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Appendix 2:

Excerpts from ICRC Press Statements on USG Detention Policies

May 27, 2003: Press release describing Kellenberger's meetings in Washington, says the following about GTMO:

"In relation to Guantanamo, the ICRC President asked the US authorities to institute due legal process and to make significant changes for the more than 600 internees held there."

August 26, 2003: Audio file of Beatrice Megevand-Roggo, Delegate General for Europe and the Americas, released on the ICRC website, entitled, "What are the ICRC's main concerns regarding the internees in Guantanamo Bay?":

"Well, as you know, there is little the ICRC can say about the conditions of detention and the treatment of detainees in any detention place in the world actually; it is not limited to Guantanamo. Now there are a number of things that we have said publicly and of course they are the things that we say in a bilateral and confidential dialogue with the American authorities as well. The main concern for the ICRC is the fact that there are people that are being detained in Guantanamo now for 18 months or even a bit more. And there is apparently no end to this detention. For the time being, the detention system in Guantanamo is an open-ended one, in which the detainees do not know at all what is going to happen to them, how long they are going to be held there, and what will be the outcome of this. Will they have a process, will they be released, will they be repatriated? And this is something that takes a toll, a heavy toll, on their psychological conditions, of course."

Second audio file, entitled, "What are the significant changes the ICRC has asked for in Guantanamo Bay?":

"We would like the United States authorities to introduce significant changes in the conditions of detention in Guantanamo. We have listed them. Of course, this is not for public consumption. But they know very well what the requests from the ICRC are. And especially we would like the whole judicial procedure to be sped up. And for each

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and every detainee to be allowed to have a due legal process, which is not the case for the time being."

October 10, 2003: Christophe Girod, ICRC Washington Head of Delegation the New York Times:

NYT: "A senior official of the ICRC said on Thursday that the holding of more than 600 detainees here was unacceptable because they were being held for open-ended terms without proper legal process. Christophe Girod, the senior Red Cross official in Washington, said on Thursday in an interview at the U.S. Naval Base here, *'One cannot keep these detainees in this pattern, this situation, indefinitely.'* Mr. Girod spoke as he and a team of officials from the international organization were completing their latest inspection tour of the detention camp. Although he did not criticize any physical conditions at the camp, he said that it was intolerable that the complex was used as *'an investigation center, not a detention center.'* He said that the ICRC was making the unusual statements because of lack of action.... Mr. Girod said, *'The open-endedness of the situation and its impact on the mental health of the population has become a major problem.....'*"

October 10, 2003: Amanda Williamson, ICRC/Washington Press Spokesperson to Reuters:

"After more than 18 months of captivity, the internees have no idea about their fate, no means of recourse through any legal mechanism. They have been placed in a legal vacuum, a legal black hole. This, for the ICRC, is unacceptable. As time wars on, the anxiety for the detainees increases, and so do our concerns for the impact this uncertainty is having on the population in Guantanamo. We did feel that we have to make our concerns known. Clearly when you look at Guantanamo today, that crucial element - the lack of legal framework - remains unresolved."

January 15, 2004: Advance press release on Kellenberger trip to Washington says only:

"During his meetings with government officials, the ICRC president will review in particular the situation at the US detention facility in Guantanamo Bay, Cuba. When Mr. Kellenberger last visited Washington in May 2003, he asked the US authorities to institute due legal process and to

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implement other significant changes for the more than 600 detainees held at the facility."

January 16, 2004: Press release on Kellenberger visit to Washington says:

"Mr. Kellenberger, while appreciating the frankness of the dialogue with the US authorities, lamented the fact that two years after the first detainees arrived at Guantanamo, and despite repeated pleas, they are still facing seemingly indefinite detention beyond the reach of the law. He also noted concerns regarding certain aspects of the conditions and treatment in Guantanamo have not been adequately addressed. Mr. Kellenberger welcomed assurances from the US authorities that the review process in pace is to be accelerated, leading to possible further releases from Guantanamo, while stressing the importance of ensuring that those remaining should either be charged and tried or placed within a legal framework which governs their continued detention.... Said Mr. Kellenberger after the meetings: "The talks were held in a constructive atmosphere and the US authorities seemed sincerely receptive to our concerns and challenges, as we are aware of theirs, although we expect of course that this important dialogue will yield concrete results relating to our concerns. We remain committed to the dialogue process with the US authorities and to our important humanitarian framework in Guantanamo and elsewhere."

March 1, 2004: Editorial in Financial Times, by Gabor Rona, identified as "Legal Advisor" to the ICRC; however, he is actually one of the lawyers on the staff of the Legal Advisor, Jean-Phillippe Lavoyer.:

"The official US view is that an international armed conflict is under way, spanning the world and pitting certain countries against terrorists. This conflict will end once terrorism is defeated. In the meantime, the laws of armed conflict prevail over the entire planet - meaning that, within limits, killing, destruction of property and detentions are permitted, all without the restraint of judicial intervention. In this world, instead of merely arresting a suspected terrorist on the street, the US, if it considered him an 'enemy combatant,' would be within its rights to shoot him."

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Drafted: PRM/MCE: CSantos, x3-1487, Drafted 4-08-04;
Updated 5-13-04

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Cleared: PRM/MCE: MPollack

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