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From: Johnson, Clifton M
 Sent: Wednesday, November 26, 2003 9:46 AM
 To: 'Prosper, Pierre'; Richard, Elizabeth H(S/WCI); Dolan, JoAnn (SBU)(L/PM, Room 6420)
 Cc: Crock, Jonathan M(S/WCI); Buchwald, Todd F (SBU)(Room 6429 Main State); Kaye, David A
 Subject: UK Law Lord Criticizes Gitmo Policy

Folks,

The story below was in today's Independent. Because it is so unusual for such a senior legal official in the UK to opine on such a matter, I am wondering whether we are preparing any press guidance on it. If so, we'd be very interested in receiving a copy as we expect the UK story to have a ripple effect here. Best, Cliff

Link:

<http://news.independent.co.uk/uk/legal/story.jsp?story=467290>

Guantanamo treatment is 'monstrous', says law lord

By Robert Verkaik Legal Affairs Correspondent

26 November 2003

One of the country's most senior judges launched an unprecedented attack on US treatment of the 660 prisoners at Guantanamo Bay last night, saying they will become martyrs in the Muslim world.

Breaking with the convention that law lords do not speak out on politically sensitive issues, Lord Steyn described their imprisonment as a "monstrous failure of justice" and the military tribunals that will try them as kangaroo courts.

Lord Steyn, one of 12 judges who sits in the country's highest court, is understood to have been wrestling with his conscience for weeks. His comments would make it almost impossible for him to hear any appeal from the nine British prisoners held at the US naval base in Cuba if President George Bush agreed to send them for trial in this country.

Lord Steyn said in a speech to lawyers in London last night that judges "have the duty, in times of crisis, to guard against an unprincipled and exorbitant executive response.

"As a lawyer brought up to admire the ideals of American democracy and justice, I would have to say that I regard this a monstrous failure of justice. The military will act as interrogators, prosecutors and defence counsel, judges, and when death sentences are imposed, as executioners. The trials will be held in private. None of the guarantees of a fair trial need be observed."

He also said the type of justice meted out at Guantanamo "is likely to make martyrs of the prisoners in the moderate Muslim world with whom the West must work to ensure world peace and stability".

Human rights lawyers praised Lord Steyn for his courage. Stephen Solley QC, a former chairman of the Bar's human rights committee, said Lord Steyn's comments would send a strong signal to the US Supreme Court, which is about to rule on American jurisdiction in Guantanamo Bay. He added: "It might help to persuade some of the waverers to rule in favour of the detainees."

Shami Chakrabarti, director of the civil rights group Liberty, said: "Lord Steyn is a man of principle and courage and one of our most respected law lords. Surely the Prime Minister will take heed of his comments and intensify

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the pressure on President Bush and allow these men to return to the United Kingdom for a fair trial?"

Peter Williamson, president of the Law Society, heard Lord Steyn's speech. "I agreed with everything he said and I hope it will cause the Government to make further representations to the United States. The detainees should either be tried in the civil courts of America or sent for trial in this country."

Lord Steyn, 71, who has a liberal reputation, has supported reforms of the appointment of judges and the office of Lord Chancellor. He was one of four law lords who supported a new Supreme Court to replace the law lords last month.

He described the military commissions set up to try the Guantanamo detainees as kangaroo courts. "It derives from the jumps of the kangaroo, and conveys the idea of a pre-ordained arbitrary rush to judgment by an irregular tribunal which makes a mockery of justice." The trials would be "a stain on United States justice".

He was also critical of the British policy of negotiating a separate agreement with the Pentagon so that British prisoners would not receive the death penalty. "This gives a new dimension to the concept of 'most-favoured nation' treatment in international law. How could it be morally defensible to discriminate in this way?"