

DETAINEES - 19 MAR 04

CURRENT NEWS SUMMARY

'Red Cross pursuing issue of Iranians detained in Iraq,' *Mehr News Agency*, 16 March 04

'US seeks to clarify status of detainees,' *Boston Globe*, 08 March 04

'As US detains Iraqis, families plead for news,' *NY Times*, 07 Mar 04

BACKGROUND

Detainee numbers (as of 18 Mar 04)

- There are currently 9 500 security and criminal detainees in Iraq (less MEK)
- 3848 MEK, (Total Detainees including MEK: 13 183)
- 18 of the overall number are EPWs [this number is actually now 11, but this is only EPWs who are not HVDs – the HVDs include a significant number of EPWs, e.g., Saddam]
- 1 300 common criminals are being detained due to suspected violations of Iraq criminal law.
- 8 000 are interned because they are a security threat to Coalition Forces (security internees)

Detainee categories

- A security internee is a person who is detained because he/she poses a security threat to Coalition Forces. Under the law of armed conflict, including the Geneva Conventions, Coalition Forces have the authority to intern civilians for imperative reasons of security. Examples of security internees are individuals who have committed terrorist attacks against Coalition Forces. Security internees can also be criminal detainees.

- **A criminal detainee** is a person who is apprehended by Coalition Forces for committing a crime in violation of the Iraqi criminal code (not directed at Coalition Forces). These are common criminals who normally would be detained in local Iraqi jails and prisons but currently are not because, in some parts of the country, the Iraqi prison system has neither the physical space nor the trained personnel to operate these facilities without our assistance. These facilities are now being run by Iraqi personnel with CPA civilian supervision.
- **An Enemy Prisoner of War (EPW)** is a person meeting the criteria of Article 4 of the Geneva Convention Relative to the Protection of Prisoners of War, who engages in belligerent acts under orders of his or her government and is captured.

CJTF 7 to cease role in criminal detainee facilities – March 2004

- Military Police presently do not operate any criminal detainee facilities. All criminal detainee facilities, including the criminal detainee section of Baghdad Central Correctional Facility (BCCF), are operated by the Ministry of Justice under the direction of CPA advisors.
- MPs do, however, serve as an emergency response team for the criminal section of BCF.
- Security Internees are now primarily concentrated at the Security Internee section of BCF. These facilities are operated by MPs. [Many of the HVDs are held as Security Internees; they are not at BCF.]

Security Reconciliation Initiative:

- The Guarantor program was announced by Ambassador Bremer at a Media conference on 07 Jan 04. The program allows the release of certain Iraqi detainees under the supervision or oversight of an appropriate guarantor. Mr. Bremer said the program is designed to "give impetus to those Iraqis who wish to reconcile with their countrymen, (by permitting) hundreds of currently detained Iraqis to return to their homes and to their families.

There are three critical requirements for release:

1. the person released must renounce violence;

2. the person released must have a guarantor, such as a prominent person in his community or a religious or tribal leader who will accept responsibility for the good conduct of the individual being set free
3. the person released must not have been "involved in the death of or serious bodily injury to any human being, an Iraqi, a citizen of the coalition or anyone else..... nor will we release anyone accused of torture or crimes against humanity."

To date, about 200 guarantors have been identified and about 300 detainees released to a guarantor (some guarantors have sponsored more than one detainee).

Detainee database

The Coalition published the list of prisoners it has detained since the war - with the exception of Saddam Hussein - on the Arabic-language website <http://www.iraqcoalition.org/arabic>, which details the name, date and place of birth, address and prisoner number of over 8,000 detainees.

The location of detention is also specified, except in the case of HVDs. It does include most of the individuals of the "deck of cards" of 55 most-wanted officials who have been captured.

The list also includes some women and several foreigners, including an Indian, a Ukrainian, 17 Iranians, 16 Syrians, 11 Saudis, 11 Egyptians, nine Jordanians, four Sudanese, four Yemenis and three Palestinians.

