

266

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From: PJHQ-J9-LA2-SO1LEGAL-S
Sent: 08 March 2004 11:45
To: Hd of MoDLA-S; LA2-S
Cc: PJHQ-J9-LA-S
Subject: ICRC REPORT

Importance: High

Martin / Vivien

As Arvinder has mentioned, the ICRC report is being faxed to you this morning. PJHQ are due to send a note to MINAF on it, addressing some of the issues contained in anticipation of the ICRCs UK-only report which we are expecting shortly, but given its importance, we thought it worth passing the report and our initial thoughts which are as follows:

We stand to suffer greatly from being tarred with the Coalition Forces (CF) brush. This has the practical effect of failing to distinguish between our conduct and that of the US which I think we would wish to do at least internally or if possible between the UK and ICRC without publicly exposing the US.

It fails to take into account the guidance and training given to UK forces (the LOAC aide-memoire deals specifically with PW handling), it does not put into context the way in which the PW plan for a temporary UK facility to be replaced by a permanent US was frustrated when the US decided not to commit the nominated forces for that task, the way in which the UK PW team worked well with local ICRC representatives from last March (indeed Phase 3 gets little emphasis) and does not acknowledge that the ICRC's recent issues with the UK DTF are relatively minor and that in every major area the facility is well run.

[REDACTED]

- At Section 1 para 7 [REDACTED] UK numbers captured and the rate at which they have been released suggests to me that in both Ph3 (after an over-zealous approach in the early stages) and Ph4 we have got it about right. The UK started a review process last April (as part of the PW review system) has held around 100 internees for much of that period, and now has 86. The US has 9000, and only last week started a review process. In one week they assessed 680 internees and determined that only 30 should continue to be interned and 28 others be held pending further information, but that all of the others should be released. This allegation is clearly a predominantly US problem.
- A major issue will be the US handling of HVTs in Baghdad which the report says involves serious breaches. Although the 'occupier's responsibilities' question arises again I think that the first issue must be with regard to the 2 'UK' PWs and UK monitoring obligations as the detaining power under GC3 vis the conditions in which they are being held.

I will stall any comment to MinAF until we here from you.

Regards
Neil