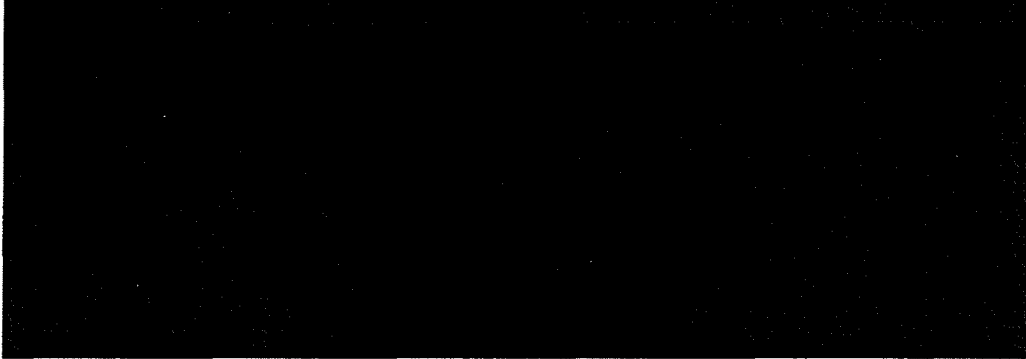


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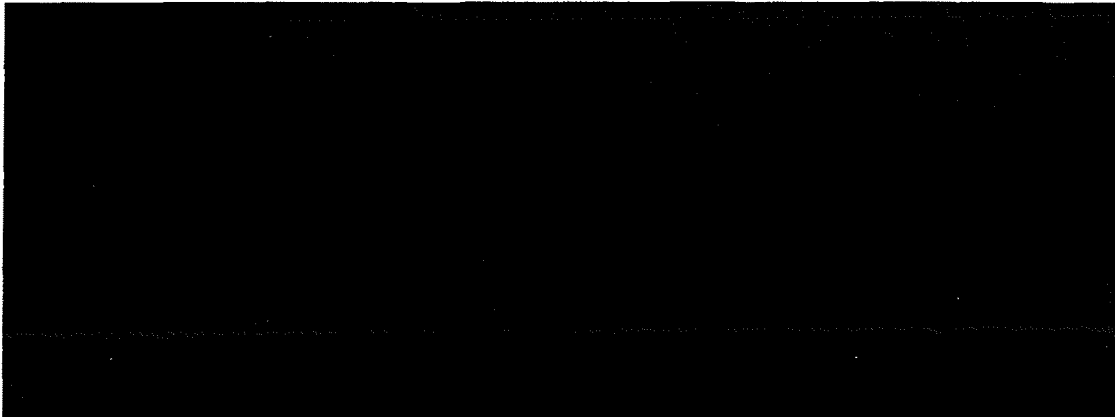
INFORMATION PAPER

Subject: Status and Treatment of Iraq Detainees After 30 June 2004

1. (U) Purpose. To provide information on the authority of MNF to continue to detain persons in Iraq after 30 June 2004.
 2. (U) Key Points.
 - (U) Coalition Forces are detaining people in Iraq under our authority as an occupier, consistent with the Hague Regulations, the Geneva Conventions, and applicable United Nations Security Council Resolutions.
 - (U) Occupation will end upon the assumption of governmental authority on 30 Jun 04.
 - (U) The character of the armed conflict in Iraq will likely change by 1 July. The law of armed conflict generally requires the release of detained personnel at the end of hostilities, although EPWs and HVD security internees may continue to be held for prosecution. There are several legal theories that may support continued detainee operations.
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- (U) Chapter VII of the UN Charter authorizes the Security Council to take such actions as may be necessary to maintain or restore international peace and security
 - (U) UNSCR 1511 specifically cites Chapter VII as the authority for the MNF's presence in Iraq.
 - (U) UNSCR 1511 determines that the provision of security and stability is essential to the successful completion of the political process and "authorizes a multinational force under unified command to take *all necessary measures* to contribute to the maintenance of security and stability in Iraq" (emphasis added).
 - (U) Arresting and detaining people in Iraq is therefore authorized to the extent that such measures are necessary for the MNF to fulfill its mandate of contributing to international peace and security.
 - (U) Parallels may be drawn with UN-authorized operations in Bosnia-Herzegovina, Kosovo, and Timor, where security forces have detained persons when necessary for force protection and other reasons consistent with relevant

UNSCRs. As a general matter, security forces have applied, by analogy, protections found in the Geneva Conventions.

- o (U) Under such an approach, persons that the MNF commander detains under the authority of UNSCR 1511 would be afforded the protections analogous of a security internee under the Geneva Civilians Convention until such time as they are handed over to Iraq authorities. Models for detention operations may be found in the COMKFOR Detention Directive and Task Force Eagle, Joint Military Commission Handbook.



Prepared by:

