



DEPARTMENT OF DEFENSE
UNITED STATES SOUTHERN COMMAND
JOINT TASK FORCE 160
OFFICE OF THE STAFF JUDGE ADVOCATE
Guantanamo Bay, Cuba

21 Jan 02

From: Staff Judge Advocate
To: Commander Joint Task Force 160

Subj: INITIAL OBSERVATIONS FROM ICRC CONCERNING TREATMENT OF
DETAINES

Encl: (1) General observation and meeting notes

1. Purpose: To provide CJTF with information concerning the initial observations of the ICRC.

2. Background: Three ICRC delegates Urs Boegli, Paul Bonard, and Dr. Raed Arurabi met with the SCSJA, JTF 160 SJA, JTF 160 DSJA, and Maj R. Malave and CPT M.T. Williams of Army Civil Affairs. The meeting was at the Windjammer Restaurant from 2000 to 2130 on 20 January 2002. Purpose of the meeting was to provide the ICRC the opportunity to brief SCSJA prior to his redeployment.

3. Discussion: The meeting was very informal, but well structured. ICRC reps will be providing written observations in the future. DSJA took notes, which are attached as Encl (1). The ICRC delegates were very appreciative of support and access provided by the JTF.

4. Conclusion: ICRC overall very pleased with treatment of detainees by U.S. forces. They appreciate that situation is fluid and the JTF must be flexible. They accept that the U.S. must factor force protection as a paramount consideration. They expect, however, that the JTF will make continuous adjustments in its procedures as it refines and clarifies the actual threat level. If the threat from certain detainees lessens, then lesser forms of restraint may be appropriate at the commander's discretion.

5. Recommendations: Continue to provide ICRC with access and cooperation. Also, per the Commander's direction, I will prepare a memorandum for the record stating the ICRC's concerns and explaining JTF 160's response to each of those concerns.

T.J. MILLER

ENCLOSURE (1)

GENERAL OBSERVATION AND MEETING NOTES:

- Stress problems; starting to build; need to find ways to relieve.
- Do we need to provide a psychiatrist on the medical staff?
- Detainees feel some rules, i.e. no talking, cause higher stress, and feel talking would help to release stress.
- Stress may cause them to do something like shout or act up in some way.

- Red/orange colored clothing
- In their culture, red clothing is a sign that someone is about to be put to death.
- Possibly have them wear blue clothing like in Kandahar, or explain why they are wearing the red jumpsuit.

- Detainee who bites needs the psychiatrist.
- Do not publicize him so much.
- Emphasize that he is atypical.

- Transportation – security overrides everything else.
- ICRC noted the trucks and boats with weapons during transit.

- It was suggested that we have interpreters on the plane tell the detainees what will happen to them when they get off and head to the camp. This may alleviate stress and the red clothing fears.

**Issues for Commander:

- Should we continue not to tell them what is going on and keep them scared. ICRC says that they are very scared.
- What are the benefits of keeping them scared vs. telling them what is happening?
- What additional problems are caused when they are this scared?
- These detainees are not thinking logically.
- What would be the harm in telling them what is happening?
- The detainees think they are being taken to be shot.
- Hand cuffs and goggles causing abrasions and we should use bandages under them.

Camp X-Ray Issues:

- Shower and toilet privacy
 - Islamic people are very private as concerns their bodies.
 - They must be covered when showering and using the bathroom.
 - Issue of providing them shorts to wear in the shower.
 - There will have to be at least one guard watching them at all times, even in shower.

 - Beards
 - Could closely trimmed beards be tolerated?
 - Shave them only if there is a medical problem making it necessary.
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-Hand washing

- The detainees use their left hand to wash themselves after using the toilet.
- They don't use toilet paper.
- They need more water for use in washing at the toilet area and in the units.

-The detainees are looking forward to receiving their Koran.

-The detainees would like to have their confiscated personal items back.

- ICRC cards should be with their personal items. The detainees should have been given these cards while in Kandahar. Can they be permitted to keep the card with them?

-Koran storage problem. Koran must be kept neat and wrapped in something. Can we get them a small green cloth to wrap it?

-Could we get some sort of Muslim beads for them? Weak string to avoid using strand of beads as a weapon.

-Prayer issues

- We need two tapes to play over the PA system
- They need to get a reasonable time to pray
- We need to get some type of prayer cap for them to wear.

-Food

- Some positive comments, some negative comments.
- Did not seem to be a problem area
- Could we get them hot tea with sugar?
- We need to get an expert in their culture to help us with issues such as this.

-Sleep

- Pakistani's have trouble sleeping unless their head is covered
- They are having a hard time sleeping when their hands have to be visible. Guards wake them.
- Check into lowering the lights at night to help with sleeping.

-Permitting them to talk to each other in a low volume. Is a major improvement.

-Some detainees are having a hard time understanding orders. Shouting doesn't help.

-Would it be possible to let them know what will be happening to them legally?

** Talk to CG about dealing with the detainee who bit a guard.

-Distinguish between the detainees based on behavior.

-How about having a presentation by the ICRC to the troops?

-O&A time.

RESPONSE TO ICRC 3.3.3, AND 3.3.4

IN PART:

MPs have the detainees kneel down when restraints are being applied because:

1. This position is safer for all parties involved. The detainee is less likely to resist being placed in restraints in this position, thus not having any incident escalate to a point of a detainee being injured, possibly seriously.
2. It is more easily accessible to place the restraints on the detainee in the kneeling position. This is to have complete control of the restraints to avoid any possibility of injury to a detainee.
3. This technique is in accordance with policy and procedures and applicable SOP's.

The reason for a clothed body search is twofold:

1. In case there is an item on the person of a detainee and that detainee is unaware of that item. It can be removed so that no injury can occur to that detainee during transit. If they had not been searched according to policy and procedures and applicable SOP's, and an item was on their person, and during a transit, that detainee slipped and fell by accident, there would be a chance for possible injury to that detainee by that item.
2. The MPs perform a clothed body search by policy and procedures and applicable SOP's set forth to them by higher command. This is to protect both the MPs and detainees from possible harm or injury should a detainee wish to inflict injury to any MPs, other service member, or civilians that they may be nearby.
3. In U.S. correctional institutions, these measures are applied even on the least violent criminals within a prison system whether they are petty thieves or substance abusers up to and including murderers and rapists.

Detainees are allowed to take three showers per week. They are given five minutes for a shower with an additional five minutes if they wish to shave. It usually averages out to about fifteen minutes total when completed. This equates to 45 minutes per week. The detainees are allowed three 20-minute recreation periods per week and this equates to 60 minutes of recreation per week. Between the shower and recreation, the detainees are out of their cells for over two hours per week. Those detainees who qualify for Camp 4 will have access to both showers and extended communal recreational periods every day.

MPs wear latex gloves when they place restraints on detainees for health reasons. If a detainee has any open cuts or sores, by the MPs wearing latex gloves, there is less chance for the detainee obtaining an infection from an MP in case that their hands may have been

contaminated by a bacterial substance. Again, searches are performed in accordance with policy and procedures and applicable SOP's.

Female MPs escort detainees to the recreation area and shower only on the first detainee. Once that detainee is placed in the shower area, the female MP leaves that area. The detainee then would take his shower. The female MP does not return to the shower area again until all designated detainees have showered. At no time is a female MP in the surrounding area by the shower when detainees are taking a shower. This is in accordance with all policy and procedures and applicable SOP's.

Overall, detainees are allowed out of their cells more than the 120 minutes a week compared to what is reported.

SFC LICKMAN
JDOG OPS
DETENTION NCO