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PAGE 01

STATE 075380 220056Z

RELEASED IN PART  
B1, 1.4(D), B7(A), B7(C)

@INFO: CIAE(00) D(00) DODE(00) INR(01) L(01)  
NSCE(00) P(00) PA(00) S(00) SA(01)  
SCT(00) SPX(01) SS(00) SSO(00)  
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===== 212203L MAR 03 USZ (TOTAL COPIES:005)

@COMMENT: PA -- Eyes Only for A/S Boucher

@INFO: SWO(00)

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ORIGIN NODS-00

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SOURCE: DISKETTE.026526

DRAFTED BY: S/WCI:RMILLER -- 03/21/03 (202) 647-5093

APPROVED BY: S/WCI:PPROSPER

DOD/GC:EDAVIDSON DOD/SOLIC:RHYAMS DOJ:JMCATAMNEY

CIA/CTC:LVOGT D:DPITTMAN P:BBRINK S/CT:SMOLNAR

SA/PAB:JMCNAUGHT S/ES-O:UZEYA

L/PM:JDOLAN

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USSOUTHCOM MIAMI FL IMMEDIATE  
USCENTCOM MACDILL AFB FL IMMEDIATE

S E C R E T STATE 075380

NODIS DECAPTIONED  
MILITARY HANDLE AS SPECAT EXCLUSIVE

E.O. 12958: DECL: 03/21/13

TAGS: PTER, PREL, KAWC, [REDACTED]

SUBJECT: MARCH 21 TRANSFER OF DETAINEES TO GUANTANAMO

REF: A) STATE 6135 B) STATE 20095

Classified by S/WCI - Pierre-Richard Prosper, for Reasons  
1.5 (b) and (d).

1. (U) This is an action message.

2. (C) Addressee posts [REDACTED] are requested to inform host governments at the earliest opportunity of information related to the transfer of their national(s) [REDACTED] to U.S. facilities in Guantanamo Bay. Personal information on detainees in paragraph 5 may be shared with host government. We will provide further identifying details on detainees that could be shared with host governments as it becomes available. Please do not share details on nationals from third countries with host government. Post, and host government, should be aware that much of this information is self-reported by the detainee. It may be inaccurate and even intended to deceive. All posts, please use talking points in paragraph 3.

UNITED STATES DEPARTMENT OF STATE  
REVIEW AUTHORITY: ARCHIE M BOLSTER  
DATE/CASE ID: 21 DEC 2004 200303827

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### 3. (U) Talking Points

For all Posts:

-- On March 21, a U.S. military aircraft arrived at the U.S. Naval Base, Guantanamo Bay, Cuba carrying a number of individuals detained in connection with military operations in Afghanistan. These included (number) national(s) of your country. The USG does not intend to make names of the individuals being detained at Guantanamo Bay public at this time.

-- These individuals pose a threat to the United States and international peace and security and are being detained on the same basis and under the same status as other detainees held in connection with our military operations. For operational and security reasons, we have transported them to the U.S. Naval Station at Guantanamo Bay.

-- All detainees are being treated humanely. Representatives from the International Committee of the Red Cross will be given the opportunity to visit with the detainees at Guantanamo Bay.

-- Countries of nationality may request through the State Department the opportunity to visit their detainees at Guantanamo Bay for intelligence gathering or law enforcement purposes, subject to specific guidance as described in reflet B.

-- The United States is evaluating the possibility of prosecuting these detainees in an U.S. forum.

-- We will also be evaluating the possibility of transferring certain individuals to their country of nationality, including for possible legal action, or continued detention. Before making any decisions, however, we seek additional information.

-- If you have information concerning these detainees, and especially information concerning any criminal conduct (including violations of the laws of war) that they are alleged to have committed, we would appreciate receiving that information through the law enforcement liaison at our embassy.

-- We would hope you would be able to investigate and prosecute vigorously all of your nationals who are al Qaida or have aided al-Qaida terrorists.

-- Do you have any information from your own sources that connects these persons with al-Qaida or the Taliban?

-- Are there any charges pending against these persons in your country? If so, what are those charges?

-- Are you aware of any pending charges against these persons in other countries? If so, what are those charges and against whom have they been brought?

-- Would these persons be subject to prosecution in your country, and if so, for what crimes? For crimes committed inside your country? For crimes committed outside, including for acts related to the Afghan conflict or terrorist acts?

-- What types of punishments are available under your law for offenses that have been or might be brought against these persons in your country?

-- Would your government be willing at some point to detain any of these persons until the end of hostilities or as otherwise mutually agreed? Before considering transfer to your government's control, USG would need assurance, regardless of the success of any prosecution or the duration of any sentence imposed, that persons transferred would

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continue to be detained as enemy combatants or be returned to USG control for continued detention so long as hostilities continue. Are there any legal impediments, under your existing law that would not permit your continued detention of these individuals as enemy combatants for the duration of hostilities?

4. (U) Reftel B provides detailed guidance regarding requests for access to detainees in Guantanamo.

