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From: DolanJA@state.gov
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To: Nahmias, David; Philbin, Patrick
Subject: NYT piece on investigations into role of CIA and other employees/ contractors

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> May 6, 2004
> THE AGENCY
> U.S. Examines Role of C.I.A. and Employees in
> Iraq Deaths
> By DAVID JOHNSTON and NEIL A. LEWIS

> ASHINGTON, May 5 - The Justice Department is
> examining the involvement of Central Intelligence
> Agency officers and contract employees in three
> suspicious deaths of detainees, two in Iraq and one
> in Afghanistan, federal law enforcement officials
> said Wednesday.

> One of the victims of suspected abuse was an
> Iraqi major general in the Republican Guard, who
> died in November 2003, several days after he was
> questioned at an interrogation center in western
> Iraq by C.I.A. officers, according to a senior law
> enforcement official. The official said the Pentagon
> had identified the Iraqi officer as Abid Hamid
> Mohush.

> On Wednesday, a C.I.A. official outlined the
> cases in which agency employees or contractors are
> involved but declined to identify any of the agency
> employees. The official would not name the victims
> or provide details on grounds that the cases were
> under investigation by the agency's inspector
> general, who has shared investigative findings with
> the Justice Department.

> In November 2003, the official said, a
> detainee at Abu Ghraib prison in Baghdad died,
> apparently as he was being questioned by a C.I.A.
> officer and a linguist who was hired by the agency
> as a contractor. In that case, the detainee had been
> turned over to intelligence authorities by Navy
> Seals, whose spokesman on Wednesday denied
> mistreatment of the prisoner. The agency official
> said the detainee was not touched, but "slumped
> over" during the interrogation. The C.I.A. officers
> who interviewed General Mohush also denied
> mistreating him.

> In a third case, in June 2003, a detainee in
> Afghanistan died during questioning by an
> independent contractor working for the C.I.A., a
> case in which the agency official did not rule out
> mistreatment.

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> Agency officials briefed the Senate
> Intelligence Committee in closed session on
> Wednesday about the prisoner abuse issue. Senator
> Pat Roberts, a Kansas Republican and the committee
> chairman, said in a statement to reporters, "So far
> there appears to be no evidence of intelligence
> personnel that directed any of the abuses, but the
> investigation does continue."

> The Justice Department inquiry, which has
> focused first on what laws may have been violated,
> means C.I.A. employees or contractors may be
> prosecuted in civilian courts. Until now, only the
> military was known to be investigating the deaths
> and degrading treatment of detainees in Iraq and
> Afghanistan.

> Another area of possible wrongdoing by the
> agency disclosed Wednesday relates to requests by
> C.I.A. personnel to military authorities at Abu
> Ghraib prison to hold suspects without listing them
> on the prison's rolls, according to newly available
> passages of an internal military report on abuses in
> Iraqi prisons.

> The practice was routine, according to a
> passage in the report by Maj. Gen. Antonio M.
> Taguba. The passage was included in an unedited
> version of the report that circulated on Wednesday
> on several Web sites; previous edited versions of
> the report omitted any reference to withholding
> names from prison rolls.

> Detainees kept off the prisoner roster at Abu
> Ghraib were referred to as "ghost detainees," the
> report said. In one instance, the report found, a
> group of six to eight prisoners "was moved around
> within the facility to hide them from a visiting
> International Committee of the Red Cross survey
> team."

> A C.I.A. official said the agency had
> discontinued such practices but said that the Geneva
> Conventions allowed a delay in the identification of
> prisoners to avoid disclosing their whereabouts to
> an enemy.

> The Justice Department's jurisdiction over
> agency employees stems from federal statutes, like
> one cited by law enforcement officials, which make
> it a crime for Americans acting under government
> authority to "inflict severe physical or mental pain
> or suffering upon another person under his custody
> or control."

> Under the torture statute, a person convicted
> of killing someone by torture could face a sentence
> of death or life in prison. Federal civil rights law
> might also be applied, the officials said.

> The Justice Department's jurisdiction over
> independent contractors stems from the Military
> Extraterritorial Jurisdiction Act, a four-year-old
> law, untested in court, that gives federal courts
> jurisdiction over any crimes that may be committed
> by civilian contractors working with the military

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> abroad.

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> Contractors are hired under an arrangement
> that assures them they will not be prosecuted under
> Iraqi law, he said. They are also, because of
> Supreme Court rulings, not held accountable to the
> Uniform Code of Military Justice.

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