluntary Fund for Victims of Torture. For the years 2000 through 2005, U.S. contributions to the Fund totaled more than 32 million dollars, which is approximately 70% of the total contributions during that period.

And late last year, our Congress enacted, and the President signed into law, the Detainee Treatment Act of 2005. The Act included a provision that codified in law our already-existing policy against the use of cruel, inhuman or degrading treatment as that term is defined under the obligations the United States assumed under the Convention. The law provides that no person "in the custody or under the physical control of the United States Government, regardless of nationality or physical location" shall be subjected to cruel, unusual, and inhumane treatment or punishment prohibited by certain provisions of the U.S. Constitution. The enactment of the Detainee Treatment Act highlights our nation's commitment to upholding the values of freedom and humanity on which it was founded.

We know that you will have many questions about actions the U.S. Government has taken in response to the terrorist attacks upon our country on September 11. We welcome this dialogue and we are committed to addressing your questions as fully as possible. As we attempt to answer your questions, I would like to ask the Committee to bear in mind a few considerations:

First, some of the matters that are addressed by your questions are the subject of ongoing litigation, and I hope you will understand that our ability to comment in detail on such matters is necessarily constrained.

Second, like other governments, we are not in a position to comment publicly on alleged intelligence activities.

Third, our Second Periodic report and the written answers to your questions contain extensive information about U.S. detainee operations in Guantanamo Bay, Cuba, and in Afghanistan and Iraq. It is the view of the United States that these detention operations are governed by the law of armed conflict, which is the *lex specialis* applicable to those operations.

As a general matter, countries negotiating the Convention were principally focused on dealing with rights to be afforded to people through the operation of ordinary domestic legal processes and were not attempting to craft rules that would govern armed conflict.

At the conclusion of the negotiation of the Convention, the United States made clear "that the convention . . . was never intended to apply to armed conflicts. . . ." The United States emphasized that having the Convention apply to armed conflicts "would result in an overlap of the different treaties which would undermine the objective of eradicating torture."¹ No country objected to this understanding.

In any case, regardless of the legal analysis, torture is clearly and categorically prohibited under both human rights treaties and the law of armed conflict. The obligation to prevent cruel, inhuman, or degrading treatment or punishment is in Article 16 of the Convention and in similar provisions in the law of armed conflict.

While the United States maintains its view that the law of armed conflict is the *lex specialis* governing the detainee operations that we will discuss, we are pleased to provide extensive information about these operations in a sincere spirit of cooperation with the Committee.

In closing I would like to make two final comments.

First, while I am acutely aware of the innumerable allegations that have appeared in the press and in other fora about various U.S. actions, I would ask you not to believe every allegation that you have heard. Allegations about U.S. military or intelligence activities have become so hyperbolic as to be absurd. Critics will now accept virtually any speculation and rumor and circulate them as fact. The U.S. Government has attempted to address as many of these allegations as quickly and as fully as possible. And yet, as much as we would like to deny the numerous inaccurate charges made against our government, because many of the accusations relate to alleged intelligence activities, we have found that we cannot comment upon them except in a general way.

Second, even as we recognize matters of concern to the Committee, we ask that the Committee keep a sense of proportion and perspective. While it is important to deal with problems in a straightforward manner, it does a disservice to the quality of our dialogue, to the treaty monitoring process, to the United States, and, ultimately, to the cause of combating torture around the world to focus exclusively on the allegations and relatively few actual cases of abuse and wrongdoing that have occurred in the context of the U.S. armed conflict with al Qaeda. I do not mean to belittle or shift attention away from these cases in any way. We welcome your questions. But we suggest that this Committee should not lose sight of the fact that these incidents are not systemic. We also suggest that the Committee devote adequate time in these discussions to examining the treatment or conditions that apply domestically with respect to a country of more than 290 million people. The United States is committed to rule of law and has a well-functioning legal system to ensure criminal and civil accountability.

We will now begin to answer the questions you have posed to us. In light of time constraints on this oral presentation, it will be impossible for us to reply in detail to every aspect of your wide-ranging questions. In many cases, we will refer you to the more detailed responses we have provided in writing.

