

the United States monitors the treatment of prisoners an "intelligence matter" that he could not discuss.

Mr. McCain is balking at agreeing to any kind of exemption for intelligence officials, members of his staff say. Instead, he has offered to include some language, modeled after military standards, under which soldiers can provide a defense if a "reasonable" person could have concluded that he or she was following a lawful order about how to treat prisoners. The senator's offer was first reported Saturday by The Wall Street Journal.

The negotiations between Mr. Hadley and Mr. McCain appear to be coming to a head. Four top House and Senate negotiators, meeting Tuesday to hammer out a military budget bill in conference committee, discussed Mr. McCain's measure and a handful of other contentious issues. But one of the negotiators, Representative Duncan Hunter, a California Republican who heads the House Armed Services Committee, told reporters earlier in the day, "We think we're going to have a good outcome for all parties."

As the House returned to work after a two-week recess, a bitter partisan fight continues to rage over the war in Iraq. Republicans held a news conference to praise American progress in Iraq, while Democrats took credit for changing the public debate and lambasted President Bush and Vice President Dick Cheney for failing to outline a specific proposal for victory.

In the House, Representative Steny Hoyer of Maryland, the Democratic whip, complained to reporters that Mr. Cheney "apparently wants to continue the option of torture as a national policy, and therefore the defense bill hasn't moved."

Mr. Hoyer said Democrats would stand behind Senator McCain. "He ought to stick to his guns - he's right," Mr. Hoyer said, adding, "We ought to make it clear that the policy of the United States is, we're going to follow not only international law but we're going to pursue our own values, and torture is not one of our values."

Sheryl Gay Stolberg contributed reporting for this article.

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NEW YORK TIMES

December 7, 2005

Rice Is Challenged in Europe Over Secret Prisons

By JOEL BRINKLEY

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BUCHAREST, Romania, Dec. 6 - Secretary of State Condoleezza Rice was pelted with questions on Tuesday about covert prisons and a mistaken, secret arrest, as she grappled with what has become an incendiary issue in Europe. She declined to answer most of them in two European capitals.

TRANSCOM GHOST DOCS 401

Europe has been roiled by reports that the United States maintained secret jails for terror suspects in Europe, and by residual anger over the American practice of rendition, or secretly transferring terrorism suspects to the custody of third countries, including some outside Europe that routinely use torture.

The anger has made it harder for Ms. Rice to repair already strained relations with many European nations at odds with American policy on Iraq, like Germany, where she met in Berlin with the new chancellor, Angela Merkel, hoping for a fresh start. But the issue confronted her repeatedly.

Mrs. Merkel said at a news conference that Ms. Rice had admitted making a mistake when the United States abducted a German citizen, Khaled el-Masri, on suspicions of terrorism and held him in detention for five months. But aides to Ms. Rice scrambled to deny that, saying instead that Ms. Rice had said only that if mistakes were made, they would be corrected.

Mr. Masri filed suit in Federal District Court in Alexandria, Va., on Tuesday against the former director of central intelligence and three companies he charged were involved in secret flights carrying terrorism suspects. He has said he was tortured during his detention. He also said that on Sunday he was denied entry to the United States, where he hoped to file his lawsuit in person.

State Department officials confirmed that he had been denied entry, but said that he would be allowed into the country if he applied again.

As Europeans continue to investigate whether torture or detention of terrorism suspects took place on European soil, Ms. Rice assured Mrs. Merkel that "the United States does not condone torture."

"It is against U.S. law to be involved in torture or conspiracy to commit torture," Ms. Rice said. "And it is also against U.S. international obligations."

But the American definition of torture is in some cases at variance with international conventions, and the administration has maintained in recent years that American law does not apply to prisoners held abroad.

In defending the practice of rendition, American officials have said that they obtain assurances from the third countries that prisoners will not be tortured, but that the United States is limited in its ability to enforce the promises.

The Central Intelligence Agency's inspector general found last year that the some aspects of the agency's treatment of terrorism detainees might constitute cruel, inhuman and degrading treatment, as the international Convention Against Torture defines it. The United States is a signer of that convention, though with some reservations.

A legal opinion by the Justice Department, issued in August 2002, said interrogation methods just short of those that might cause pain comparable to "organ failure, impairment of bodily function or even death" could be allowable without being considered torture.

The administration disavowed that classified legal opinion in the summer of 2004, after it was publicly disclosed. But a second legal opinion issued in December 2004, which defined torture more broadly, did not repudiate interrogation techniques that had been previously authorized. It remains unclear how many of those techniques are still in use by the C.I.A.

Congress is debating an amendment, passed in the Senate last month, that would prohibit the abusive treatment of terrorism suspects. But the White House has urged that the C.I.A. be exempted from any such ban.

In Romania, Ms. Rice signed a military cooperation agreement that would allow American forces to train with Romanian troops at the Mihael Kogalniceanu air base, which Human Rights Watch identified as a probable location of one secret prison.

Asked about the charge at a news conference, Traian Basescu, the Romanian president, vociferously denied that any such detention center existed and invited anyone who doubted that to come and see for himself.

During the news conference in Germany, Mrs. Merkel spoke openly about matters the Bush administration deems secret, while Mr. Rice continued to speak elliptically. That produced some awkward moments.

Mrs. Merkel spoke openly of "the issue of the C.I.A.'s overflights" that apparently hold secret detainees going to or from secret jails elsewhere, while Ms. Rice refused to answer most questions and continued insisting that the prison issue and related issues were classified matters.

Mrs. Merkel then said Ms. Rice had admitted that the United States had mistakenly abducted Mr. Masri.

"The American administration has admitted that this man had been erroneously taken and that, as such, the American administration is not denying that it has taken place," Mrs. Merkel said.

Ms. Rice said she could not talk about the case specifically, but added, "Any policy will sometimes result in error, and when it happens we do everything we can to correct it."

Later, an aide to Ms. Rice, who spoke on the condition that he not be identified, said that "we are not sure what was in her head" when Mrs. Merkel spoke of the American admission of error in the Masri case. Ms. Rice did not discuss the case with her in any

direct way, he and other aides insisted, even though the senior aide said, "The American government has talked about this issue with the German government."

Mrs. Merkel said simply, "We've talked about Mr. Masri."

Speaking of Mr. Masri and the issue of the detainees in general, Mrs. Merkel added, "We can't go public about all the details, but at the same time we need to introduce a certain degree of transparency."

After the mistaken arrest was discovered, the United States asked Germany to keep it secret, and Germany complied. Asked about that, Ms. Rice said, "Intelligence matters need to be handled sensitively."

Before leaving Washington on Monday morning, Ms. Rice issued a long, unapologetic statement on the secret-prison issue, which has become the subject of many investigations in Europe, while refusing to acknowledge that the prisons exist.

Aides said she was no more forthcoming in her talks with Mrs. Merkel.

Asked about Ms. Rice's statement in Washington, Mrs. Merkel said it was "a good basis on which we build," but added, "As chancellor, I work under and adhere to German laws." She announced that the intelligence committee of the German Parliament would take up the Masri case.

Even though aides to Ms. Rice said they realized that the secret-prison issue would dominate a good part of her trip, at times she has shown exasperation over the debate.

"We have an obligation to defend our people, and we will use every lawful means to do so," she declared in Berlin, adding that the public debate over the secret prisons ought to include "a healthy respect for the challenges we face" fighting terrorism.

The questions on the secret prisons posed to her and Mr. Basescu here in Bucharest came from the American reporters traveling with her. The Romanians asked about the new defense agreement. It would allow 1,500 American troops to be stationed at the air base on a rotating basis to take part in joint exercises and training. About 100 of those servicemen would be stationed there full time.

Mr. Basescu greeted the new agreement with unbridled enthusiasm, saying it shows that "the Romanian force has reached the potential that it can be a partner of the United States."

NEW YORK TIMES

December 7, 2005

Skepticism Seems to Erode Europeans' Faith in Rice

By RICHARD BERNSTEIN

TRANSCOM GHOST DOCS 404

BERLIN, Dec. 6 - Secretary of State Condoleezza Rice did what was expected, many people in Europe said Tuesday, after her meetings with Chancellor Angela Merkel and other German officials. She gave reassurances that the United States would not tolerate torture and, while not admitting mistakes, promised to correct any that had been made.

She accompanied that with an impassioned argument for aggressive intelligence gathering, within the law, as an indispensable means of saving lives endangered by an unusually dangerous and unscrupulous foe.

Did anybody believe her on this continent, aroused as rarely before by a raft of reports about secret prisons, C.I.A. flights, allegations of torture and of "renditions," or transfers, of prisoners to third countries so they can be tortured there?

"Yes, I did," Karl-Theodor zu Guttenberg, a conservative member of the German Parliament, said in a telephone interview on Tuesday. "The thing I believe is that the United States does obey international law, and Mrs. Merkel said that she believes it too."

Not everybody here is of that view, to say the least. Indeed, it would be hard to imagine a more sudden and thorough tarnishing of the Bush administration's credibility than the one taking place here right now. There have been too many reports in the news media about renditions - including one involving an Lebanese-born German citizen, Khaled el- Masri, kidnapped in Macedonia in December 2003 and imprisoned in Afghanistan for several months on the mistaken assumption that he was an associate of the Sept. 11 hijackers - for blanket disclaimers of torture to be widely believed.

"I think what she means is, 'We don't use it as an official way to do things, but we don't look at what is done in other countries,' " Monika Griefahn, a Social Democratic member of Parliament, said in regard to Ms. Rice's comment on torture. "And that's the problem for us."

Ms. Griefahn also expressed skepticism about Ms. Rice's assurance that where mistakes are made - presumably in Mr. Masri's case - the United States will do everything in its power to rectify them. Indeed, Bush administration officials said nothing about rectifying mistakes before reports of Mr. Masri's kidnapping.

"I don't believe they wanted to do anything to rectify the al-Masri case," Ms. Griefahn said.

In Britain, members of Parliament from both parties reacted with even greater skepticism to Ms. Rice's statement, saying it had neither answered their questions nor allayed their concerns about American policy.

"It's clear that the text of the speech was drafted by lawyers with the intention of misleading an audience," Andrew Tyrie, a Conservative member of Parliament, said in an interview. Mr. Tyrie is chairman of a recently formed nonpartisan committee that plans to investigate claims that the British government has tacitly condoned torture by allowing

the United States to use its airspace to transport terrorist suspects to countries where they are subsequently tortured.

Parsing through the speech, Mr. Tyrie pointed out example after example where, he said, Ms. Rice was using surgically precise language to obfuscate and distract. By asserting, for instance, that the United States does not send suspects to countries where they "will be" tortured, Ms. Rice is protecting herself, Mr. Tyrie said, leaving open the possibility that they "may be" tortured in those countries.

