

RELEASED IN FULL

L Press Guidance
May 17, 2004

**THE GENEVA CONVENTIONS: APPLICABILITY IN
GUANTANAMO BAY AND IRAQ**

Question: WHAT IS THE STATE DEPARTMENT'S POSITION OF THE APPLICABILITY OF THE GENEVA CONVENTIONS TO DETAINEES IN GUANTANAMO AND IRAQ?

Answer: ON FEBRUARY 7, 2002, THE WHITE HOUSE PRESS SECRETARY ISSUED A STATEMENT DESCRIBING THE ADMINISTRATION'S CONCLUSIONS ON THE APPLICABILITY OF THE GENEVA CONVENTIONS TO DETAINEES IN GUANTANAMO BAY.

THE CONCLUSION WAS THAT THE GENEVA CONVENTION DID NOT APPLY TO THE CONFLICT WITH AL QAEDA BUT THAT IT DID APPLY TO THE CONFLICT WITH THE TALIBAN IN AFGANISTAN.

THE PRESIDENT ALSO CONCLUDED THAT NEITHER AL-QAEDA NOR THE TALIBAN DETAINEES WERE ENTITLED TO PRISONER OF WAR STATUS. THE PRESIDENT CONCLUDED THAT THE TALIBAN DID NOT MEET THE EXPLICIT CRITERIA SET FORTH IN THE CONVENTION FOR POW STATUS.

THE WHITE HOUSE STATED THAT "THE UNITED STATES IS TREATING AND WILL CONTINUE TO TREAT ALL OF THE INDIVIDUALS DETAINED AT GUANTANAMO HUMANELY AND, TO THE EXTENT APPROPRIATE

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AND CONSISTENT WITH MILITARY NECESSITY, IN A MANNER CONSISTENT WITH THE PRINCIPLES OF THE GENEVA CONVENTION.”

IRAQ

OUR POSITION ON IRAQ HAS BEEN CLEAR FROM THE BEGINNING. THE GENEVA CONVENTIONS APPLY IN IRAQ. THE WHITE HOUSE COUNSEL, JUDGE ALBERTO GONZALEZ, STATED THIS UNAMBIGUOUSLY IN AN OP-ED IN THE NEW YORK TIMES ON SATURDAY, MAY 15, AND SECRETARY RUMSFELD INDICATED THAT THIS WAS THE CASE IN HIS TESTIMONY BEFORE THE SENATE ARMED SERVICES COMMITTEE ON MAY 7TH.

ALL IRAQIS ARE ENTITLED TO THE PROTECTIONS OF EITHER THE THIRD GENEVA CONVENTION ON PRISONERS OF WAR OR THE FOURTH GENEVA CONVENTION ON CIVILIANS.

Question: IS THE STATE DEPARTMENT COMFORTABLE WITH THE FINAL DECISION NOT TO APPLY THE GENEVA CONVENTION [TO DETAINEES AT GUANTANAMO BAY]?

Answer: THE DEPARTMENT OF STATE SUPPORTS THE POSITION ANNOUNCED BY THE WHITE HOUSE IN FEBRUARY 2002.

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Question: DO WE BELIEVE THAT THERE HAVE VIOLATIONS OF INTERNATIONAL NORMS AT GITMO AS A RESULT OF THIS DECISION?

Answer: AS WITH OTHER DEPARTMENTS, WE TAKE ANY REPORTS OF VIOLATIONS OF THE GENEVA CONVENTIONS SERIOUSLY AND THEY ARE INVESTIGATED BY APPROPRIATE AUTHORITIES.

[IF PRESSED]

Question: DID THE SECRETARY "HIT THE ROOF" WHEN HE LEARNED THE WHITE HOUSE WAS PLANNING ON NOT APPLYING THE CONVENTIONS TO GUANTANAMO DETAINEES?

DID TAFT ARGUE AGAINST THIS IN A MEMO TO THE WHITE HOUSE?

Answer: WE DO NOT COMMENT ON INTERNAL DELIBERATIONS.

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Cleared: L - W Taft ok

S/WCI - Crock, JM ok

S/WCI - Sagor, AE ok

PRM - McKinley, P Michael ok

NEA/PPD - Shore, R (info)

P - Brink, Bridget A ok

D- Beecroft, Robert S ok

DOS-001401