5. (S/Rel to governments as specified in para 2)

Detainee Data:

[Redacted Content]

B1, B7(A), B7(C)

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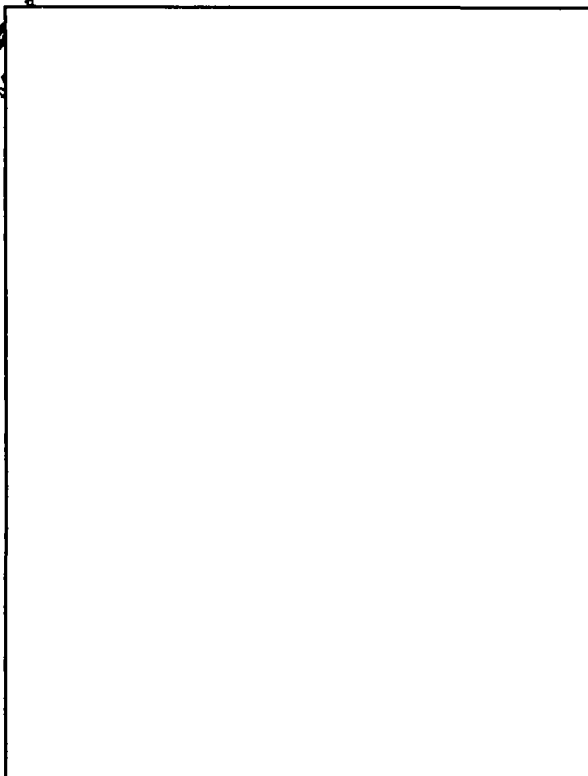
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B1, B7(A), B7(C)



6. (C) Background for Posts

The most pressing matter at hand is ensuring that those who pose or might pose a continuing threat to the United States remain securely detained. [REDACTED]

As presently envisioned, detentions and prosecutions of al-Qaida and notable Taliban members could be undertaken by a number of parties, including: the United States, the respective governments of those detained, countries attacked or targeted for attack by particular detainees and the Afghan authorities themselves. We will want to maintain our flexibility of action in all scenarios.

In coming weeks we may make further transfers [REDACTED] to Guantanamo Bay of detained al-Qaida, senior Taliban officials and others who we believe pose a threat.

We will make determinations at a later date concerning detainees who may be subject to U.S. prosecution. We will also examine the possibility of other States undertaking prosecutions, and/or detaining their nationals until the end of on-going hostilities.

End background.

7. (U) Cable responses should be sent with the NODIS caption to Secstate only, with no/no info addressees. Please slug responses for S/WCI, L, DOD/OGC(Davidson), DOD/OSD/SOLIC(Vaccaro), JCS/LC (Dalton), DOJ/CRM(McAtamney).

8. (U) Minimize considered  
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DOS-001198



**United States Department of State**

*Washington, D.C. 20520*

DEC 29 2004

Case No. 200303827 L014

Requester: Singh, Amrit

Mr. Amrit Singh  
American Civil Liberties Union Foundation  
125 Broad Street, 18<sup>th</sup> Floor  
New York, NY 10004-2400

Dear Mr. Singh:

I refer to our previous correspondence regarding the release of certain Department of State material you had requested under the Freedom of Information Act (Title 5 USC Section 552) in your letters of October 7, 2003 and May 25, 2004.

We have retrieved 139 additional documents from the Office of the Legal Adviser that appear responsive to your request, and have grouped them as Segment L014. After reviewing these documents, we have determined that 30 may be released in full, seven may be released in part and 72 must be withheld in full. All released material is enclosed. A decision on one document requires interagency coordination; we will inform you when we receive the results of that coordination. Additionally, 29 documents originated with another government agency and have been referred to those agencies for review and direct reply to you. The search of the other files has been completed, and we will let you know as the review of the various segments has been accomplished.

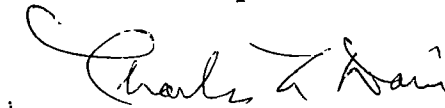
Material in two of the documents withheld in full is currently and properly classified under Executive Order 12958 in the interest of national defense or foreign relations. As such, it is exempt from release under subsection (b) (1) of the Freedom of Information Act.

Information in six of the documents withheld in part and in 72 of the documents withheld in full is exempt from release under subsection (b) (5) of the Freedom of Information Act because it is protected by the deliberative process privilege, attorney client privilege, attorney work product privilege, and/or another privilege incorporated by subsection (b) (5).

Material in the excised portions of one of the documents released in part is of such a nature that its release would constitute a clearly unwarranted invasion of privacy. As such, it is exempt from release under subsection (b)(6) of the Freedom of Information Act.

In some cases, two or more exemptions may apply to the same document. In the case of a document released in part, all non-exempt material that is reasonably segregable from the exempt material has been released.

Sincerely,

A handwritten signature in dark ink, appearing to read "Margaret P. Grafeld", with a stylized flourish at the end.

Margaret P. Grafeld  
Director

Office of Information Programs  
and Services

Enclosures:  
As stated.