Others pointed out that the Bush administration's definition of torture did not include practices like water-boarding - in which prisoners are strapped to a board and made to believe they are about to be drowned - that violate provisions of the international Convention Against Torture.

Andrew Mullin, a Labor member of Parliament, said he had found Ms. Rice's assertions "wholly incredible." He agreed with Mr. Tyrie that Ms. Rice's statement had been "carefully lawyered," adding: "It is a matter of record that people have been kidnapped and have been handed over to people who have tortured them. I think their experience has to be matched against the particular form of language the secretary of state is using."

To a great extent, the latest trans-Atlantic brouhaha reflects a very real division between Europe and the United States, reminiscent of the arguments that took place over the Iraq war two years ago. In the view of the Bush administration and its supporters, the Europeans' moral fastidiousness reflects a lack of realism about the nature of the terrorist threat and what needs to be done to defeat it.

The view of Europeans, by contrast, is that they understand the terrorist threat perfectly well, but that the Bush administration's flouting of democratic standards and international law incites more terrorism, not less.

"I resent the fact that my country is foolishly being led into a misguided approach into combating terrorism by this administration," Mr. Tyrie said. "European countries have a far greater experience over many decades dealing with terrorism, and many of us have learned the hard way that dealing in a muscular way can often inflame the very terrorism you're trying to suppress."

In Mr. zu Guttenberg's view, the reports filling both the German and American news media these days and fostering a surge of renewed indignation against the Bush administration are based on unproved allegations and rumors that have been transformed into established fact.

"What's important is that the balance between democratic principles and secret services needs to be maintained," Mr. zu Guttenberg said. "I take it as a reaching out of the hand when she says mistakes have happened and we have to rectify them."

To some Americans at least, the way the charges about secret prisons and C.I.A. flights have gained currency illustrates the readiness of many Europeans always to believe the worst about the United States.

More than one commentator over the last few days has referred to the secret prisons as a Gulag Archipelago, even though Romania and Poland, the countries where the prisons are said to be situated, have denied their existence. Moreover, their total prison population would be at most a few dozen - compared with the hundreds of thousands that were confined in Stalin's real Gulag Archipelago.

The Bush administration's treatment of imprisoned suspected terrorists, coupled with the problems the United States continues to encounter in Iraq and Vice President Dick Cheney's resistance to Congressional curbs on the handling of prisoners, has not made Ms. Rice's job of persuasion any easier.

"The Europeans lack of realism is a big problem, but I'm also frustrated with the inability of the United States to behave like a successful big power," said John Kornblum, a former American ambassador to Germany and now director of the investment bank Lazard Frères in Germany.

He added that "the Europeans do have this propensity" to put the worst possible interpretation on American actions, "but unfortunately, we have given credibility to that sort of behavior."

To some extent, the comment by Ms. Rice that seems to have had the most effect in Europe was her statement made in Washington on Monday that many governments have cooperated with the United States on intelligence gathering.

That remark did not so much reassure European commentators that the United States was abiding by international treaties as it has led them to accuse their own governments of hypocrisy, silently acquiescing in American practices while publicly criticizing them.

"If the European services knew," the Italian daily La Repubblica said Tuesday, referring to the reports of secret prisons and C.I.A. flights in Europe, "how is it possible that the governments and the parliaments, which these services must answer to, weren't informed?"

Sarah Lyall contributed reporting from London for this article.

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German Held in Afghan Jail Files Lawsuit

By SCOTT SHANE

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WASHINGTON, Dec. 6 - A German citizen who says he was abducted in 2003, beaten and taken to Afghanistan by American agents in what was apparently a case of mistaken identity filed a lawsuit in federal court on Tuesday against George J. Tenet, the former C.I.A. director, and three companies suspected of being involved in secret C.I.A. flights.

The plaintiff, Khaled el-Masri, 42, a German of Lebanese descent, was refused entry to the United States after arriving Saturday in Atlanta on a flight from Germany to appear at the news conference Tuesday in Washington where the lawsuit was announced. Instead, Mr. Masri addressed the conference from Germany by video link, describing how he was seized on the Serbian-Macedonian border, kicked and hit, photographed nude and injected with drugs during five months in detention in Macedonia and in Afghanistan.

"I want to know why they did this to me," said Mr. Masri, whose German was translated into English by an interpreter. Now living with his wife and children in Germany, Mr. Masri, who has worked as a car salesman and carpenter but is currently unemployed, said he had not fully recovered from the trauma of his experience.

"I don't think I'm the human being I used to be," he said.

In an interview on Tuesday in Germany, Mr. Masri said his weekend encounter with immigration officers in Atlanta made him briefly fear that his ordeal in 2003 and 2004 might be repeated.

"My heart was beating very fast," he said. "I have remembered that time, what has happened to me, when they kidnapped me to Afghanistan. I have remembered and was afraid."

A spokeswoman for United States Customs and Border Protection, Kristi Clemens, confirmed that Mr. Masri was denied entry. She said he was turned away based on information received from other American agencies, but she declined to describe the information or to say whether Mr. Masri's name had again been confused with that of a wanted operative of Al Qaeda, the reason officials have given for his mistaken detention in 2003.

The lawsuit was filed in Federal District Court in Alexandria, Va., by lawyers for the American Civil Liberties Union.

Since it was first reported in January by The New York Times, the Masri case has often been cited as an example of tough American counterterrorism policies gone awry.

Mr. Masri's lawyers allege in the lawsuit that Mr. Tenet learned of the mistake but left Mr. Masri in detention for two more months before having him set free at night on a hillside in Albania in May 2004.

The lawyers argue that even though he is not an American citizen, the treatment of Mr. Masri violated his right to due process under the Fifth Amendment as well as the Geneva

Conventions and other bans on torture. He is suing under the Alien Tort Statute, adopted in 1789, which permits noncitizens to sue in the United States for violations of international norms. The suit seeks unspecified monetary damages "in an amount over \$75,000."

His lawsuit is the latest development in a legal assault by human rights groups on the Central Intelligence Agency's clandestine operations to detain, transport and interrogate suspected terrorists since the attacks of Sept. 11, 2001.

The lawsuit appears to be the first to single out a web of companies that operate a fleet of aircraft believed to be used by the C.I.A. The companies identified in the suit were Aero Contractors, a Smithfield, N.C., company that provides crews and maintenance; Premier Executive Transport Services of Dedham, Mass., which in 2003 owned the Boeing business jet that the lawsuit says was used to take Mr. Masri from Macedonia to Afghanistan; and Keeler and Tate Management L.L.C., of Reno, Nev., which owns the jet now.

The lawsuit could force the C.I.A. to acknowledge its secret relationship with the companies, said Anthony D. Romero, executive director of the A.C.L.U. He said the A.C.L.U. took the case to penetrate what he called the "culture of impunity" in the Bush administration for human rights violations and to force the C.I.A. to abandon practices in conflict with American values.

A spokesman for Mr. Tenet, who served as C.I.A. director from 1997 to 2004, said he had no comment, as did a spokesman for the C.I.A.

Robert W. Blowers, an executive at Aero Contractors, said, "I don't have anything to say about it." Attempts to reach representatives of the other two air companies were unsuccessful.

Michael Greenberger, a law professor at the University of Maryland who teaches a course on the law of counterterrorism, said Mr. Masri's lawyers faced "a steep uphill climb" in making their case in the Eastern District of Virginia and the conservative United States Court of Appeals for the Fourth Circuit in Richmond, Va. But Mr. Greenberger said the Supreme Court, in a ruling last year, suggested the Alien Tort Statute might apply to claims of torture.

Souad Mekhennet contributed reporting from Germany for this article.

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NEW YORK TIMES

EDITORIAL:
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Editorial

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Secretary Rice's Rendition

It was a sad enough measure of how badly the Bush administration has damaged its moral standing that the secretary of state had to deny that the president condones torture before she could visit some of the most reliable American allies in Europe. It was even worse that she had a hard time sounding credible when she did it.

Of course, it would have helped if Condoleezza Rice was actually in a position to convince the world that the United States has not, does not and will not torture prisoners. But there's just too much evidence that this has happened at the hands of American interrogators or their proxies in other countries. Vice President Dick Cheney is still lobbying to legalize torture at the C.I.A.'s secret prisons, and to block a law that would reimpose on military prisons the decades-old standard of decent treatment that Mr. Bush scrapped after 9/11.

Pesky facts keep getting in the way of Ms. Rice's message. Yesterday, the new German chancellor, Angela Merkel, said that Ms. Rice had acknowledged privately that the United States should not have abducted a German citizen, Khaled el-Masri, who says he was sent to Afghanistan and mistreated for five months before the Americans realized that they had the wrong man and let him go.

Mr. Masri tried to appear at a press conference in Washington yesterday to discuss a lawsuit filed in Virginia on his behalf by the American Civil Liberties Union, a suit alleging wrongful imprisonment and torture - but the United States government has refused to allow him into the country.

At issue is the practice of extraordinary rendition. When a government captures someone really dangerous, like a terrorist leader, who cannot be charged under that government's own laws, it sends him to another country where authorities are willing to charge the suspect or at least can get away with locking him up indefinitely without charges.

It's been going on for decades, infrequently and selectively, but the United States is reported to have stepped it up since 9/11 and violated international law by sending suspects to places where it knows they will be tortured. Recently, European governments expressed outrage at reports that some detainees were held at secret C.I.A. prisons in Europe.

Ms. Rice, like other American officials, will not comment on these reports. But before leaving Washington on Monday, she read a statement implying that if there were any secret prisons out there, the host countries knew about them. She rather bluntly warned that European countries who want American intelligence had better not betray any secrets.

Certainly, some of Europe's shock at the news of the C.I.A. camps is political theater aimed at the widely anti-American European public. But that doesn't make it any less disturbing that the United States government seems to have lost its ability to distinguish

between acts that may occur sub rosa in some exceptional, critical situations and the basic rules of proper international behavior.

Ms. Rice said Monday that rendition had been used to lock up some really dangerous bad guys, like Carlos the Jackal and Ramzi Yousef, who masterminded the 1993 World Trade Center bombing. But both men were charged in courts, put on trial, convicted and sentenced. That's what most American think when they hear talk about "bringing the terrorists to justice" - not predawn abductions, blindfolded prisoners on plane rides and years of torture in distant lands without any public reckoning.

Citation: <http://www.nytimes.com/2005/12/07/opinion/07wed1.html>

LOS ANGELES TIMES

Most in U.S. Say Torture Can Be Just

From Associated Press

December 7, 2005

WASHINGTON — Most Americans and a majority of people in Britain, France and South Korea said that torturing terrorism suspects is justified at least in rare instances, according to an AP-Ipsos poll.

The survey, taken in the United States and eight closely allied nations, found that Canadians, Mexicans and Germans were divided on whether torture is ever justified.

Most people in Spain and Italy opposed torture under any circumstances.

In the United States, 61% of those surveyed agreed that torture is justified at least on rare occasions. Almost nine in 10 in South Korea and slightly more than half in France and Britain shared that view.

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CHRISTIAN SCIENCE MONITOR

Daily Update:

Wednesday, December 07, 2005

Rendition not foolproof

Rice defends practice but records show serious mistakes have been made.

By **Tom Regan** | csmonitor.com

After weeks of pressure to make a statement, US Secretary of State Condoleezza Rice Monday strongly defended the practice of rendition, "the covert capture [in foreign

TRANSCOM GHOST DOCS 411

countries] and transfer of terrorism suspects without the involvement of a court," saying it was a vital tool in the war on terror. **The Boston Globe** reports that Ms. Rice said the US does not "send anyone to a country to be tortured."

"The United States has not transported anyone, and will not transport anyone, to a country when we believe he will be tortured," she said. "Where appropriate, the United States seeks assurances that transferred persons will not be tortured."

Rice said that rendition had helped European countries stop terror attacks. But European allies continue to protest rendition, and point to reports of a network of secret prisons in countries that were once part of the former Soviet bloc. The **Globe** writes that Rice's tough stance was "designed to shore up flagging support for the Bush administration's tactics without signaling any significant change in course."

ABC News, citing unidentified current and former CIA agents, reported Monday night that 11 "high value" Al Qaeda terrorists had been held at a former Soviet air base in Eastern Europe and were spirited to a site in North Africa just before Ms. Rice's arrival in Europe.

Of the 12 high value targets housed by the CIA, only one did not require water boarding [what the CIA describes as "an enhanced interrogation technique"] before he talked. Ramzi bin al-Shibh broke down in tears after he was walked past the cell of Khalid Sheik Mohammed, the operational planner for Sept. 11. Visibly shaken, he started to cry and became as cooperative as if he had been tied down to a water board, sources said.

The problem for the US has been that, along with the disclosure of the existence of the "secret prisons," there have been several high-profile cases that have highlighted US mistakes, such as US agents grabbing the wrong person, wrongly imprisoned subjects of rendition alleging they had been tortured in the countries where they had been taken, and allegations that the CIA lied to a European ally about a rendition.

The Washington Post reported Sunday on the case of Khaled Masri, a German citizen who had been the subject of a rendition and then wrongfully imprisoned for five months. When the US ambassador to Germany finally told the German interior minister about the mistake, the **Post** reports that he asked the German government not to disclose that it had been told about the US mistake, even if Mr. Masri went public with what happened to him. Apparently US officials feared exposure of the rendition program, and also possible legal action.

The **Post** reports that the Masri case shows how pressure on the CIA to apprehend Al Qaeda members after 9/11 led to an unknown number of detentions based on slim or faulty evidence, and just how hard it is to correct these mistakes in a system "built and operated in secret."

One [US] official said about three dozen names fall in that category [those mistakenly detained]; others believe it is fewer. The list includes several people whose identities were offered by Al Qaeda figures during CIA interrogations, officials said. One turned

out to be an innocent college professor who had given the Al Qaeda member a bad grade, one official said.

"They picked up the wrong people, who had no information. In many, many cases there was only some vague association" with terrorism, one CIA officer said.

Tuesday the **Post** also reported on the case of radical Islamic cleric Hassan Mustafa Osama Nasr, an Egyptian refugee known as Abu Omar. In March 2003, the CIA told Italian authorities about the whereabouts of the cleric, saying they had "reliable reports" that he had fled to the Balkans. In fact, Italy alleges that the CIA tip was a "deliberate lie" designed to stop efforts by Italian antiterrorism police to find Abu Omar.

The strategy worked for more than a year until Italian investigators learned that Nasr had not gone to the Balkans after all. Instead, prosecutors here have charged, he was abducted off a street in Milan by a team of CIA operatives who took him to two US military bases in succession and then flew him to Egypt, where he was interrogated and allegedly tortured by Egyptian security agents before being released to house arrest.

The lead prosecutor in Milan, Armando Spataro, called the rendition of Mr. Omar "a serious crime against Italian sovereignty and human rights," and that it had compromised antiterrorism efforts in Europe. Mr. Spataro said that if Omar had not been kidnapped, he would probably be in a jail in Italy, "subject to a regular trial, and we would have probably identified his other accomplices." Prosecutors and judges in Milan have issued arrest warrants for 22 alleged CIA operatives, including the head of the CIA substation in Milan.

US officials, meanwhile, say that they did brief their Italian counterparts about their actions. They say this notification would probably be undocumented. "The price of doing business is if you get caught, you're on your own," said one former intelligence official.

Reuters reported Sunday that despite these widely publicized cases, European officials are reluctant to "pick a fight with the US" at this time. On the one hand, the Europeans are trying to repair relations with the US. On the other hand, some European officials "face awkward and persistent suggestions that they may have known and approved of secret US operations taking place on their soil."

In Sweden, a parliamentary ombudsman's report last March heavily criticised the national security services for allowing the CIA in 2001 to fly two Egyptian asylum seekers from Sweden to Egypt, where they were held incommunicado for five weeks and alleged they had been tortured. The report said the Swedish security service and airport police displayed "a remarkable subordination to the American officials."

An editorial in the **San Jose Mercury News** argues that Ms. Rice is not helping the US when she lectures European allies on torture and tells them they should butt out of US conduct at its once-secret detention centers, eight or more of which are believed to be on European soil.

While the Bush administration continues to claim it does not condone torture, it opposes a ban on torture that is moving through Congress. Rice joins Vice President Dick Cheney and others in showing exasperation at the proposal and at the criticism of other nations.

Europeans have lived under the threat of terrorist attacks far longer – and have been victims far more frequently – than Americans. In spite of that, they continue to support the international law banning torture. Why? Because they believe torture has no place in a civilized society, and if Europeans were to practice it, they would be no better than the enemy.

Finally, the **Associated Press** reported Tuesday that a new poll shows that Americans and citizens of eight countries that are allies of the US are deeply divided on the question of rendition. Almost two-thirds of those polled in the eight countries [Canada, Mexico, South Korea, Spain, Britain, France, Germany, and Italy] don't want the United States conducting secret interrogations of terror suspects on their soil, while almost two-thirds of Americans support such interrogation in the US.

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CHRISTIAN SCIENCE MONITOR

EDITORIAL:

from the December 07, 2005 edition - <http://www.csmonitor.com/2005/1207/p08s01-comv.html>

US credibility gap in Europe

The Monitor's View

Not again. Just when the deep freeze in US relations with some European countries is thawing, a cold front blows in. Once more, it originates in the war on terrorism, but this time it's not about invading Iraq, but about CIA doings in Europe.

By now, it almost doesn't matter whether secret CIA detention centers housing high-value terrorist suspects in Eastern Europe even exist, or if so, are legal; or whether the transport of detainees to and through Europe is in accord with international law, a question the European Union raises. The month-long controversy over the alleged centers and the transport policy, known as rendition, is once again sowing mistrust of Washington among some European governments, parliaments, and citizens - especially in Western Europe. This can hardly enhance valuable European assistance in the war on terrorism.

Questions about US treatment of terrorist suspects in Europe are meeting US Secretary of State Condoleezza Rice on her trip to Germany, Romania, Ukraine, and Belgium this week. She's vigorously defending US antiterrorist tactics, pointing out they've saved American - and European - lives, and that in carrying them out, the US is abiding by its own and international laws. Above all, she stresses, the US does not torture, nor send detainees via rendition to countries where the US believes they will be tortured.

But the Bush administration faces a credibility problem. After documented prisoner abuse cases in Abu Ghraib, Guantánamo Bay, and elsewhere, Europeans have trouble believing

that prisoners were not mistreated at the two supposed Eastern European sites (ABC reported Monday that the prisons were shut down last month, and the 11 detainees sent to a CIA site in north Africa). A newly reported case relating to a Lebanese-born German national wrongly detained by the US only reinforces their suspicions.

And, many Europeans wonder, what does the US mean when it denies using torture? Should there be an asterisk after every mention of that word? Because the CIA does allow "enhanced interrogation techniques" - including shaking, striking, subjecting detainees to cold, and making them believe they're drowning - all of which sure sound like torture. It baffles Europeans (as it should Americans), that the White House has sought an exemption for the CIA from an approved Senate amendment that would ban "cruel, inhumane or degrading treatment of prisoners."

Secretary Rice also stretches credibility by refusing to confirm or deny the alleged network of overseas CIA detention centers. She says that would compromise intelligence.

The administration must go beyond this blanket phrase and explain how confirming these alleged facilities would actually hurt intelligence - so essential to fighting terrorism.

If the US is acting legally and humanely, why might it keep undercover a detention network where the Red Cross can't visit and detainees have not even limited legal recourse?

Until the administration more thoroughly explains itself on this issue and also actively supports the Senate torture ban, its credibility problems will persist in Europe - and at home. It must have support on both fronts to win this war.

WASHINGTON TIMES

Washington Times
December 7, 2005
Pg. 14

Poll Finds Support For Use Of Torture In War On Terror

By Will Lester, Associated Press

Most Americans and a majority of people in Britain, France and South Korea say torturing terrorism suspects is justified at least on rare occasions, according to a poll conducted in the United States and eight U.S.-allied countries.

Only in Italy and Spain do most people oppose torture under any circumstances, the AP-Ipsos survey found, while in Canada, Mexico and Germany there is a nearly even split.

However, majorities in every country except the United States said they did not want Americans conducting secret interrogations of terror suspects on their soil, reflecting concern about reports of secret prisons run by the CIA in Eastern Europe.

Meanwhile, an Internet video once again threw the spotlight on al Qaeda's architects of terror. The group's deputy leader, Ayman al-Zawahri said today its leader, Osama bin Laden, is still alive and leading the holy war against the West, Reuters news agency reported.

"Al Qaeda for holy war is still, thanks to God, a base for jihad [holy war]. Its prince, Sheik Osama bin Laden, may God protect him, is still leading its jihad," al-Zawahri said in a video posted on a Web site frequently used by militants.

"I bring a message of joy to all Muslims and mujahedeen that al Qaeda, thanks to God, is spreading and expanding and strengthening," he said.

In the poll, about two-thirds of those living in Canada, Mexico, South Korea and Spain said they would oppose allowing the United States to secretly interrogate terror suspects in their countries.

Almost that many in Britain, France, Germany and Italy said they feel the same way. Almost two-thirds in the United States support such interrogations on U.S. territory by their own government.

Officials with the European Union and in at least a half-dozen European countries are investigating reports of secret U.S. interrogations in Eastern Europe. The EU has threatened to revoke voting rights of any nation in the federation that was host to a clandestine detention center.