MESSAGES

- All persons under Coalition control are being treated humanely in accordance with international law, including the Geneva Conventions.
- We have established a Security Reconciliation Initiative for Iraqis who are now in detention for non-violent crimes, and who want to reconcile with

5 October 2004 ~~April 2004~~ |

their countrymen. This will permit hundreds of detained Iraqis to return to their homes and families.

- We have a review process for security internees that is designed to ensure that only those individuals who are imperative threats to security are interned.

QUESTIONS AND ANSWERS

Q1: Are Iraqi security personnel involved in the operation of detention facilities?

A1: Military Police operate the Security Internees facilities within the BCF. Criminal detainee facilities in Iraq are operated by the Iraq Correctional Service, under the Iraq Ministry of Justice.

Q2: What can you tell us about the living conditions of internees?

A2: Persons under the control of Coalition Forces are treated humanely and accorded the protections of the Geneva Conventions.

Q3: Have you accounted for every internee and detainee?

A3: A system is in place to account for persons held in facilities operated by Coalition Forces. Upon arrival in a processing facility, a capture card containing basic biographical information is prepared. This information is entered into a database that is provided to the International Committee of the Red Cross and distributed to the Ministry of Justice, Iraqi Police, CMOs and Military Police. With few exceptions, a list of detainees is drafted in English and Arabic within 72 hours of a detainee's arrival.

Q4: Has the international community inspected the conditions of your prisons and jails?

A4: In keeping with standing U.S. practice, we have provided the ICRC complete access to Coalition facilities.

Q5. How do ensure you only detain people who are genuine criminals or threats to security?

A5. The Coalition's review process ensures that we only detain and intern those persons who:

- are imperative threats to security,
- are suspected of committing a criminal offense against Coalition Forces, or

- have personal knowledge of activities that threaten the security of Iraq.
- Criminals held for violations of the Iraqi criminal code that do not involve Coalition Forces are reviewed pursuant to Iraqi criminal justice process.

Q6. Can you explain the review process?

A6. There are five major steps in the review process:

1. When a person is detained during a military operation, the military commander in charge is initially responsible for determining whether the detainee meets the criteria for further detention.
2. In most cases, if a detainee is held for more than 72 hours, the case file is reviewed by a military magistrate (attorney) who determines whether there is a legal basis for further detention. If, after the magistrate's review, the commander orders additional detention, the detainee is interned at Baghdad Correctional Facility (BCF).
3. Upon induction at BCF, the detainee's case file will be reviewed a second time by a military attorney. If that attorney recommends release, the case file will be forwarded to the standing Review and Appeal Board, a board of three military officers that has the authority to direct retention or release of an internee.
4. If the Review and Appeal Board finds that there is sufficient basis to intern the individual, then the detainee will be provided with a copy of the internment order (in Arabic) and an opportunity to submit a written appeal of that internment order.
5. If the detainee elects to submit an appeal, the appeal will be reviewed by a panel of officers that may either recommend release or continued detention. In accordance with the Geneva Convention, each case file will be reviewed

at least every six months. [REDACTED]
[REDACTED]

Q7. What happens to Iraqis who are detained on suspicion of committing common crimes?

A7. Iraqis who are detained for the commission of common crimes are referred to the Iraqi court system, where their case is investigated by an Iraqi judge or magistrate.

Q8. Is the review process in accordance with international law?

A8. All Coalition Force operations are conducted in accordance with the applicable international law, including the Geneva Conventions. Coalition Forces have implemented a screening process that exceeds the standards of the Geneva Conventions.

Q9. How many internee facilities are you operating?

A9. CJTF 7 operates a security internee facility within the BCF and other smaller facilities outside Baghdad.

Q10. Are there more security internees than criminal detainees?

A10. Those detained are mostly security internees – those who are detained because they pose a security threat to Coalition Forces.

Examples of security internees are those who have committed terrorist attacks against Coalition Forces.

The rest are criminal detainees – those who are suspected of violating provisions of the Iraqi criminal code.

Q11. Are you holding any individuals claiming to be non-Iraqi citizens?