Thank you very much.

¹ U.N. Doc. E/CN.4/1984, March 9, 1984.



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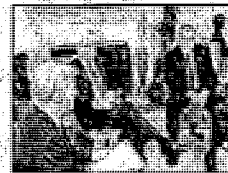
For Immediate Release
Office of the Press Secretary
December 15, 2005

President Meets with McCain & Warner, Discusses Position on Interrogation

The Oval Office

2:41 P.M. EST

THE PRESIDENT: It's my honor to welcome two good friends, the Chairman, John Warner, and, of course, John McCain -- Senator John McCain, here to the Oval Office. We share a common goal, and that is to protect the American people and to win the war on terror.



VIDEO Multimedia

President's Remarks

 [view](#)

Senator McCain has been a leader to make sure that the United States of America upholds the values of America as we fight and win this war on terror. And we've been happy to work with him to achieve a common objective, and that is to make it clear to the world that this government does not torture and that we adhere to the international convention of torture, whether it be here at home or abroad. And so we have worked very closely with the Senator and others to achieve that objective, as well as to provide protections for those who are on the front line of fighting the terrorists.

And so I appreciate your hard work, Senator. You're a good man who honors the values of America. I also appreciate the strong support that you've given -- both of you have given in the war on terror. The central front of that war is Iraq. Part of our strategy is to train Iraqis so they can join our forces and fight off the terrorists and, eventually, have the Iraqis be able to stand on their own. The other part is the democratic process that will help marginalize the Saddamists and the rejectionists.



And today, the Iraqi people went to the polls. I was so honored to welcome some young Iraqi Fulbright Scholars here that were able to vote, and to see the joy -- and to hear the joy they expressed and to see the joy on their faces after having just voted in a -- for a permanent government and a new constitution was just a fantastic experience.

And so I want to welcome you all to the Oval Office. Thanks for coming. Thanks for your good work on behalf of America.

SENATOR McCAIN: Thank you, Mr. President. I want to take this opportunity to thank you for the effort that you made to resolve this very difficult issue. I thank you for your active participation in it. And I also want to thank your National Security Advisor, Steve Hadley, who played a very important role, as well. And I'm very pleased that we reached this agreement, and now we can move forward and make sure that the whole world knows that, as the President has stated many times, that we do not practice cruel, inhuman treatment or torture.

This agreement basically does two things: One, puts into the Army Field Manual the specific procedures for interrogations. And two, it prohibits cruel, inhumane -- or torture.

In our negotiations, there was legitimate concerns raised by the administration concerning the rights of interrogators. And taking language from the Uniform Code of Military Justice, we provide them with legal counsel and certain protections that a reasonable person might view as carrying out of orders, not to contradict the Nuremberg decision, which, of course, said that obeying orders is not a sufficient defense.

I, again, thank the President. And I would like to also repeat, we've sent a message to the world that the United

States is not like the terrorists. We have no brief for them, but what we are is a nation that upholds values and standards of behavior and treatment of all people, no matter how evil or bad they are. And I think that this will help us enormously in winning the war for the hearts and minds of people throughout the world in the war on terror.

And again, I want to thank the President; I want to thank Steve Hadley; I thank all the people who worked so hard to come to this agreement. Now I think we can move forward with winning the war on terror and in Iraq.

I thank you, Mr. President.

THE PRESIDENT: Thanks, John.

END 2:45 P.M. EST

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U.S. DEPARTMENT of STATE

58. White House Press Secretary announcement of President Bush's determination re legal status of Taliban and Al Qaeda detainees (February 7, 2002)

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release February 7, 2002

Statement by the Press Secretary on the Geneva Convention

The James S. Brady Briefing Room

1:40 P.M. EST

MR. FLEISCHER: I have an announcement to make. Today President Bush affirms our enduring commitment to the important principles of the Geneva Convention. Consistent with American values and the principles of the Geneva Convention, the United States has treated and will continue to treat all Taliban and al Qaeda detainees in Guantanamo Bay humanely and consistent with the principles of the Geneva Convention.

