

Smith, Vera L

From: Malionek, Tom V
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To: Alder, Lois L; Blanck Jr, John I; Cook, Daphne W; Dalton, Robert E; Dennis, Michael J; Dolan, JoAnn; Haines, Avril D; Legal-L-HRR-dl
Subject: GTMO - treaty interest?

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RELEASED IN FULL

No mention of the nature of the "secret" "deal".

New York Times, July 4, 2004 - pg. 1

Officials Detail A Detainee Deal By 3 Countries

By Don Van Natta Jr. and Tim Golden

LONDON, July 3 - American officials agreed to return five terrorism suspects to Saudi Arabia from Guantánamo Bay, Cuba, last year as part of a secret three-way deal intended to satisfy important allies in the invasion of Iraq, according to senior American and British officials.

Under the arrangement, Saudi officials later released five Britons and two others who had been convicted of terrorist attacks in Saudi Arabia, the officials said. British diplomats said they believed that the men had been tortured by Saudi security police officers into confessing falsely.

Officials involved in the deliberations said the transfer of the Saudis from Guantánamo initially met with objections from officials at the Pentagon, the Central Intelligence Agency and the Justice Department. Those officials questioned whether some detainees were too dangerous to send back and whether the United States could trust Saudi promises to keep the men imprisoned.

"To get people to take a chance on detainees who posed a threat was a new endeavor, so everyone moved cautiously," said one senior American official who supported the releases. "It was the first time we were doing this, and people did not want to do it."

The Saudi prisoners were transferred to Riyadh, the capital, in May 2003. The five Britons and two others were freed three months later, in August.

The releases were public-relations coups for the Saudi and British governments, which had been facing domestic criticism for their roles in the Iraq war.

At the time there was no indication the releases were related. But an American official with knowledge of the negotiations said, "There is a link," adding, "This was two courses that converged and had a mutual attractiveness to them."

On Friday, a spokesman for the National Security Council denied that the Saudi detainees had been transferred in exchange for the British prisoners. "There is no recollection here of any linkage between these two actions," said the spokesman, Sean McCormick. He described the return of the Saudis as "part of the normal policy of transferring detainees from Guantánamo for prosecution or continued detention."

But American officials involved in the Saudi case described it as highly unusual and said the backgrounds of those detainees raised greater concerns than those of others. Some officials also said the case showed how

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considerations other than security and intelligence could influence releases of prisoners.

Current and former American, British and Saudi officials would speak about the trade only on the condition of anonymity.

As part of the arrangement, the United States initially authorized the outright release of one of the Saudi detainees. But a senior American official said the man was kept in custody by the Saudis after a terrorist attack in the kingdom raised concerns about militants' activities.

Saudi officials gave contradictory accounts of the current whereabouts of the five men, saying at first that one or two of them had been released, then denying that any had been freed. The officials also gave contradictory accounts of the suspects' legal status, first saying they had been tried and convicted of seeking to join Taliban forces in Afghanistan, but later saying prosecutions were still pending.

Neither American nor Saudi officials would identify the five, or describe in detail the evidence on which they had been held at Guantánamo. One American official, however, said two of the former detainees had attended Al Qaeda training camps in Afghanistan.

A Debate: Whose Interest?

Several officials involved in the negotiations defended the bargain as being in the interest of all three countries.

"We acted in our national interest to reduce the Guantánamo population at a time when we were able to conclude that we had no further need to detain these individuals," said the American with knowledge of the negotiations. "It happened to serve a beneficial diplomatic purpose both with the Saudis and the Brits. But we would never have released these people if we had a further need to detain them in the first place."

But several current and former Defense Department officials challenged that assertion, saying no Saudis had even been under consideration for release prior to the arrangement's being struck.

"It didn't seem right," said one military official who was involved in the process. "The green light had not appeared on these guys in the way that it had on others" who were released. "It was clear that there was a quid pro quo to the deal that we were not aware of."

A spokesman for Prime Minister Tony Blair of Britain declined to comment. An official in the British Foreign Office said: "We were extremely relieved to get the guys out of Saudi. We worked ceaselessly to get them out."

The exchange occurred at a time of widespread mistrust among intelligence and law enforcement officials in Washington about the Saudi government's commitment to fight Islamic terrorism. One Defense Department official said a basic question hanging over the discussions was, "Why are we doing this for these guys when we haven't done this for other, better allies?" The official added, "We were just told to do it."

The Saudi government was eager to bring home even a few detainees from Guantánamo. Although Saudi leaders opposed a war with Iraq, they allowed the United States to use several military bases to launch air attacks into Iraq and as a staging ground for American troops.

"This was something that the Saudis desperately wanted, as a way to show their people that they could get something from the Americans, and that it was not just a one-way street," an American official said.

But at the time, such a transfer was unheard of. Prior to the Saudi case, the Defense Department had freed 35 Afghan detainees, including several elderly men, after concluding they posed no further threat. None had been transferred to a foreign government for continued detention or prosecution.

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Since the transfer of the Saudis, the Bush administration has sent other Guantánamo detainees to their home countries, including a Spaniard, a Dane and five Britons. As in the Saudi case, the administration's decision to transfer the men was based partly on the fact that the governments involved had supported the Iraq war, according to the American official involved in talks.

The Saudis' View

The diplomatic initiative that led to the transfers began in July 2002, when a delegation of Saudi officials visited the American naval base at Guantánamo Bay, on the eastern tip of Cuba. According to several people familiar with the negotiations, the proposal was discussed at the highest levels of the American and British governments.

