

THE WHITE HOUSE
WASHINGTON

May 13, 2004

NATIONAL SECURITY PRESIDENTIAL DIRECTIVE/NSPD-37

- MEMORANDUM FOR THE VICE PRESIDENT
- THE SECRETARY OF STATE
- THE SECRETARY OF THE TREASURY
- THE SECRETARY OF DEFENSE
- THE ATTORNEY GENERAL
- THE SECRETARY OF COMMERCE
- THE SECRETARY OF HOMELAND SECURITY
- CHIEF OF STAFF TO THE PRESIDENT
- DIRECTOR, OFFICE OF MANAGEMENT AND BUDGET
- ASSISTANT TO THE PRESIDENT FOR NATIONAL SECURITY AFFAIRS
- COUNSEL TO THE PRESIDENT
- DIRECTOR OF CENTRAL INTELLIGENCE
- CHAIRMAN OF THE JOINT CHIEFS OF STAFF
- DIRECTOR, FEDERAL BUREAU OF INVESTIGATION
- CHAIRMAN, PRESIDENT'S FOREIGN INTELLIGENCE ADVISORY BOARD
- ADMINISTRATOR, COALITION PROVISIONAL AUTHORITY

SUBJECT: United States Assistance to the Iraqi Special Tribunal

The investigation and prosecution of members of the former Iraqi regime and the Iraqi Ba'ath Party for crimes within the jurisdiction of the Iraqi Special Tribunal (IST) is a key element in Iraq's establishment of democratic self-government. The successful establishment and operation of the IST is vital to the success of the national security, foreign policy, homeland security, law enforcement, and defense elements of our strategy and is critical to protecting and advancing U.S. interests. The IST statute provides for the appointment of international advisors to assist the Tribunal Investigative Judges, Prosecutors, Trial Chamber Judges, and Appeals Chamber Judges in the performance of their duties. The United States will provide assistance.

Therefore, I direct:

- All relevant Departments and Agencies of the United States Government, as set forth below, shall provide necessary assistance to the Iraqi people to establish a fully functioning, independent IST consistent with applicable law.
- The Attorney General shall appoint a Regime Crimes Liaison (RCL) to the IST. The RCL will lead and supervise U.S. advisors and, as the Attorney General determines appropriate, advisors from other countries, collectively known as the Regime Crimes Liaison's Office (RCLO), to: (1) continue the related work begun by the CPA Office of Human Rights and Transitional Justice (OHRTJ); and (2) assist IST investigators, prosecutors, and investigative judges, direct U.S. advisors to the IST, and serve as United States Government liaison to the Iraqi Governing Council (and the successor Iraqi Government after June 30, 2004) regarding IST investigations and prosecutions. The RCL will assist the Iraqi Governing Council and successor Iraqi Government in establishing, staffing, and administering the IST. The RCLO will serve as the lead Coalition office to assist the IST in coordinating assistance to the IST by foreign governments, law enforcement agencies, international and non-governmental organizations, and other United States Government agencies in Iraq. The RCLO will also serve as the lead Coalition office supporting the IST measures to ensure the security and safety of witnesses and victims of crimes under investigation by the IST.
- The Department of Justice will assist the RCL to select a team of advisors that will deploy to Iraq. The Department of Justice and the RCL will assemble and deploy squads of investigators, with leaders designated by the Attorney General, drawn from Federal, State, or local law enforcement agencies. The RCL may deploy these teams, or elements of them, within Iraq in accordance with the investigative plan. The RCLO, which shall be under the authority, direction, and control of the CPA, may make use of any IST-related facilities and projects established or begun by OHRTJ, and coordinate this continued use after June 30, 2004, with the appropriate Iraqi authorities. The Department of Justice will provide administrative support such as paralegals and secretaries to the RCLO.