They will continue to receive three appropriate meals a day, excellent medical care, clothing, shelter, showers, and the opportunity worship. The International Community of the Red Cross can visit each detainee privately.

In addition, President Bush today has decided that the Geneva Convention will apply to the Taliban detainees, but not to the al Qaeda international terrorists.

Afghanistan is a party to the Geneva Convention. Although the United States does not recognize the Taliban as a legitimate Afghani government, the President determined that the Taliban members are covered under the treaty because Afghanistan is a party to the Convention.

Under Article 4 of the Geneva Convention, however, Taliban detainees are not entitled to POW status. To qualify as POWs under Article 4, al Qaeda and Taliban detainees would have to have satisfied four conditions: They would have to be part of a military hierarchy; they would have to have worn uniforms or other distinctive signs visible at a distance; they would have to have carried arms openly; and they would have to have conducted their military operations in accordance with the laws and customs of war.

The Taliban have not effectively distinguished themselves from the civilian population of Afghanistan. Moreover, they have not conducted their operations in accordance with the laws and customs of war. Instead, they have knowingly adopted and provided support to the unlawful terrorist objectives of the al Qaeda.

Al Qaeda is an international terrorist group and cannot be considered a state party to the Geneva Convention. Its members, therefore, are not covered by the Geneva Convention, and are not entitled to POW status under the treaty.

The war on terrorism is a war not envisaged when the Geneva Convention was signed in 1949. In this war, global terrorists transcend national boundaries and internationally target the innocent. The President has maintained the United States' commitment to the principles of the Geneva Convention, while recognizing that the Convention simply does not cover every situation in which people may be captured or detained by military forces, as we see in Afghanistan today.

He arrived at a just, principled and practical solution to a difficult issue. The President did so because, as Americans, the

way we treat people is a reflection of America's values. The military operates under a code of conduct that upholds these values, based on the dignity of every individual.

The American people can take great pride in the way our military is treating these dangerous detainees. The Convention remains as important today as it was the day it was signed, and the United States is proud of its 50-year history in compliance with the Convention.

Ron.

Q Given that the President had long ago determined that none of these folks were prisoners of war, how, if at all, does it change the way the Taliban and, separately, al Qaeda fighters will be treated at Guantanamo Bay? And tell me how this might help protect U.S. forces if they happen to be captured in Afghanistan.

MR. FLEISCHER: What this announcement signifies is the President's dedication to the importance of the Geneva Convention and to the principles that the Geneva Convention holds. In terms of the treatment of the prisoners, even though the President has determined that they will not be treated legally as prisoners of war, they will be afforded every courtesy and every value that this nation applies to treating people well while they're in our custody. So it will not change their material life on a day-to-day basis; they will continue to be treated well because that's what the United States does.

Q And then why do this? Is it because of the second part of the question?

MR. FLEISCHER: It's because of the first answer I gave, which is because the President believes in the principles and in the law of the Geneva Convention. He believes in its applicability; he believes in its importance; he believes that that plays a role even in today's modern world where the applicability gets somewhat more complicated as a result of an international terrorist organization that doesn't wear uniforms or insignias.

Q So, Ari, what you're telling us is that the Taliban prisoners, detainees at Guantanamo will not get any more protections than they already are given under the Geneva Convention. What you seem to be telling us is the al Qaeda detainees will get fewer.

MR. FLEISCHER: No. There is no change in the protections they will be provided. They have always been treated consistent with the principles of the Geneva Convention, which means they will be treated well. If you're looking for anything that will not happen as a result of this announcement, it is that they will not receive stipends from the American taxpayers. They will not receive musical instruments courtesy of the United States military. They would have received those had they been declared POWs.

Q That's true of the Taliban, too, right?

MR. FLEISCHER: Correct.

Q So what is the difference? How will the al Qaeda and the Taliban detainees be treated differently?

MR. FLEISCHER: What the President is saying here is there's an important legal principle recognizing that Afghanistan is a member state that agreed to the terms of the Geneva Convention. So the President is making distinction between the al Qaeda and the Taliban.