A11. There are a number of prisoners who are, or claim to be, non-Iraqi.

We work hard to confirm the identity, including the nationality, of persons who are under the control of Coalition Forces.

Q12. How do you assess the identity or nationality of internees?

A12. As noted, individuals provide biographical information when first processed. This information and any other identity documents (e.g., passports) are used to provide an initial determination of citizenship. Standard questioning techniques are also used to help ascertain the identity of individuals.

Q13. What are your obligations to security internees and criminal internees from countries other than Iraq?

A13. All detainees are treated humanely and in accordance with applicable international law, including the Geneva Conventions.

Q14. Are the Article 5 hearings (tribunals) finished?

A14. An Article 5 tribunal is conducted when there is doubt as to whether a detainee is entitled to the protections of the Third Geneva Convention (Prisoners of War). In such cases, CJTF-7 conducts Article 5 tribunals. Currently there are few cases in which an individual is detained whose status is in doubt, but during Operation Iraqi Freedom over 400 such tribunals have been conducted in appropriate cases.

Q15. How did authorities determine when a person's status was in doubt?

A15. Tribunal members considered the facts and circumstances of the capture, and applied the criteria stated in Article 4 of the Third Geneva Convention (Prisoners of War).

Q16. What is the status of the database of internees?

A16. We have established a database containing the names of internees and detainees in Iraq. The database can be accessed by CMOs, the Ministry of Justice, Iraqi Police, Military Police, and International Committee of the Red Cross officials in order to help the public locate family members in detention. We attempt to make this database as complete as possible. We recognize, however, the challenges raised by issues such as differing translations of Arabic names and the lack of communications within Iraq, but we are committed to solving these problems and providing prompt and

full information about those held by Coalition Forces.. [REDACTED]
[REDACTED]

Q17. Are EPW in the custody of CPA or CJTF-7?

A17. The EPWs are currently in the custody of CJTF-7. It should be noted, however, that only a handful of EPWs remain in CJTF-7 custody, with over 7,800 EPWs having been paroled since the end of major military operations in Iraq.

Q18. Is it true as some Iraqis say that when the Coalition forces cannot capture suspects they detain their wives or other relatives?

A18. No. Coalition Forces only detain persons based on evidence that they were personally involved in criminal activity or that they pose an imperative threat to the security of the Coalition and the Iraqi people.

Q19. How many prisoners are in the custody of CJTF-7?

A19. There about 8000 security internees in the custody of CJTF-7. We are continually reviewing these security internees to ensure that we are only holding those who Coalition Forces must hold for security reasons. This review process has already resulted in the release of 3,800 persons, where continued detention was found to be unnecessary.

QUOTES

L. Paul Bremer, Ambassador, Coalition Provisional Authority, 07 Jan 04, CPA Media Conference.

“(Some) Iraqis have opted against the new Iraq. They made a mistake, and they know it. But we are prepared to offer some of them a new chance. To give impetus to those Iraqis who wish to reconcile with their countrymen, we are announcing today that the coalition will permit hundreds of currently detained Iraqis to return to their homes and to their families. Tomorrow, the coalition will release the first 100 detainees.

While there are specific requirements for their release, two are of great importance: First, the person released must renounce violence; and second, the person released must have a guarantor, such as a prominent person in his community or a religious

5 October 2004 ~~2 April 2004~~ |

or tribal leader who will accept responsibility for the good conduct of the individual being set free.

Let me underscore an important point. I want to assure you, this is not a program eligible for those with blood-stained hands. No person involved in the death of or serious bodily injury to any human being, an Iraqi, a citizen of the coalition or anyone else, no such people will be released. Nor will we release anyone accused of torture or crimes against humanity,"

Sources:

- SME: SJA CJTF-7 (JOC): [REDACTED]
[REDACTED]
- Detainee Category round-up (produced by [REDACTED]
[REDACTED] Strategic Communications, on
[REDACTED])

For more information on this card please contact [REDACTED]
[REDACTED]