On the issue of torture, 61 percent of Americans refused to rule it out. About one in 10 -- 11 percent -- said it could be justified often, while 27 percent said sometimes and 23 percent said rarely. Almost four in 10 -- 36 percent -- said it could never be justified; another 3 percent were unsure.

Majorities in Britain, France and South Korea felt similarly, with South Koreans most willing to countenance it as a routine practice. In that country, 53 percent said it is sometimes or often justified, while only 10 percent said it should never be used.

Only in Italy and Spain do majorities oppose torture under any circumstances. The strongest opposition came in Italy, where six in 10 said it is never justified, while 54 percent of Spaniards took that position.

The Bush administration says it does not condone or practice torture, but it has taken the position that some terrorism suspects are "enemy combatants" not protected by the Geneva Conventions, which spell out the rights of prisoners of war.

Sen. John McCain, Arizona Republican, is pushing to ban the use of torture as well as "cruel and inhumane treatment," and said this week on NBC-TV that he will accept no compromise.

The polls of about 1,000 adults in each of the nine countries were conducted between Nov. 15 and Nov. 28. Each poll had a margin of sampling error of plus or minus three percentage points.

Thursday, December 08, 2005

WASHINGTON POST

Rice Seeks To Clarify Policy on Prisoners

Cruel, Inhuman Tactics By U.S. Personnel Barred Overseas and at Home

By Glenn Kessler and Josh White
Washington Post Staff Writers
Thursday, December 8, 2005; A01

KIEV, Ukraine, Dec. 7 -- Secretary of State Condoleezza Rice said Wednesday that the United States prohibits all its personnel from using cruel or inhuman techniques in prisoner interrogations, whether inside or outside U.S. borders. Previous public statements by the Bush administration have asserted that the ban did not apply abroad.

U.S. obligations under the U.N. Convention Against Torture, which prohibits cruel, inhuman and degrading treatment, extend as "a matter of policy" to "U.S. personnel wherever they are, whether they are in the United States or outside of the United States," Rice said here at a news conference with Ukraine's president, Viktor Yushchenko.

The remarks were her latest effort during a week-long European trip to convince skeptics that the United States is committed to fair and decent treatment of terrorism suspects. At every stop of her trip, she has faced reporters' questions about torture at a time of widespread outrage in Europe over reports that the CIA has operated secret prisons in East European countries.

In Washington, supporters of an anti-torture bill sponsored by Sen. John McCain (R-Ariz.), a former prisoner of war, greeted her statement as a sign that the White House was abandoning claims that the measure could complicate the fight against international terrorism.

Rice's remarks are "an important and very welcome change from their previous position, which I believe has cost us dearly in the world and does not reflect our nation's laws or our values," Sen. Carl M. Levin of Michigan, ranking Democrat on the Senate Armed Services Committee, said in a statement. "I also believe that the administration's position

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on this matter up to now has endangered our troops, because others might point to our practices to justify their own."

Even after Rice made her remarks, administration aides turned aside suggestions that she was breaking new ground. In Washington, Scott McClellan, the White House spokesman, told reporters that Rice was only expressing existing policy.

McClellan's comment appears to be based on a written answer that Attorney General Alberto R. Gonzales gave in late October to a question posed by the Senate Judiciary Committee. In answer to Question 158, Gonzales wrote that the administration's policy is to abide by provisions barring cruel, inhuman and degrading treatment "even if such compliance is not legally required, regardless of whether the detainee in question is held in the United States or overseas."

Those words, buried in the document, passed largely unnoticed and the new policy was never publicly articulated until Rice spoke in Kiev on Wednesday.

The McCain bill, passed by the Senate, would put into law a ban on torture and lesser forms of abuse. Congressional aides said Wednesday that conferees were poised to accept the McCain language on detainees and that they expected the measure to pass easily in the House of Representatives.

The administration is "accepting reality" that Congress supports a broad ban on mistreatment of prisoners, one aide said, speaking on condition of anonymity. Members of Congress in both parties have come to fear that opposing McCain's language could be seen as supporting torture, the aide said.

Critics of the administration have charged that it has played deceptive word games with descriptions of its interrogation policy. Rice's statement appeared to narrow the ambiguity and bar interrogation techniques that the CIA has been permitted to use in select cases, such as sexual humiliation and "waterboarding," in which the prisoner is made to believe he or she is drowning.

Still, analysts were trying to sort out its practical meaning Wednesday. "The administration has shown itself a number of times capable of changing course and speed in response to actual or feared legal developments, be it in the courts or in Congress," said Eugene Fidell, a Washington specialist on military law. "This may be another illustration of that tendency."

The United States is a signatory to the U.N. convention in which nations refuse to engage in torture and pledge to "undertake to prevent" cruel, inhuman and degrading treatment methods "that do not amount to torture."

The Bush administration has long said that the U.S. government will not engage in torture. But it has argued in the past that restrictions on cruel, inhuman and degrading treatment do not apply outside U.S. territory.

Before she left for Europe on Monday, Rice issued a detailed statement on U.S. policy on treatment of prisoners, intending to dampen the furor on the continent. She said, among other things, that "the United States government does not authorize or condone torture of detainees." But she did not define torture.

While flying to Europe on Monday, Rice was asked by a reporter whether her statement was intended to close the loophole concerning techniques permissible abroad, as McCain's bill would do. She first ducked the question, saying that the United States interprets these treaties and abides by its interpretation. Later in the briefing, she added: "Our people, wherever they are, are operating under U.S. law and U.S. obligations."

For two days, her aides declined to clarify whether her comment in the briefing signaled a change from the administration's previous public position. But before the news conference Wednesday, Rice's aides indicated to reporters traveling with the secretary that she was eager to clear up the issue.

What was different about Rice's statement Wednesday was that she spoke not only of torture but also the broader range of tough interrogation tactics -- and then said the ban would apply universally.

For weeks before Rice's statement here, a private debate was underway in the Bush administration. Rice's team has pushed for a more restrictive standard, often in conflict with Vice President Cheney's office, where people have argued for exempting the CIA from restrictions in McCain's bill.

Government sources familiar with the debate said the White House has also opposed a separate proposal that the Defense Department adopt in its directives language similar to Article 3 of the Geneva Convention regarding prisoners. It prohibits "outrages upon personal dignity, in particular, humiliating and degrading treatment."

A military probe into FBI allegations of abuse at the U.S.-run prison at Guantanamo Bay, Cuba, found that interrogators had led a detainee around by a leash tied to his chains, placed female underwear on his head and made him stand naked in front of a female interrogator.

The probe found that the tactics did not constitute torture or "inhumane" treatment, which are barred. But it found the tactics to be "degrading and abusive," which would be barred by the Pentagon directive and McCain's bill.

Fidell, the military law expert, said Wednesday that U.S. officials should always have been operating under standards prohibiting abusive treatment. "It's clear that this was a preposterous legal argument, which they now have apparently abandoned," he said.

White reported from Washington.

WASHINGTON POST

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German Says He Questioned CIA Action

Reuters

Thursday, December 8, 2005; A28

BERLIN, Dec. 7 -- Germany asked the United States why the CIA mistakenly detained a German citizen and imprisoned him in Afghanistan for months, but the response was inadequate, Germany's former interior minister Otto Schily said Wednesday.

The Washington Post reported Sunday that Daniel R. Coats, then the U.S. ambassador to Germany, had told Schily in May 2004 that Khaled Masri had been wrongfully held as a suspected terrorist and asked Schily to keep quiet about it.

The report has fueled a political storm in Germany, heaping pressure on Schily and the government of former chancellor Gerhard Schroeder to show they followed up on the wrongful detention of a German citizen.

In his first public comments since the report, Schily said he went to the Americans and asked them to give German investigators a clear explanation of why Masri had been taken. "Unfortunately, this did not happen in an adequate manner," Schily was quoted as saying in the German weekly Die Zeit.

WASHINGTON POST

U.N. Official Faults U.S. Detentions

Terrorism Fight Hurts Torture Ban, Human Rights Chief Says

By Colum Lynch

Washington Post Staff Writer

Thursday, December 8, 2005; A27

UNITED NATIONS, Dec. 7 -- The U.S.-led fight against terrorism is eroding the time-honored international prohibition of torture and other forms of cruel or degrading treatment of prisoners, the top U.N. human rights official said Wednesday in a statement commemorating Human Rights Day.

Louise Arbour, the high commissioner for human rights at the United Nations, presented the most forceful criticism to date of U.S. detention policies by a senior U.N. official, asserting that holding suspects incommunicado in itself amounts to torture.

She also expressed concern in a news conference with efforts by some U.S. policymakers to exempt CIA interrogators from elements of the U.N. Convention Against Torture. Vice President Cheney's office has sought to block efforts by Sen. John McCain (R-Ariz.) and

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other lawmakers to subject CIA personnel from the 1984 convention's ban on the use of cruel or degrading treatment of detainees.

But sources on Capitol Hill said yesterday that the administration is backing down on its opposition to the proposed legislation, after Secretary of State Condoleezza Rice said in Ukraine that U.S. personnel are prohibited from violating the U.N. Convention on Torture while overseas. The administration has previously said the agreement does not apply abroad.

Arbour's statement said that the "absolute ban on torture, a cornerstone of the international human rights edifice, is under attack. The principle once believed to be unassailable -- the inherent right to physical integrity and dignity of person -- is becoming a casualty of the so-called 'war on terrorism.' "

John R. Bolton, the U.S. ambassador to the United Nations, criticized Arbour, calling it "inappropriate" for her to choose a Human Rights Day celebration to criticize the United States instead of such rights abusers as Burma, Cuba and Zimbabwe. He also warned that it would undercut his efforts to negotiate formation of a new human rights council that would exclude countries with bad rights records.

"Today is Human Rights Day. It would be appropriate, I think, for the U.N.'s high commissioner for human rights to talk about the serious human rights problems that exist in the world today," Bolton told reporters. "It is disappointing that she has chosen to talk about press commentary about alleged American conduct. I think the secretary of state has fully and completely addressed the substance of the allegations, so I won't go back into that again other than to reaffirm that the United States does not engage in torture."

He added: "I think it is inappropriate and illegitimate for an international civil servant to second-guess the conduct that we're engaged in in the war on terror, with nothing more as evidence than what she reads in the newspapers."

Arbour, a former Canadian Supreme Court justice, did not name the United States in her statement. But she criticized two elements of U.S. counterterrorism policy: the use of severe interrogation techniques -- which the CIA has authorized -- and the rendition, or transfer, of suspected terrorists to countries that have engaged in torture.

She also questioned the value of the U.S. practice of obtaining diplomatic assurances from governments that they will not torture such individuals. "There are many reasons to be skeptical about the value of those assurances," she said. "If there is no risk of torture in a particular case, they are unnecessary and redundant. If there is a risk, how effective are these assurances likely to be?"

