

Dolan, JoAnn (SBU)

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From: Brooks, Waldo W (SBU)
Sent: Wednesday, November 26, 2003 7:17 AM
To: Dolan, JoAnn (SBU)
Subject: FW: U.S. and Australia Announce Agreements on Guantanamo Detainees

-----Original Message-----

From: DoD News [mailto:dlnews_sender@DTIC.MIL]
Sent: Tuesday, November 25, 2003 5:44 PM
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U.S. and Australia Announce Agreements on Guantanamo Detainees

WASHINGTON, D.C. -- The United States and Australian governments announced today that they agree the military commission process provides for a full and fair trial for any charged Australian detainees held at Guantanamo Bay Naval Station.

Following discussions between the two governments concerning the military commission process, and specifics of the Australian detainees' cases, the U.S. government provided significant assurances, clarifications and modifications that benefited the military commission process.

After examining the specific facts and circumstances surrounding each Australian detainee case, the Department of Defense was able to provide the following assurances, which are case specific:

The prosecution has reviewed the evidence against the Australian detainees, and based on that evidence, the prosecution would not seek the death penalty;

The security and intelligence circumstances of Mr Hick's case are such that it would not warrant monitoring of conversations between him and his counsel;

If David Hicks is charged, the prosecution does not intend to rely on evidence in its case-in-chief requiring closed proceedings from which the accused could be excluded; and

The U.S. and Australian government will continue to work towards putting

UNITED STATES DEPARTMENT OF STATE
REVIEW AUTHORITY: WILLIAM J GEHRON
DATE/CASE ID: 06 DEC 2004 200303827

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arrangements in place to transfer Hicks, if convicted, to Australia to serve any penal sentence in accordance with Australian and U.S. law.

Subject to any necessary security restrictions, military commissions will be open, the media present and appropriately cleared representatives of the accused's government may observe the proceedings;

If an accused is convicted, the accused's government may make submissions to the Review Panel;

If eligible for trial, and subject to security requirements and restrictions, an accused may be permitted to talk to appropriately cleared family members via telephone, and two appropriately cleared family members would be able to attend their trial; and,

An accused may choose to have an appropriately cleared foreign attorney as a consultant to the Defense Team. Foreign attorney consultant access to attorney-client information, case material or the accused will be subject to appropriate security clearances and restrictions and determined on a case-by-case basis.

The assurances are in addition to other military commission procedures which already provide for the presumption of innocence, proof of guilt beyond a reasonable doubt, representation by a competent and zealous defense counsel free of charge, no adverse inference for choosing to remain silent and the overall requirement that any commission proceedings be full and fair.

The Department of Defense is in the process of drafting clarifications and additional military commission rules that will incorporate the assurances where appropriate.

[Web Version: <http://www.dod.mil/releases/2003/nr20031125-0702.html>]

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