But when it comes to the classification as POWs, neither group will be given POW legal designation, although they will continue to be treated humanely, in accordance with America's values, which are reflected in the Convention.

Q How is there any difference, Ari, in how they are treated? Is there any difference in how they are treated?

MR. FLEISCHER: That's what we've been saying all along. They will continue to be treated well because they're in the custody of America.

Q They will be treated the same, al Qaeda and Taliban detainees will be treated equally.

MR. FLEISCHER: No distinction will be made in the good treatment given to the al Qaeda or the Taliban.

Q So this is a distinction without a difference, really?

MR. FLEISCHER: No, it's a distinction based on the legal principle that the President believes in the Geneva Convention and it's important principles.

Q But you have to say, Ari, that day to day nothing is going to change that will be noticeable for these detainees. That's correct, right?

MR. FLEISCHER: They will continue to be treated well. No change in that treatment.

Q So applying the Convention here is being done solely to protect U.S. citizens, and namely, U.S. soldiers, who may be in a situation overseas held by a foreign government. Is that correct? Is that's the principle that's being upheld?

MR. FLEISCHER: No, the principle is that this country and this President, of course, believe in and adhere to the Geneva Convention. In any case, the United States would always be covered by the Geneva Convention, our military, because as I mentioned, under Article 4, you have to wear a uniform, you have to wear an insignia, carry your weapons outside, be distinguishable from the civilian population, all of which covers our military.

Q But the concern, the debate here was about if you don't do it here, then U.S. soldiers could be mistreated abroad. Isn't that correct? And so isn't that a big motivation here, to make sure that U.S. soldiers get this same kind of treatment?

MR. FLEISCHER: It's important for all nations, throughout the world, to treat any prisoners well. And that is something the United States always expects, and the United States always does.

We have time for one more question, and then there's a pool. David will get one more, and then we'll --

Q Can you just be responsive to the specific point? Wasn't this an important concern? I understand what the expectations are, but it was important for this administration to be able to say, look, we want to be able to protect our soldiers in similar situations down the line. And if we don't afford privileges under the Geneva Convention, then our soldiers could be in peril?

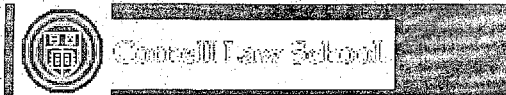
MR. FLEISCHER: David, I was not in the NSC deliberations where various issues were raised. And so I really -- there's no way I can accurately answer that question.

Q What about the U.S. special forces? They don't -- they often do not wear uniforms. They often do not carry their weapons outwardly. If they are captured, they wouldn't be prisoners of war?

MR. FLEISCHER: The terms of the Geneva Convention apply to all, and those terms speak for themselves.

Okay, thank you everybody.

END 1:48 P.M. EST



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TITLE 18 > PART I > CHAPTER 118 > § 2441

§ 2441. War crimes

How Current is This?

(a) Offense.— Whoever, whether inside or outside the United States, commits a war crime, in any of the circumstances described in subsection (b), shall be fined under this title or imprisoned for life or any term of years, or both, and if death results to the victim, shall also be subject to the penalty of death.

(b) Circumstances.— The circumstances referred to in subsection (a) are that the person committing such war crime or the victim of such war crime is a member of the Armed Forces of the United States or a national of the United States (as defined in section 101 of the Immigration and Nationality Act).

(c) Definition.— As used in this section the term "war crime" means any conduct—

(1) defined as a grave breach in any of the international conventions signed at Geneva 12 August 1949, or any protocol to such convention to which the United States is a party;

(2) prohibited by Article 23, 25, 27, or 28 of the Annex to the Hague Convention IV, Respecting the Laws and Customs of War on Land, signed 18 October 1907;

(3) which constitutes a violation of common Article 3 of the international conventions signed at Geneva, 12 August 1949, or any protocol to such convention to which the United States is a party and which deals with non-international armed conflict; or

(4) of a person who, in relation to an armed conflict and contrary to the provisions of the Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices as amended at Geneva on 3 May 1996 (Protocol II as amended on 3 May 1996), when the United States is a party to such Protocol, willfully kills or causes serious injury to civilians.

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