Arbour said that "moves to water down or question the absolute ban on torture, as well as on cruel, inhuman or degrading treatment" are "particularly insidious." She added that "governments in a number of countries are claiming that established rules do not apply anymore: that we live in a changed world and that there is a 'new normal.' "

Staff writer Josh White in Washington contributed to this report.

WASHINGTON POST

EDITORIAL:

'Policy' Is Not Enough

Thursday, December 8, 2005; A32

SECRETARY OF State Condoleezza Rice did not break any new ground yesterday when she declared that "as a matter of U.S. policy," an international ban on "cruel, inhuman and degrading treatment" covers U.S. personnel "wherever they are." Defense Department General Counsel William J. Haynes II offered the same assurance in a letter to Congress in June 2003. Noting that the Senate had defined "cruel, inhuman and degrading" as any treatment that would violate the Fifth, Eighth and 14th amendments of the Constitution, Mr. Haynes stated that Bush administration "policy is to treat all detainees and conduct all interrogations, wherever they occur, in a manner consistent with this commitment." During his confirmation hearing earlier this year, Attorney General Alberto R. Gonzales said that while it was not legally obligated, the administration "wants to be" in compliance with that standard. His nominee for deputy, Timothy E. Flanigan, told the Senate several months ago that "it is the policy of the administration to abide by the substantive constitutional standard."

Yet during some or all of the past two years, according to reports by numerous U.S. media outlets, the CIA has been subjecting foreign detainees in secret prisons to interrogation techniques including "waterboarding," or simulated drowning; mock execution; prolonged shackling; being threatened with dogs; and "cold cell," in which prisoners are held naked in low temperatures and doused with cold water. It is not just human rights groups that believe these methods violate the Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment; according to a report last month in the New York Times, the CIA's own inspector general concluded in a secret report in 2004 that the methods violated the treaty standard.

What then, are Americans -- and the outraged Europeans Ms. Rice was addressing -- to make of her statements insisting that the United States is following its treaty obligations? Unfortunately, her words do not resolve the questions over the CIA's secret prisons. Despite its repeated statements of "policy," the administration has almost certainly been violating the standards of the Convention Against Torture -- unless it believes that waterboarding is permitted by the Constitution and could be used by the FBI on Americans. Mr. Gonzales argued that some violations would be legal, because prisoners held overseas are not subject to the Constitution and therefore not technically protected by the prohibition against cruel, inhuman and degrading treatment as the Senate defined it. It may be "policy," in other words, but any policy allows for exceptions.

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The only way to end waterboarding and other U.S. violations of human rights is to ban cruel, inhuman and degrading treatment for all prisoners *by law*. That is the content of the amendment by Sen. John McCain (R-Ariz.) amendment to the defense appropriations bill, which the administration has fiercely resisted despite its proclaimed policy. As the White House knows, the amendment has overwhelming support in Congress. Should President Bush accept it, there would be no more need for secret CIA prisons in foreign

NEW YORK TIMES

December 8, 2005

More Questions as Rice Asserts Detainee Policy

By RICHARD W. STEVENSON and JOEL BRINKLEY

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WASHINGTON, Dec. 7 - Responding to pressure at home and abroad to set clearer standards for the interrogation of terrorist suspects, Secretary of State Condoleezza Rice said Wednesday that the policy of the United States was not to allow its personnel, whether on American or foreign soil, to engage in cruel, inhumane or degrading treatment of prisoners.

But her statement did little to clear up widespread confusion about where the administration draws the line or to dispel hints of an internal debate among President Bush's inner circle on that topic. It was interpreted variously as a subtle but important shift in policy, a restatement of the administration's long-held position or an artful dodge intended to retain flexibility in dealing with detainees while soothing public opinion in the United States and Europe.

Ms. Rice, traveling in Europe this week, has faced constant questions about the treatment of detainees, partly prompted by reports that the United States maintained secret detention facilities in European countries. On Tuesday, the issue surfaced in talks with the new German chancellor, Angela Merkel.

And in Washington, the administration is facing a strong push by Senator John McCain, Republican of Arizona, for legislation to bar inhumane or degrading treatment of detainees.

Speaking Wednesday in Kiev, Ukraine, Ms. Rice suggested that the prohibitions contained in an international convention against the use of cruel, inhumane and degrading treatment were applied by the United States to American personnel working anywhere in the world.

After her aides passed word to reporters traveling with her in Europe that she wanted to be asked about the issue, Ms. Rice, when asked, answered by referring to the Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment, a

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treaty adopted by the United Nations more than two decades ago and ratified by the United States in 1994.

"As a matter of U.S. policy, the United States obligations under the C.A.T., which prohibits, of course, cruel and inhumane and degrading treatment, those obligations extend to U.S. personnel wherever they are, whether they are in the United States or outside of the United States," she said.

Her wording appeared to be an effort to signal explicitly that the United States considered itself bound by those standards when it came to interrogations of non-Americans by C.I.A. officers operating outside the United States. But it did not directly address another practice that has drawn criticism at home and abroad, that of sending detainees to third countries for interrogation by foreign intelligence and law enforcement agencies.

The confusion over the import of her remarks stemmed in part from a distinction often obscured in the debate over the issue. On the one hand, the administration has argued that the United States is not legally bound to apply all the international standards to, for example, C.I.A. officers working in foreign countries. On the other hand, the administration maintains that whatever the law says, its policy is to adhere to the substance of those standards, at least as they are defined by the United States.

The administration has repeatedly said it did not consider the law that implemented the international treaty to apply in a legal sense to the C.I.A. and other nonmilitary personnel interrogating non-Americans abroad. But it has also stated, as the Justice Department put it in a letter to several Democratic senators last spring, that as a matter of policy the United States "wants to be in compliance" with the standards of the convention and was reviewing interrogation techniques to ensure that it was.

Alluding to the administration's previous statements about its policy intentions, Scott McClellan, the White House spokesman, said Ms. Rice's statement did not represent any change.

But Senator Carl Levin of Michigan, the senior Democrat on the Armed Services Committee, said it was a reversal and a "very welcome change from their previous position, which I believe has cost us dearly in the world and does not reflect our nation's laws or our values."

And throughout Washington, officials sought clarification on whether her statement had been driven by pressure not just from European allies who have been critical of the United States over the issue but also from Congress and especially Senator McCain.

Mr. McCain has been negotiating with the White House over legislation that would bar inhumane or degrading treatment of prisoners in American custody, with the administration seeking language that could make it harder to prosecute intelligence officers charged with violating torture standards.

Senate aides, speaking on the condition of anonymity because they were not authorized to speak publicly about the matter, said Ms. Rice's statement was not part of a deal with Mr. McCain. Mr. McCain's office said he would have no comment.

A former senior American government official, who was granted anonymity to discuss the administration's policy candidly, said Ms. Rice seemed to have three goals in making the statement. The first, the former official said, was "to appease our European critics, from whom she is taking enormous heat." The second, he said, was "to tie more firmly the hands" of the Justice Department, the C.I.A. and the Pentagon when it comes to setting policy. The third, he said, is to help make a case on Capitol Hill that the McCain amendment is unnecessary.

Tom Malinowski, Washington director of Human Rights Watch, said in a statement, "The ban against cruel, inhumane or degrading treatment has to be more than a 'policy,' which can be changed by the president at any time. For months, Senator McCain has been asking for this international ban to be strengthened under U.S. law, and the administration should stop resisting his efforts."

Ms. Rice has grappled all week with how to portray the United States as responsive to criticism of its policies, especially in light of a report last month by The Washington Post that the United States is operating secret prisons, including at least one in Eastern Europe, to interrogate captives from Al Qaeda.

Monday morning, before leaving on a five-day trip to Europe, Ms. Rice said, "The United States does not permit, tolerate or condone torture under any circumstances."

Speaking to reporters on her plane later that day, she elaborated, saying: "All agencies of the United States are operating under our obligations concerning the C.A.T. And our obligations include a prohibition on cruel and unusual punishment, or cruel, inhumane - you know the list - punishment."

State Department officials said then that Ms. Rice was articulating "an important policy statement," as one put it, and "a change" in policy. The suggestion that the United States might be operating secret prisons in Europe and the idea that American intelligence officers might be torturing terrorism suspects incarcerated on foreign soil have been incendiary issues across Europe in recent weeks.

Finally on Wednesday morning, as Ms. Rice prepared to hold a news conference in Kiev with Viktor Yushchenko, the Ukrainian president, she passed word that she wanted to be asked a question about American policy on torture.

Aides said she believed her previous statements on the subject this week had not been clear enough. And this time, a senior aide described her statement as a policy "clarification."

State Department officials would not answer questions about how, if at all, the policy might change the behavior of agents working in the field. And Ms. Rice's remarks did little to clear up questions about what definitions the United States applied to terms like torture and cruel, inhumane and degrading treatment, and whether the United States was still using techniques that were approved in the past but might test those definitions. An example is a practice known as "waterboarding" in which a prisoner is strapped to a board with his feet elevated above his head and a wet cloth placed over his nose to create the sensation of drowning.

A report last year by the C.I.A.'s inspector general concluded that some aspects of the agency's treatment of detainees might violate the international standards.

In August 2002, the Justice Department issued a legal opinion, since disavowed, that interrogation methods just short of those that might cause pain comparable to "organ failure, impairment of bodily function or even death" could be allowable without being considered torture.

A second legal opinion issued in December 2004, which defined torture more broadly, did not repudiate interrogation techniques that had been previously authorized. It remains unclear how many of those techniques are still in use by the C.I.A.

Richard W. Stevenson reported from Washington for this article, and Joel Brinkley from Kiev. Neil A. Lewis and Douglas Jehl contributed reporting from Washington.

NEW YORK TIMES

December 8, 2005

British Court Rules Against Evidence Gained in Torture

By THE ASSOCIATED PRESS

Filed at 10:39 a.m. ET

LONDON (AP) -- Britain's highest court ruled Thursday that evidence obtained in other countries through torture may not be used in British courts. The government, which denied using evidence that it suspected was obtained through torture, said the ruling would have no effect on its efforts to prevent terrorism.

Seven Law Lords -- senior lawyers in the House of Lords -- unanimously upheld an appeal brought by people detained without charge on suspicions of involvement in terrorism.

"This is an incredibly important day, with the Law Lords sending a signal across the democratic world that there is to be no compromise on torture," said Shami Chakrabarti, director of the civil rights group Liberty.

Lord Nicholls of Birkenhead said in his ruling that scruples about torture could be set aside in some circumstances.

"If the police were to learn of the whereabouts of a ticking bomb, it would be ludicrous for them to disregard this information if it had been procured by torture," he said, but added that legal proceedings were different.

