



January 2, 2008

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Via E-Mail and First Class Mail

John B. Bellinger, III
Legal Adviser, Office of the Legal Adviser,
United States Department of State
Harry S. Truman Building
2201 C Street, NW, Room 6423
Washington, DC 20520

Re: **Kuwaiti Detainees at Guantanamo**

Dear John:

We were encouraged by statements of Secretary of State Rice reported by the Guardian Unlimited (attached as Schedule 2 to this letter) that the United States Government ("USG") would like to close the prison camps at Guantanamo Bay if the countries that would receive the prisoners provide appropriate assurances that these prisoners will not endanger public safety.

As you know, there is no greater ally of the United States than the State of Kuwait. The Government of Kuwait ("GoK") has been attempting for more than a year to work with the USG to obtain the release of the remaining four Kuwaiti detainees. But, despite the GoK's continuing efforts, the bilateral negotiations as to the four Kuwaitis remaining at Guantanamo have not resulted in an agreement.

This lack of progress is at odds both with Kuwait's consistent record of honoring commitments made to the USG and with transfers of prisoners that the USG has successfully and recently negotiated with other countries.

It may be that part of the explanation for the discrepancy between Secretary Rice's comments and the current lack of bilateral movement on the Kuwaiti prisoners at Guantanamo is that the Department of State and Department of Defense are not in agreement on this issue. For this reason, I have copied Alan Liotta, Principal Director of the U.S. Department of Defense Office of Detainee Affairs, on this communication. Although Mr. Liotta refuses to speak to me about these issues, I presume that he would be more amenable to a discussion with you or another representative of State.

January 2, 2008

Page 2

The bottom line is that the State of Kuwait has long been and remains willing to work with the U.S. to repatriate its remaining citizens, as Secretary Rice put it, "with constraints that ensure that they are not going to be a danger to society." Certainly the State of Kuwait has every reason to want to ensure this protection is achieved both for its ally and its own citizens and residents.

Accordingly, I would appreciate it if you would bring to the Secretary's attention the information listed in Schedule 1 since the GoK is ready, willing and able to receive its citizens and provide full protections requested, and yet we simply cannot understand why this matter cannot be brought to closure.

Thank you for your professional courtesy and consideration. I remain ready to provide any additional information, or to meet with you or any of your colleagues at any time, to help resolve this situation now.

Sincerely,



David J. Cynamon

DJC/mc
Attachments

cc (via e-mail): Mr. Alan Liotta (w/attachs.)
Judry Subar, Esq. (w/attachs.)

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SCHEDULE 1

- In September 2006, the Amir of Kuwait met with President Bush and personally asked the President to arrange for the return of the then six remaining Kuwaitis. Only two of the six were returned following that meeting.
- In May 2007, the Kuwaiti Foreign Minister personally delivered to National Security Adviser Stephen Hadley a letter to the President from the Amir requesting the return of the four remaining Kuwaitis.
- Mr. Hadley told the Foreign Minister that the four remaining Kuwaitis are “particularly dangerous,” but when pressed for details, Mr. Hadley was unable to provide any. (I have previously provided to you a comparison chart showing the allegations against the twelve Kuwaiti prisoners, which demonstrates that there is no apparent difference between the eight who have been repatriated and the four who have not.) Mr. Hadley promised the Foreign Minister a report but none was ever provided.
- In June, the Amir sent another letter to President Bush repeating his request for the return of the four remaining Kuwaitis. That letter was delivered to the White House by the Kuwaiti Ambassador
- In August, the USG delivered a letter to the GoK demanding specific information and assurances in connection with the repatriation of the four remaining Kuwaitis.
- On November 20, 2007, the Kuwaiti Ambassador to the U.S. met with Alan Liotta, Principal Director of the U.S. Department of Defense (“DoD”) Office of Detainee Affairs, and provided Mr. Liotta with the GoK’s detailed written response to the USG’s request for information and assurances. Although the Ambassador asked Mr. Liotta to expedite DoD’s response to the GoK submission, as of this date, the GoK has received no response and there is no indication of when DoD will respond.
- All eight of the Kuwaitis who have been returned to Kuwait were charged, tried in accordance with Kuwaiti law and ultimately acquitted on charges of taking hostile action against an ally of Kuwait. The GoK also has adhered to all conditions it agreed upon with the USG concerning the repatriation of the former prisoners, including conducting a reeducation program and supporting the reintegration of the former prisoners into Kuwaiti society. In that regard, all eight of the former prisoners have returned to their families. Two have married since their return.
- Since the Foreign Minister met with USG officials in May, DoD has returned detainees to Yemen, Libya and Tunisia, among others. Unlike Kuwait, these countries are not close allies of the United States, and they have long and well-documented histories of violating the human rights of both their citizens and foreign nationals.
- DoD has also repatriated a large number of former prisoners to another Middle East ally, Saudi Arabia. Most of the repatriated Saudi citizens were not on DoD’s “eligible for release”

list. Recently, as reported by the Washington Post on December 10, 2007, Sandra Hodgkinson, DoD Deputy Assistant Secretary (Acting) for Detainee Affairs, praised the Saudi program for repatriated citizens. Yet the Kuwaiti program for repatriated citizens, as demonstrated with the eight returned Kuwaitis, is equally or more robust. Unlike Saudi Arabia, Kuwait has tried in a court of law each of its returned citizens on charges of assisting enemies of the U.S. Moreover, to the extent it has not already done so, I firmly believe that the GoK would be happy to provide a commensurate or greater level of assurances that the returned citizens would not pose a public threat, as compared to the conditions agreed to by Saudi Arabia for the return of its detainees.

SCHEDULE 2

US needs assurances for Guantánamo to close, says Rice

David Batty
December 21, 2007
Guardian Unlimited

The US secretary of state, Condoleezza Rice, today urged countries that have nationals held at Guantánamo Bay to help bring about its closure.

She said governments would have to give the US guarantees that the "bad people" detained in the camp would not be a danger if freed.

Rice said the Bush administration wanted to shut the camp, but said it could not be done at the expense of the safety of Americans and other people around the world.

She said the detention centre contained dangerous men who had been caught in battle in Afghanistan and had been plotting terrorist strikes against capitals in the US, Europe and south-east Asia.

She said: "Of course we would like to see Guantánamo close - there's only one problem: what are you going to do with the bad people who are there?"

"What are we going to do with them? Release them again on an unsuspecting population? I don't think so.

"One of the things that would help a lot is, in the discussions that we have with the states of which they are nationals, if we could get some of those countries to take them back ... and take them with constraints that ensure that they are not going to be a danger to society again.

"So we need some help in closing Guantánamo. Of course we'd like to do it, but we're not going to do it at the expense of the safety of Americans and other citizens."

Around 300 prisoners are held at Guantánamo Bay, a US naval base on the eastern tip of Cuba which, for the past five years, has been used as a detention centre for suspected terrorists.