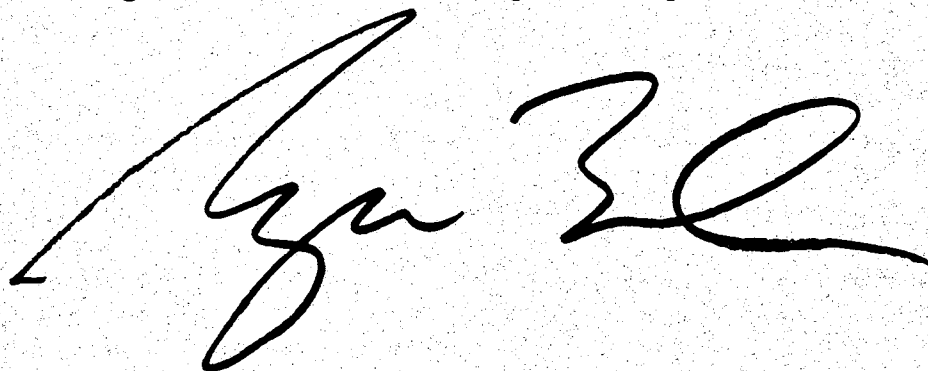
- The RCL will supervise all United States Government advisors and mentors to the IST. RCLO personnel will work closely with the Iraqis supporting the IST, and ensure, where appropriate, that training and technical assistance are provided.
- The RCL will supervise and coordinate forensic and exhumation efforts by United States Government or third-nation elements in support of IST investigations. The RCL will also support Iraqi forensic efforts in support of IST investigations. The RCL may deploy personnel to locations outside Iraq.
- Concurrent with its mission to support the IST, the RCLO will ensure that electronic or paper copies of all appropriate unclassified documents and information collected during its investigations are made available to the Iraqi Ministry of Human Rights to assist the Ministry's continuing efforts to identify missing persons and to preserve a historical record of the suffering of the Iraqi people under Saddam Hussein's regime. In the event transfer of certain documents would interfere with investigative and prosecutorial efforts, transfer will be made at the conclusion of the RCLO mission.
- The CPA will prepare a strategic communications plan directed at both Iraqi and international audiences concerning the activities of the IST and the role of the RCLO in support of the IST. Thereafter, all RCLO public affairs and public diplomacy activities will be closely coordinated with CPA's Strategic Communications Office before any public releases. In addition, all RCL public affairs activity will comply with any relevant rules and guidelines that the IST may adopt governing pretrial and trial publicity.
- The RCLO shall function as a component within the CPA, and the RCL shall report to the Administrator of the CPA.
- The Attorney General may augment the RCLO with a Budget Officer to manage all expenditures in support of the IST, from funds appropriated for that purpose. Under the authority, direction, and control of the CPA, the RCLO will have review and approval authority, within the expenditure process now employed by the CPA, for all IST-related funds.
- The Attorney General may, in consultation with the CPA, provide input to the RCL regarding substantive legal and investigative matters.

- Following the June 30, 2004, transition to an Iraqi Government that will exercise governmental authority in Iraq, all responsibilities of the CPA with respect to the RCLO will devolve upon the Secretary of State, acting through the United States Chief of Mission to Iraq, when appointed.
- The heads of all other U.S. law enforcement agencies and organizations will be prepared to support the RCL with personnel or resources as needed.
- Using appropriated funds available to support the IST, the Department of Justice will support and sustain RCLO personnel in Iraq, including: housing/billeting; transportation within Iraq; food/medical support; communications access and linkup; compound security and armed escort outside of Baghdad; security for investigative teams and forensic sites in the field; and weapons and related weapons training plus necessary personal protective gear. The RCLO, under the authority, direction, and control of the CPA, will also coordinate with the Iraqi Ministry of Justice and Ministry of the Interior for personal and physical security of Iraqi IST installations and facilities, judges, and personnel.
- The Secretary of Defense will provide legal support, as appropriate. The Department of Defense will also assist the RCLO in gaining access to and providing transport of Iraqi prisoners under Department of Defense control for interviews; and provide departmental expertise in military history, law of war, and international law issues, as appropriate.
- The Administrator of the CPA and the Secretary of State will support the RCLO by assisting the Iraqi Governing Council, the interim Iraqi Government, and any successor Iraqi Government in establishing IST infrastructure and court facilities, and in the expedited identification and installation of Iraqi judges, tribunal investigators, and prosecutors to staff the IST.
- The Secretary of State will assist the RCL in recruiting and selecting, in consultation with the Administrator of the CPA, international advisors and international investigative or forensic teams to assist the IST, and in advising the IST regarding its rules of evidence and procedure. The Secretary of State may also assist the RCLO by contacting other governments and requesting that they provide their full cooperation in collecting all evidence and contacting

witnesses located within their territory that are relevant to IST investigations.

- The Director of Central Intelligence and the elements of the Intelligence Community, as appropriate, will: provide historical and archival research support to the RCLO as appropriate; serve as liaison between the RCLO and foreign government intelligence services to assist in investigations as needed; and provide to the RCLO support supplemental to the main efforts of the Department of Defense and the CPA, for information security. RCLO personnel with requisite security clearances and a demonstrated need to know shall be given appropriate access to relevant captured documents and their analysis. The Iraq Survey Group (ISG) will make documents available to RCLO and declassify appropriate material in accordance with the policy guidance that has been developed between the CPA and the ISG regarding Iraq document exploitation in support of the Iraq Special Tribunal. The Department of Justice will provide any additional resources required for such support.
- The Assistant to the President for National Security Affairs shall keep me appropriately informed of progress in implementing this Directive.

Nothing in this Directive shall be construed to impair or otherwise affect: (1) the authority of the Director of the Office of Management and Budget with respect to budget, administrative, or legislative proposals; (2) the authority of the Secretary of Defense with respect to the Department of Defense, including the chain of command for the armed forces under section 162(b) of title 10, United States Code, and the authority of the Secretary of Defense with respect to the Department of Defense under section 113(b) of that title; or (3) the authority of the United States Chief of Mission to Iraq, when appointed, under section 207 of the Foreign Service Act of 1980, as amended (22 U.S.C. 3927). Also, this Directive is not intended to, and does not, create any rights enforceable against the United States, or any department, agency, entity, officer, employee, or agent thereof, nor any other person.

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