"It is an altogether different matter for the judicial arm of the state to admit such information as evidence when adjudicating definitely upon the guilt or innocence of a person charged with a criminal offense."

Amnesty International hailed it as a "momentous decision."

"The Law Lords' ruling has overturned the tacit belief that torture can be condoned under certain circumstances. This ruling shreds any vestige of legality with which the U.K. government had attempted to defend a completely unlawful and reprehensible policy, introduced as part of its counterterrorism measures," Amnesty International said in a statement.

On the Net:

Ruling, <http://www.publications.parliament.uk/pa/ld199697/ldjudgmt/ldjudgm t.htm>

Citation: <http://www.nytimes.com/aponline/international/AP-Britain-Torture-Evidence.html>

NEW YORK TIMES

December 8, 2005

Rice Says Abuse May Occur Despite U.S. Torture Rules

By THE ASSOCIATED PRESS

Filed at 9:14 a.m. ET

BRUSSELS, Belgium (AP) -- Secretary of State Condoleezza Rice said she can give no guarantee that terrorism detainees won't be abused again despite what she called the United States' clear rules against torture.

"Will there be abuses of policy? That's entirely possible," Rice said at a NATO press conference. "Just because you're a democracy it doesn't mean that you're perfect."

She offered assurances, however, that any abuses would be investigated and violators punished.

"That is the only promise we can make," Rice said. She spoke a day after trying to clarify to European foreign ministers the U.S. policy on secret prisons and treatment of terrorism suspects.

They foreign ministers appeared receptive. NATO Secretary General Jaap De Hoop Scheffer said Rice had "cleared the air."

Rice explained to the NATO and European Union foreign ministers over dinner Wednesday night that the United States does not violate the rights of terrorist suspects, De Hoop Scheffer said. "You will not see this discussion continuing" at the NATO headquarters, he told a news conference Thursday.

His comments echoed those of several foreign ministers who sought to shift away from a confrontation with Washington over the issue.

Rice repeated on Thursday that no U.S. personnel are allowed to commit abuses, whether on U.S. soil or overseas.

"The United States doesn't engage in torture, doesn't condone it, doesn't expect its employees to engage in it," she said.

Rice did not mention U.S. employees in similar statements Wednesday and earlier. Including them now may be a reference to a loophole identified by human rights organizations that could allow the CIA to contract out mistreatment.

Complaints that the United States has overstepped its bounds and may have practiced or condoned torture have dogged Rice through a four-nation tour this week. She said she welcomed a discussion of the issue, and invited it herself at the top of the private dinner with other NATO ministers.

German Foreign Minister Frank-Walter Steinmeier said Thursday that Rice "has reiterated that in the United States international obligations are not interpreted differently than in Europe."

Dutch Foreign Minister Ben Bot said he left Wednesday night's dinner "very satisfied" by Rice's comments.

Rice has refused to answer directly whether the United States keeps terrorist suspects in detention centers that violate European legal and human rights guarantees. She assured German Chancellor Angela Merkel on Tuesday that the United States would work to rectify any mistakes it has made in its war on terror.

Reports of secret prisons have roiled Europe for a month. Rice has asserted that the United States acts within the law and tried to argue that the Europeans are safer because of tough U.S. tactics.

Sustained criticism in the media and open skepticism from some European leaders indicate that the issue isn't going away.

Before Rice arrived in Brussels, Europe's leading human rights watchdog group said it hoped to be able to see satellite images of sites in Romania and Poland as part of its investigation into alleged secret CIA prisons and air transport of terrorists in Europe.

A top Council of Europe official said the body had been granted permission to look at images in the archives of the European Union's main satellite center, as well as log books held by the EU's air safety organization.

Rene van der Linden, chairman of the Parliamentary Assembly of the Council of Europe, also said America's war on terror was not a real war.

"There is ... a difference of opinion between Condoleezza Rice and the Council of Europe, because the law of war doesn't exist. We have international conventions. We are fully in favor of fight against terrorism, but we have to be aware that certain cases can not be accepted," van der Linden said.

The Strasbourg, France-based Council of Europe is the guardian of the European Convention on Human Rights, a legally binding treaty signed by all 46 council members.

The council itself has no direct jurisdiction over any country, but can exercise political pressure.

On the Net:

North Atlantic Treaty Organization: <http://www.nato.int>

Citation: <http://www.nytimes.com/aponline/international/AP-Rice.html>

LOS ANGELES TIMES

Rice Fails to Clarify U.S. View on Torture

By David Holley and Paul Richter
Times Staff Writers

December 8, 2005

MOSCOW — Secretary of State Condoleezza Rice said Wednesday that an international ban on torture applies to U.S. personnel overseas, in a statement that was apparently meant to ease growing concerns but that sowed new confusion about controversial American policies on treatment of terrorism suspects.

Rice said that "as a matter of U.S. policy," American obligations under the U.N. Convention Against Torture, which also bans cruel, inhumane and degrading treatment, applies to U.S. personnel both in the United States and around the world.

Rice's remarks came amid complaints from Europeans about what they see as harsh and possibly illegal American treatment of terrorism suspects overseas. Rice's comments were interpreted by some U.S. lawmakers and human rights advocates as a sign that the Bush administration was giving ground in the face of international and congressional pressure, but it was unclear whether her statement heralded any change in policies or practices.

The confusion underscored how much suspicion and uncertainty surrounds the subject, even among lawmakers, analysts and advocates who follow the subject closely.

On a tour of Europe that began Monday, Rice has been engulfed by criticism over reports that CIA planes used airports on the continent as stopovers while transporting prisoners to secret interrogation sites. Rice has insisted that U.S. personnel don't use torture, and has argued that American counter-terrorism efforts on the continent help protect Europeans from extremist attacks.

Yet, questions about the behavior of U.S. personnel abroad have lingered, fed in part by the revelation of abuses at the Abu Ghraib prison in Iraq; the denial of civilian court trials to detainees at Guantanamo Bay, Cuba; and the acknowledged American policy of "extraordinary renditions," in which terrorism suspects are seized in one country and flown to another nation for interrogation.

Rice's latest comments left much unclear. She did not try to define banned prisoner interrogation measures or specify what, in the American view, constitutes cruel, inhumane or degrading treatment. She also did not address restrictions imposed by the torture convention on U.S. security contractors.

Some saw her statement, at a news conference in Kiev, the Ukrainian capital, as a shift from a legal opinion offered by U.S. Atty. Gen. Alberto R. Gonzales, who said in Senate testimony this year that U.S. personnel overseas were not legally bound by the U.N. convention's restrictions on cruel, inhumane and degrading treatment.

The United States is a signatory to the U.N. Convention Against Torture. Gonzales, however, told the Senate that the administration considered the restrictions on cruel, inhumane and degrading treatment to be tied to acts illegal or unconstitutional under U.S. law, but that American law did not protect non-Americans overseas.

Rice did not repudiate Gonzales' legal opinion but said U.S. policy was to not use cruel, inhumane or degrading treatment on captives.

That stand is not a new one. Although the administration does not believe U.S. officials

overseas are legally obligated to observe the ban on cruel, inhumane or degrading treatment, it is nonetheless government policy to adhere to it, officials say.

Gonzales wrote in October in response to a questionnaire from the Senate Judiciary Committee: "It's the administration policy to abide by the requirements barring cruel, inhumane and degrading treatment even if such treatment is not legally required, regardless of whether the detainee in question is here in the United States or overseas," said a U.S. official familiar with the response.

Adam Ereli, a State Department spokesman, speaking of Rice, said Wednesday: "Her statement is a statement of policy, and it's been the U.S. policy."

Still, some saw her comments as a shift from recent stances taken by Bush administration officials.

Sen. Carl Levin (D-Mich.), the ranking minority member of the Armed Services Committee, said Rice's comments "represent a reversal from the administration's position on the convention up to now. It is an important and very welcome change from their previous position."

Human Rights Watch, a New York-based advocacy group, said the statement left many questions unanswered.

"I'd like to be able to say, 'I strongly welcome this, good for Condi Rice,' " said Tom Malinowski, advocacy director for Human Rights Watch in Washington.

"But if the administration is not willing to clarify this and say it's a change in the policy Alberto Gonzales articulated ... then I don't know."

Another group, Human Rights First, said U.S. officials in the past had refused to address whether techniques such as simulated drowning, sleep deprivation, religious humiliation and solitary confinement were covered by prohibitions against mistreatment. "Does your statement now mean that these practices are prohibited as a matter of law and policy?" the group asked in a statement.

The White House has opposed an amendment sponsored by Sen. John McCain (R-Ariz.) that would set new anti-torture restrictions barring "cruel, inhumane or degrading treatment" of prisoners by all U.S. personnel in all circumstances.

Vice President Dick Cheney has lobbied Congress to at least exempt the CIA from the tougher rules, which passed the Senate on a 90-9 vote in October. McCain is a former prisoner of war in Vietnam who endured torture.

CIA interrogators at overseas locations reportedly have been permitted to use techniques banned for use by the U.S. military. The McCain amendment would make the Army Field Manual the authority on interrogation techniques for all U.S. government agencies.

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The administration, arguing that existing laws and regulations are adequate to prevent the torture of prisoners, has expressed concern that adoption of the McCain amendment could signal to detainees that they had little to fear during interrogations. But officials have been in negotiations with McCain to seek a compromise on his measure, which has not yet been passed by the full Congress.

One high-profile case that Rice has confronted this week is that of Khaled Masri, a German national of Lebanese descent. He filed a lawsuit Tuesday in U.S. District Court in northern Virginia alleging that American intelligence operatives mistakenly abducted him in December 2003 and held him for five months, subjecting him to torture and mistreatment.

On Tuesday, without mentioning the Masri case directly, Rice said in Berlin that "any policy will sometimes result in errors, and when it does we will do everything we can to rectify them."

German Chancellor Angela Merkel indicated that she understood the comment to apply to Masri.

U.N. human rights chief Louise Arbour warned Wednesday that the U.S.-declared war on terrorism was eroding a global ban on torture. In remarks at the United Nations in the run-up to Human Rights Day on Saturday, Arbour urged Rice to further clarify the U.S. policy on torture and rendition.

"Pursuing security objectives at all costs may create a world in which we are neither safe nor free," Arbour said. "This will certainly be the case if the only choice is between the terrorists and the torturers."

U.S. Ambassador John R. Bolton immediately responded, saying Arbour should be concentrating on "real" human rights abusers such as Zimbabwe and Myanmar — not the United States.

*

Holley reported from Moscow and Richter from Washington. Times staff writers Tyler Marshall, Bob Drogin and Greg Miller in Washington and Maggie Farley at the United Nations contributed to this report.