The Saudi officials briefly interviewed each of the roughly 130 Saudi detainees at Guantánamo, officials said. Senior Saudi officials, including Foreign Minister Saud al-Faisal, had been arguing with American diplomats for several months that many of the men at Guantánamo were innocent and had simply been in the wrong place at the wrong time.

In an interview, a Saudi official described many of the men as "low-level foot soldiers or even groupies, who were working for charities and who posed no threat." But American officials characterized the Saudis as more dangerous, saying that some had clear Al Qaeda connections and that nearly all of them had been uncooperative with interrogators.

As the Saudis were urging the Americans to release the detainees, Mr. Blair was having his own prisoner problems. In the summer of 2002, the British press was criticizing him over the fate of the five British men who, with a Canadian and a Belgian, were accused of carrying out several attacks against Western targets in Riyadh. One attack, in November 2000, killed a British engineer. Two of the Britons were sentenced to death.

British diplomats said privately that some of the men were tortured, an allegation the Saudi authorities denied. The men later retracted their confessions.

The Saudis said the men had attacked rivals in a turf war for control of the lucrative bootlegging business in Saudi Arabia, where alcohol consumption is illegal. British diplomats said the attacks were carried out by Al Qaeda operatives. Mr. Blair was so intent on winning the Britons' release that he or his top aides pressed the Saudis every month for pardons, officials said. Even Prince Charles personally lobbied Crown Prince Abdullah.

While the United States also sought to use its influence with the Saudi government to press the British case, a State Department official said, "The Saudis kept making the excuse about us having the Saudi detainees at Guantánamo."

In August 2002, officials said, a diplomatic proposal was put forth by the American ambassador to Saudi Arabia, Robert Jordan, who had served as a personal lawyer for President Bush. Officials said Mr. Jordan first suggested the swap to senior State Department officials, but when Pentagon officials learned of the proposal, several objected, including the defense secretary, Donald H. Rumsfeld.

Jim Turner, a Pentagon spokesman, said he would not discuss the deliberations of Mr. Rumsfeld or other Pentagon officials related to detainees.

The Saudis initially refused to make a deal. But in February 2003, an agreement was reached in principle, people familiar with the discussions said. Prince Saud, the foreign minister, agreed to arrange pardons and release the five Britons and the two others if the United States would send home a handful of Saudi prisoners from Guantánamo, the American official with knowledge of the negotiations said.

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Misgivings in Washington

One American official said the Saudi authorities put forward a list of about 15 candidates for release, which the Americans ultimately disregarded. Instead, Pentagon officials instructed military intelligence officers at Guantánamo to assemble their own list.

But even that list became the subject of controversy at an interagency meeting at the Pentagon in April 2003. Officials from the C.I.A., the Justice Department and the Defense Department - which had produced the list - all raised objections to different detainees, officials involved in the meeting said.

Although senior American foreign policy officials were eager to quicken the pace of prisoner releases from Guantánamo and entertain possible transfers to foreign governments, the Saudi case represented a departure that made many officials uncomfortable, "so everyone moved cautiously," one official said. "The problem was finding a group of people who could get through the interagency process."

Eventually, officials said, the Defense Department assistant secretary running the meeting, Marshall S. Billingslea, and the senior State Department representative, Pierre Richard Prosper, brokered a consensus among the agencies on five detainees.

For months, American negotiators had directly linked the transfer of the Saudis to the release of the British prisoners. But once the detainees were chosen, American diplomats were instructed by the State Department to avoid explicitly stating the quid pro quo in their final talks with the Saudi authorities, officials involved in the discussions said.

"We did not want to make it a clear quid pro quo swap, so we put a distance between them," one of the officials said. Referring to the Saudis' promised release of the British prisoners, he added, "We did obviously say we expected that to be resolved."

The same official said, "Everyone knew what the environment was, but diplomatically this was not a swap."

Throughout the negotiations, Defense Department officials expressed qualms, officials said. At one point, the department asked that the Saudis sign a promise to return the five prisoners if the United States ever requested it. Saudi officials immediately objected, and the request was later dropped.

"It was absurd," one person involved in the discussions said. "This was a 125-piece jigsaw puzzle. The Saudis wanted all the pieces, and the Pentagon did not want to let even a single one of those pieces loose."

In March 2003, just a few days before the American-led coalition invaded Iraq, King Fahd granted clemency to the seven Western prisoners, but did not release them. On May 14, the five Saudis from Guantánamo were flown to Riyadh - coincidentally just two days after three Western housing compounds were hit by car bombs in Riyadh, killing 35 people, including eight Americans.

Throughout the summer, the Saudis "dragged their feet" on releasing the Britons, one American said. Finally, in early August, the Britons, the Canadian and the Belgian flew out of Saudi Arabia.

"This presented itself as a way for the United States to help its friends, both the Brits and the Saudis," said the American with knowledge of the discussions. "It's what diplomacy is all about."

Don Van Natta Jr. reported from London for this article, and Tim Golden from New York.

Tom Malionek

Analyst for Boundaries - Boundary Waters - Conservation - Environment - Fisheries - Human Rights - Maritime Matters

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Office of the Assistant Legal Adviser for Treaty Affairs (L/T)

5420 HST

phone 202-647-1336 (direct)

fax 202-736-7541

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