DATE: 11/01/02

AL QAIDA DETAINEE

1. Thank you for making such a good and determined start on interviewing Al Qaeda detainees; we can see all sorts of likely benefits.

2. There are one or two legal points worth repeating and/or clarifying, some with particular reference to some more general aspect has asked that you share these with

3.

4. With regard to the status of the prisoners, under the various Geneva conventions and protocols, all prisoners, however they are described, are entitled to the same level of protection. You have commented on their treatment. It appears from your description that they may not be being treated in accordance with the appropriate standards. Given that they are not within our custody or control, the law does not require you to intervene to prevent this. That said, HMG's stated commitment to human rights makes it important that
the Americans understand that we cannot be party to such ill
treatment nor can we be seen to condone it. In no case should they
be coerced during or in conjunction with an SIS interview of them.
If circumstances allow, you should consider drawing this to the
attention of a suitably senior US official locally.

5. It is important that you do not engage in any activity yourself
that involves inhumane or degrading treatment of prisoners. As a
representative of a UK public authority, you are obliged to act in
accordance with the Human Rights Act 2000 which prohibits torture, or
inhumane or degrading treatment. Also, as a Crown Servant, you are
bound by Section 31 of the Criminal Justice Act 1948, which makes
acts carried out overseas in the course of your official duties
subject to UK criminal law. In other words, your actions incur
criminal liability in the same way as if you were carrying out those
acts in the UK.

6. If you require further guidance on this or related
issues, please contact either

7.

8.

9.

10.