

LA17-S

**From:** PJHQ-J9-LA-S  
**Sent:** 29 April 2003 18:32  
**To:** PJHQ-CJO/MA-S; PJHQ-DCJO(OPS)-MA-S; PJHQ-CIVSEC-S; PJHQ-J3(LAND)1-SO1-GS1; Hd of MoDLA-S; PJHQ-J9-LA2-S; PJHQ-J9-HD(POL/OPS)-S  
**Cc:** MD4-LEGAD-1-GS1; PJHQ-J9-POLOPS(DEPHD)ME-S; RD10-COMD-LEGAL-GS1; LA2-S  
**Subject:** Iraqi Law & Order

David, Paul (H)

Following CJO's trip to theatre, you aware I've been speaking to Col Marriott (COS) and Lt Col Nick Mercer (1 Div Legal) about their request for a Judge Advocate to sit on their Detention Management Team to review the cases of all those who will remain detained or imprisoned during Phase 4a. During my initial conversations, I asked COS to try and identify a local Iraqi lawyer/Judge who could be vetted to take on this role. If following the vetting it was not possible to identify a local Iraqi to take in this role, I agreed we would need to review the advice with regard to identifying a UK Judge Advocate. Since that discussion, Nick has confirmed he had the opportunity on Monday afternoon (purely by chance) to attend the Basra Bar Council (a copy of the attendance note attached below).

Nick has confirmed there is clearly a desire to work with Coalition Forces and a desire to see the that law & order is re-established as soon as possible. At the meeting he has proposed to form a smaller committee to take various matter forward. The first attempt at forming a committee will be on Wednesday, 30 April at 7 Armd Bde HQ. He has asked for a member of the judiciary, a bar council representative, a prosecutor, a defence lawyer, a property lawyer, a civil lawyer and a constitutional lawyer to attend the meeting. The aim of the meeting will be to get Iraqi courts up and running in the short term to help instil a sense of law & order. This approach is in line with our obligations under international law, that is the courts of an occupied territory should continue to function, so long as they can ensure the effective administration of justice.

Whilst this is a positive step forward, 1 DIV Legal remain concerned the Iraqi lawyers will be tainted by former Ba'athists. From my point of view, I think we need to give this process time to work. I think it will be sufficient to vet them to ensure the local Iraqi (i.) does not represent a security threat and (ii.) has not been complicit in serious human rights violations. At CJO's request we have arranged a VTC for Thursday to try and resolve this. We agreed to fix the VTC for Thursday as we may get a useful update of the initial committee meeting and any progress they have made in identifying a suitable Iraqi candidate - who can be vetted for a law & order role.

A separate question concerns the proposal to review the continued detention of internees (political prisoners). I understand the UK may have about 60 internees in their custody. As these are effectively political prisoners - who represent a threat to coalition forces it would not be appropriate for a local Iraqi to have sole responsibility for reviewing their continued detention. Although I also think it does not necessarily follow this role falls to a UK Judge Advocate. Subject to the requirement, a international jurist may be something a coalition partner could provide as part of the stabilisation package. Alternatively, the Attorney General could be asked to make an approach to the International Bar Council to identify an appropriate candidate, possibly from another Arab state. Again, we will discuss this on the VTC on Thursday.

I'll also ask Martin Hemming (MOD LA) to ask the NSC and Pentagon Legal Advisers how they intend to review the cases of all those who remain detained or imprisoned by US Forces during Phase 4a.

Rachel

A note from Lt Col N Mercer