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rice8dec08.1.1795083.story?coll=la-headlines-world)

LOS ANGELES TIMES

EDITORIAL:

The wronged man

TRANSCOM GHOST DOCS 432

December 8, 2005

THE BUSH ADMINISTRATION has a new public relations nightmare, and his name is Khaled Masri. His case has turned Secretary of State Condoleezza Rice's tour of Europe into a debacle, and if even half of his allegations are true, America's ever-grimier reputation in "old Europe" will have another indelible stain.

Masri, a 42-year-old German citizen, filed suit Tuesday against former CIA Director George J. Tenet and three private aviation companies. He claims he was snatched while on vacation in Macedonia in December 2003, drugged and flown to Afghanistan, where he was held for five months in one of those secret CIA prisons that the administration pretends don't exist.

In prison, he says, he was beaten, photographed naked and held in squalid conditions. According to his lawsuit, he was detained for two months even after the CIA learned it had nabbed the wrong man, apparently because the Lebanese-born Masri's name was confused with that of an Al Qaeda operative. He was released on an Albanian hillside in May 2004, having never been charged with a crime.

Masri is no enemy combatant; he was a car salesman. If the Bush administration had any secret evidence of his links to terrorism, Rice would presumably have shared it with German Chancellor Angela Merkel, with whom she met on Tuesday.

Instead, Merkel said Rice admitted that the United States had kidnapped Masri by mistake. A Rice aide then made matters worse by denying that the secretary had admitted error in the Masri case. (The aide spoke on condition of anonymity, using diplomatic cover to imply that the new leader of Germany is either a ditz or a liar.) Now the American and European public is left to wonder who is lying: the German chancellor or the U.S. secretary of State?

If the Bush administration has any evidence to show Masri's story is false, it should present it. If, on the other hand, it knows that CIA officials masterminded the kidnapping and detention of an innocent man, it should apologize and explore his offer of a settlement.

Either way, it should spare Americans the disgrace of a trial at which the U.S. government attempts, through legal sophistry, to justify "extraordinary rendition." Can this administration truly believe the war on terrorism justifies snatching anyone it suspects, anywhere in the world, and interrogating him in secret prisons for any amount of time, all without any judicial oversight?

Rice's response so far has been unconvincing and legalistic. She insists that the U.S. as a matter of policy does not "condone" torture, yet she refuses to acknowledge the existence of secret CIA prisons in Europe, Afghanistan and elsewhere. Nor will she comment on the growing numbers of people like Masri who claim to have been tortured in these

prisons.

Rice's performance is not only disappointing but counterproductive. She has done more than any other U.S. official to mend the rupture with Europe over the Iraq war, helping to craft more sensible and multilateral policies on Iran, Syria and North Korea. Now, chastened by her reception in Europe and the unpopularity of the administration's tactics, perhaps Rice can come home and persuade President Bush to adopt a more sensible and multilateral approach.

Citation: <http://www.latimes.com/news/opinion/editorials/la-ed-rice8dec08,0,5300675.story?coll=la-news-comment-editorials>

LOS ANGELES TIMES

OPINION:

How we should judge torture

Jonah Goldberg

December 8, 2005

WHAT DOES Hollywood think about torture?

The answer isn't as obvious as you think. Sure, as a political force, Hollywood is against torture, which ranks somewhere in the parade of horrors ahead of SUV ownership and perhaps even voting Republican. No doubt Barbra Streisand and Alec Baldwin have delivered many a dinner table stemwinder against the Bush administration's defense of "coercive measures" in extreme circumstances.

And to be fair, the Hollywood crowd isn't alone. Back here in Washington, the issue of torture has largely united liberals and divided conservatives. One of the main disagreements is what people mean by torture. If you mean hot poker in unwelcome places, pretty much everyone is against it, save perhaps in the famous "ticking time bomb" scenario.

But the meatier part of the argument is in the more nuanced area of "coercive measures," "stress positions" and what one unnamed official once described to the Wall Street Journal as "a little bit of smack-face." Some, such as Republican Sens. John McCain and Lindsey Graham, want even that stuff banned (but acknowledge that if it comes to a ticking time bomb situation, well, "you do what you have to do," as McCain put it).

Others go even further. Naturally, human rights groups are appalled by the suggestion that harsh treatment is ever justified. Similarly, blogger Andrew Sullivan dismisses the ticking time bomb as a "red herring" and argues that "you cannot raise or lower the moral status of mass murderers with respect to torture. The only salient moral status with respect to torture is that the mass murderers are human beings."

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My guess is that when presented in cinematic form, even larger numbers of people recognize that sometimes good people must do bad things. I'm not suggesting, of course, that the majority is always right. But it should at least suggest to those preening in their righteousness that people of goodwill can disagree.

Citation: <http://www.latimes.com/news/opinion/commentary/la-oe-goldberg8dec08,0,4255579.column?coll=la-news-comment-opinions>

BOSTON GLOBE

OPINION:

A tap dance on torture

By Thomas Oliphant, Globe Columnist | December 8, 2005

WASHINGTON

EVEN BEFORE Condoleezza Rice's Air Force jet left Andrews Air Force Base this week, it was clear that her important journey to Europe would be a flop -- not as photogenic theater, in which she indulges too frequently, but as foreign policy.

Defending the indefensible is often part of the portfolio for a secretary of state, and watching diplomats dance is always entertaining, but in Rice's case the extra measure of entertainment is the conflict between her ambition and her boss's requirements.

Rice's challenge was going to be to find some words to soften the impact of The Washington Post's disclosure last month that the United States has been stashing Al Qaeda people secretly in European clinks where they are, to use a Bush administration phrase, aggressively questioned.

It didn't take long -- about a day -- for the human rights community to come up with Poland and Romania as the most likely venues. The question naturally occurred as to how Rice was going to deal with this explosive topic on her trip. It also hadn't taken long for public opinion to turn nasty in Europe, as the European Union mobilized to let relatively new member Poland, aspiring member Romania, and every other country on the continent know that complicity in human rights violations is frowned upon over there.

To make matters worse, Rice's trip was marred before it even started by the surfacing of more stories about the outrageous habit the United States has had ever since 9/11 of grabbing people off the streets abroad and spiriting them off to be held in secret for months, only to be quietly released when it turned out we had grabbed innocent people as well as people involved in terrorism.

Two stories, one involving Germany and the other Italy, added to the foul atmosphere surrounding Rice's journey, with added spice from disclosures about the United States buying favorable Iraqi press coverage, the activities of Shi'ite death squads, and the continuing carnage from the war. Europe did not seem to have paid attention to President

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Bush's poll-driven oration on the war at Annapolis last week and his poll-driven use of the word "victory" a couple of dozen times in his latest effort to turn around negative US public opinion.

By the time Rice got to Europe, the media were filled with rumors of prisoners being secretly hauled off to new locations so they could continue to be "aggressively questioned."

The European Union wanted clarification, but what Rice offered was political spin and the kind of genteel in-your-faceism she used to peddle as Bush's national security adviser when she was warning with a straight face before the invasion that no one wanted the smoking-gun proof of Saddam Hussein's weapons of mass destruction to be a mushroom cloud.

The day before she left, the White House whip cracked and "senior administration officials" passed the word that instead of being meek or apologetic, she would "go on the offensive" in Europe and remind our friends that we are all in this war on terrorism together and that solidarity in times of stress is required.

Deconstructing a misbehaving secretary of state is challenging because the people who work for them are very smart, but what was odd about Rice's defense was how transparently silly it was.

Part one of her spin insists that the United States has never, not once, "authorized" or "condoned" the torture of any detainee anywhere. It sounds strong until you simply ask what the United States means by "torture." It turns out that it is not torture to dunk people's heads in water until they almost drown, to stage fake executions of prisoners, or to come within an hour or so of freezing them to death. The late Pat Moynihan called this defining deviancy down.

Part two of the case is her assurance that American behavior is "consistent" with its obligation under international law that bans torture. Once again, that sounds clear until you simply inquire what behavior is in fact consistent with those obligations. It turns out that anything goes as long as it occurs outside the United States -- be that a secret prison abroad or a facility on rented land at Guantanamo Bay. That is why we hold "suspects" on foreign soil or spirit them off to countries known to torture people -- a practice with the 1984 title of "rendition," which Rice claimed is central to the war on terrorism.

Naturally, this mumbo-jumbo has failed all week. There was one delicious moment on Tuesday, when the new German chancellor, Angela Merkel, said Rice had acknowledged that one particularly ugly abduction of an innocent German had been a mistake. Not so, the spin doctors quickly claimed. She had only said the United States would respond appropriately "if" any mistakes had been made.

It made me proud to be an American.

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Citation:

http://www.boston.com/news/globe/editorial_opinion/oped/articles/2005/12/08/a_tap_dance_on_torture/

THE GUARDIAN

Torture evidence inadmissible in UK courts, Lords rules

Staff and agencies

Thursday December 8, 2005

Guardian Unlimited

Evidence that may have been obtained by torture cannot be used against terror suspects in British courts, the House of Lords ruled today.

A panel of seven Law Lords voted unanimously to allow an appeal by eight detainees who are being held without charge on suspicion of being involved in terrorism, against a controversial Court of Appeal judgment passed in August 2004.

The appeal court voted last year that if evidence was obtained under torture by agents of another country with no involvement by the UK, it was usable and there was no obligation by the government to inquire about its origins.

But today's ruling means such evidence is inadmissible under British law. It also means the home secretary, Charles Clarke, must re-examine all cases where evidence from abroad has been obtained by torture.

Commenting on the ruling, Mr Clarke said the government did not condone torture in any way, so the Law Lords' decision was "hypothetical".

"We accept this judgment, which will have no bearing on the government's efforts to combat terrorism: we have always made clear that we do not intend to rely on or present evidence ... which we know or believe to have been obtained by torture," he said.

The detainees, most of whom have been in custody since 2001, were held under Anti-Terrorism Crime and Security Act, which was passed soon after the September 11 attacks in the US.

With the backing of a coalition of human rights groups, they challenged a ruling by the special immigration appeals committee (SIAC) that the Home Office had "sound material" to back up the decision that they posed a threat to national security.

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LOS ANGELES TIMES

Los Angeles Times
December 8, 2005

Pentagon Memo On Torture-Motivated Transfer Cited

A court filing describes a classified proposal to send a detainee away for information extraction.

By Ken Silverstein, Times Staff Writer

WASHINGTON — Although Bush administration officials have denied that they transfer terrorism suspects to countries where they are likely to be abused, a classified memorandum described in a court case indicates that the Pentagon has considered sending a captured militant abroad to be interrogated under threat of torture.

The classified memo is summarized — its actual contents are blacked out — in a petition filed by attorneys for Majid Mahmud Abdu Ahmad, a detainee held by the Pentagon at its Guantanamo Bay, Cuba, facility.

