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RELEASED IN PART
B7(A), B7(C), B6

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TAGS: PTER, KAWC, PHUM, PINR, UK

SUBJECT: LETTER FROM THE SECRETARY TO [redacted] MP

B7(A), B7(C)

REGARDING DETENTION OF [redacted] BY US AUTHORITIES

1. (U) THIS IS AN ACTION MESSAGE, SEE PARA 2 - 3.

2. (SBU) BACKGROUND. ON MAY 23, 2003, [redacted] MP, HOUSE OF COMMONS, WROTE TO THE SECRETARY INQUIRING ABOUT THE HEALTH AND WELL-BEING OF TWO BRITISH CITIZENS, [redacted]

B7(A), B7(C)

[redacted] HE CLAIMS ARE IN U.S. CONTROL AT GUANTANAMO BAY, CUBA. [redacted] ALSO QUESTIONS THE UNDERLYING BASIS FOR THEIR DETENTION, AND THE FACT THAT THEY HAVE BEEN DETAINED WITHOUT CHARGES OR BENEFIT OF LEGAL COUNSEL OR CONSULAR ADVICE. REQUEST THAT POST DELIVER THE SECRETARY'S RESPONSE IN PARAGRAPH 3. NO SIGNED ORIGINAL WILL FOLLOW. END BACKGROUND.

3. (U) BEGIN TEXT OF LETTER:

DEAR [redacted]

B6, B7(A), B7(C)

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THANK YOU FOR YOUR LETTER EXPRESSING CONCERN
REGARDING [REDACTED] WHO

B6, B7(A), B7(C)

ARE SAID TO BE HELD UNDER U.S. CONTROL AT THE U.S. NAVAL
BASE LOCATED AT GUANTANAMO BAY, CUBA.

THE UNITED STATES AND ITS COALITION PARTNERS ARE AT
WAR WITH THE AL QAIDA NETWORK AND REMNANTS OF THE TALIBAN
WHO CONTINUE TO SUPPORT THEM. THE AL QAIDA NETWORK TODAY
IS A MULTINATIONAL ENTERPRISE WITH OPERATIONS IN MORE
THAN 60 COUNTRIES. ACTIVE HOSTILITIES ARE ONGOING DAILY
IN AFGHANISTAN AND AROUND THE WORLD. WE CONTINUE TO
FIGHT AGAINST ENEMY COMBATANTS WHO ARE PLANNING AND
CONDUCTING ATTACKS AGAINST US. IN THIS CONTEXT,
OPERATIONAL AND SECURITY CONCERNS DO NOT ALLOW ME TO
CONFIRM OR COMMENT ON THE CIRCUMSTANCES OF CAPTURE,
TRANSFER OR DETENTION OF SPECIFIC INDIVIDUALS BELIEVED TO
BE HELD AS ENEMY COMBATANTS IN THE COURSE OF THAT
CONFLICT.

LET ME ASSURE YOU, HOWEVER, THAT PRESIDENT BUSH HAS
AFFIRMED ON ANY NUMBER OF OCCASIONS THAT AL QAIDA AND
TALIBAN DETAINEES, REGARDLESS OF THEIR LACK OF STATUS AS
POWS UNDER THE THIRD GENEVA CONVENTION OF 1949, WILL BE
TREATED CONSISTENT WITH AMERICAN VALUES AND THE
PRINCIPLES OF THE INTERNATIONAL LAW OF ARMED CONFLICT.
HE HAS DETERMINED THAT THE UNITED STATES ARMED FORCES
WILL TREAT ENEMY COMBATANTS HUMANELY AND IN A MANNER
CONSISTENT WITH THE PRINCIPLES OF THE THIRD GENEVA
CONVENTION OF 1949.

THE AUTHORITY TO DETAIN ENEMY COMBATANTS FOR THE
DURATION OF HOSTILITIES EXISTS IN LAW INDEPENDENT OF THE
CIVIL JUDICIAL OR CRIMINAL JUSTICE SYSTEM. IN THIS WAR,
AS IN EVERY WAR, ENEMY COMBATANTS HAVE NO LEGAL RIGHT TO
COUNSEL OR ACCESS TO COURTS FOR THE PURPOSE OF
CHALLENGING THEIR DETENTION WHILE HOSTILITIES ARE
ONGOING. WHILE SOME ENEMY COMBATANTS MAY FACE CRIMINAL
PROSECUTION BEFORE THE END OF HOSTILITIES, NATIONS AT WAR
TRADITIONALLY HAVE WAITED UNTIL HOSTILITIES CEASE TO
BRING SUCH CHARGES. IF AND WHEN AN ENEMY COMBATANT IS
CHARGED WITH A CRIME, HE WOULD THEN BE ENTITLED TO LEGAL
COUNSEL AND WOULD RECEIVE A FAIR TRIAL.

REGARDING VISITS TO GUANTANAMO, THE UNITED STATES
MILITARY AUTHORITIES ONLY PERMIT VISITS BY FOREIGN
OFFICIALS THAT ARE ESSENTIAL TO LAW ENFORCEMENT
OBJECTIVES OR INTELLIGENCE GATHERING.

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SINCERELY,

COLIN L. POWELL

END TEXT
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