The March 17, 2004, Defense Department memo indicated that American officials were frustrated in trying to obtain information from Ahmad, according to the description of the classified memo in the court petition. The officials suggested sending Ahmad to an unspecified foreign country that employed torture in order to increase chances of extracting information from him, according to the petition's description of the memo.

The precise contents of the Pentagon memo on Ahmad were not revealed, but the memo was described in the petition by New York attorney Marc D. Falkoff, who contested the transfer of Ahmad and 12 other Yemenis in U.S. District Court in Washington this year.

Falkoff's description was not disputed by U.S. government lawyers or by U.S. District Judge Rosemary M. Collyer, who read the actual Pentagon document. The judge ruled in favor of the Yemenis on March 12, and Ahmad has not been transferred from the Guantanamo Bay detention facility.

The memo appears to call into question repeated assertions by the administration that it does not use foreign governments to abuse suspected militants — what critics call "torture by proxy."

Pentagon officials did not return calls Wednesday seeking comment on the memo.

The U.S. record on treatment of detainees worldwide has overshadowed Secretary of State Condoleezza Rice's trip this week to Europe. She has faced a daily barrage of related questions, especially regarding the U.S. practice of snatching and transferring

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suspects from foreign countries and regarding reports that the CIA maintains secret prisons across Europe for terrorism suspects.

Ahmad was captured in Pakistan after the American invasion of Afghanistan in late 2001. The federal government charges that Ahmad was a bodyguard for Osama bin Laden and participated in "military operations against the United States and/or its coalition partners." Falkoff, of Covington & Burling, represents a number of Guantanamo detainees including Ahmad, and denies that his client has any links to terrorism.

Falkoff said he was allowed to review the classified Pentagon memo in preparing the defense case but was not permitted to comment on its contents beyond what was described in his legal filing.

Falkoff filed the petition for Ahmad and 12 other detainees March 11, after learning that the government had transferred a Saudi national from Guantanamo without notifying his lawyer and that the Pentagon was considering sending other detainees to foreign countries for imprisonment.

"I called the Justice Department and asked for guarantees that it would not transfer our clients while their cases were pending in court, or at least notify us if they intended to do so," Falkoff said. "The Justice Department said no — that we were not entitled to any advance notification."

Falkoff argued that transferring detainees overseas would "have the effect of denying them access to U.S. courts for review of their detainment status and also potentially expose them to interrogation techniques and treatment that would be contrary to the laws of the United States."

He asked the court to order the government to give 30 days' notice before transferring a detainee so the transfer could be contested. Collyer agreed; the government has appealed.

Falkoff's petition quoted a section of the memo, but the quotation was blacked out in the unclassified version that is publicly available.

After the quotation is Falkoff's interpretation of the classified memo's significance: "There is only one meaning that can be gleaned from this short passage," Falkoff's petition says. "The government believes that Mr. Ahmad has information that it wants but that it cannot extract without torturing him." The petition goes on to say that because torture is not allowed at Guantanamo, "the recommendation is that Mr. Ahmad should be sent to another country where he can be interrogated under torture."

Falkoff said that he asked the Pentagon early this year to declassify the memo but had not received a response.

Human rights advocates said the implications of the memo were significant even though Ahmad ultimately remained at Guantanamo.

"Whether they sent him or not, the memorandum reflects their understanding of how the program functions," said Scott Horton, an attorney who helped produce a New York City Bar Assn. report last year on detainee transfers.

Of hundreds of detainees who have been kept at Guantanamo, more than 175 have been released and more than 75 others have been transferred to other governments, in many cases for continued detention. U.S. officials have delivered suspects to a number of countries, including Egypt, Jordan, Morocco and Uzbekistan, that are believed to still practice torture, as the State Department has acknowledged in its human rights reports.

Horton provided The Times with a November 2002 legal analysis by a senior FBI attorney that concluded that it would be illegal to deliver detainees to any "third country" that employs coercive interrogation techniques. The analysis said that taking such action was clearly intended to circumvent American laws against torture and that anyone even discussing such a plan could be found criminally liable.

CHRISTIAN SCIENCE MONITOR

Christian Science Monitor
December 8, 2005
Pg. 1

How Common Is US Abuse Of Detainees?

The military has not been subject to such intense public scrutiny before.

By Mark Sappenfield, Staff writer of The Christian Science Monitor

WASHINGTON – Any analysis of America's record on detainee abuse in the war on terror begins with a single set of numbers: Amid the handling of an estimated 70,000 detainees, military officials say they have found fewer than 600 credible allegations of abuse.

It is a rate of 1 investigation for more than 100 detainees, and for the Pentagon, it is a point of pride - apparent proof that abuses are the work of a misguided few.

Outside the Pentagon, however, those numbers - and the positive assessment - are open to doubt. As the world, and increasingly the country's lawmakers, look at how America has treated those captured in the war against terror, many have come to the conclusion that, as one expert puts it: "The one thing we know is that we don't know everything."

Clearly, this is the first time that the health and status of detainees have been such a pressing issue for the American public, and the military justice system is straining to meet the desires for a more open process. Taken together with President Bush's decision to exempt certain prisoners from the protections of the Geneva Conventions, it has

acquitted on charges of dereliction of duty for allowing his men to beat Jamadi. Careers were wrecked but no one was convicted of a crime. No action has been taken by the CIA.

Human rights groups and some members of Congress have expressed frustration with the slow pace of the CIA's response in this and other cases of alleged detainee abuse by the agency. In an Army trial scheduled for December, the CIA will again be under scrutiny for its role in the death of an Iraqi general, who was stuffed into a sleeping bag and died, according to an autopsy, of asphyxia due to smothering and chest compression.

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Friday, December 09, 2005

WASHINGTON POST

Europeans Search for Conciliation With U.S.

Some States Are Assuaged By Rice on Prison Policy

By Glenn Kessler
Washington Post Staff Writer
Friday, December 9, 2005; A16

BRUSSELS, Dec. 8 -- European foreign ministers attempted to make peace with the United States on Thursday over the controversy concerning treatment of terrorism suspects, with many saying they were satisfied with visiting Secretary of State Condoleezza Rice's explanations of U.S. policy.

But lingering concerns were evident when Dutch officials said they would press to set up a prison of their own in Afghanistan so that any suspects captured by Dutch troops there would not be transferred to Guantanamo Bay or other American facilities.

The controversy over secret CIA prisons and U.S. detainee policy dominated a gathering at NATO headquarters Thursday at which a plan to send as many as 6,000 alliance troops to patrol southern Afghanistan was approved, relieving some of the burden on U.S. forces.

The Netherlands tentatively plans to supply about 1,200 troops for the mission, which will bring NATO soldiers for the first time into the most dangerous part of Afghanistan since U.S. forces invaded shortly after the Sept. 11, 2001, attacks. NATO already heads a peacekeeping force in more secure parts of the country.

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Rice had dinner with 31 of her European colleagues Wednesday in Brussels. Aides were not included, which officials said allowed for a fuller airing of concerns over U.S. policy without political posturing.

Some ministers, such as Bernard Bot of the Netherlands, had indicated they still had deep concerns over U.S. policy, despite a week-long effort by Rice to defuse the tensions. But afterward, ministers reported that they were satisfied with the U.S. position.

"Secretary Rice has covered basically all of our concerns," Bot said, adding that if the secret prisons existed -- which he called "pure speculation" -- Rice "has made it quite clear" that the United States did not violate international law in such facilities.

German Foreign Minister Frank-Walter Steinmeier added that Rice "has reiterated that in the United States international obligations are not interpreted differently than in Europe."

NATO Secretary General Jaap de Hoop Scheffer declared at a news conference that Rice had "cleared the air" and that he considered the issue closed. "You will not see this discussion continuing" at NATO, he said.

Rice left Washington for Europe on Monday knowing that she would be pressed for explanations about whether the United States was maintaining a secret prison system in Europe in which suspects were being cruelly interrogated.

She issued a lengthy statement before she left, but her answers to reporters' inquiries during the trip sometimes seemed to add to the confusion over whether the United States barred certain interrogation tactics overseas. The Bush administration in the past has argued that the U.N. Convention Against Torture -- which the United States has ratified -- barring cruel, inhuman or degrading interrogations did not apply overseas.

Rice, who returns to Washington on Friday, appeared to help her case by issuing a statement in Kiev, the Ukrainian capital, on Wednesday that on its face removed ambiguity: She referred to U.S. obligations to prevent cruel, inhuman and degrading treatment and said the ban extended "to U.S. personnel wherever they are, whether they are in the United States or outside of the United States."

Some legal and human rights experts in the United States pointed to possible loopholes in her statement, such as whether the reference to "personnel" also applied to U.S. contractors or whether President Bush still asserted the right to selectively opt out of international obligations.

At a news conference Thursday, Rice offered a further refinement that appeared to address these questions: "We are a nation of laws," she said. "The President of the United States is not going to ask American citizens to violate U.S. law or to violate our international obligations."

Rice did not directly answer a question about whether any loopholes remained in her statements. She also said she could not guarantee that abuses would not occur again despite her assurances that U.S. policy is clear. "Will there be abuses of policy? That's entirely possible," she said. "Just because you're a democracy it doesn't mean that you're perfect."

The deployment of NATO troops to southern Afghanistan is set to begin in May and will mark a significant expansion of NATO's involvement in the country. NATO forces have to this point operated in relatively quiet areas, such as provincial towns and the capital, Kabul, while U.S. and allied forces took on the job of active combat against Taliban and al Qaeda fighters. But now the NATO troops, led by the British, are likely to engage insurgents, who have been stepping up attacks.

Bot said the Netherlands had negotiated a memorandum of understanding with the Afghan government that ensures that no prisoners captured by the Dutch and turned over to the Afghans will face the death penalty. The Dutch also received assurance that NATO guidelines regarding detainees in Afghanistan will be strictly enforced. Under those rules, the International Committee of the Red Cross must be notified six hours after a suspect is captured and the suspect must be released or sent to a facility within four days.

Two weeks ago, after reports of secret CIA prisons stirred a political and news media furor in Europe, the Dutch government began to press for its own prison facility in southern Afghanistan. Dutch officials said that after reports of conditions at Guantanamo, they wanted to be sure that any suspects they captured would be monitored by the Red Cross and never end up in U.S.-run facilities. The Bush administration has refused to allow the Red Cross access to all detainees.

WASHINGTON POST

Britain High Court Bans Evidence Obtained by Torture

By Mary Jordan
Washington Post Foreign Service
Friday, December 9, 2005; 5:12 AM

LONDON, Dec. 8 -- Britain's highest court ruled Thursday that evidence that might have been obtained through torture in other countries cannot be used in British courts.

A panel of British Law Lords, this country's highest appellate authority, upheld an appeal brought by a group of foreigners in England who were detained on suspicions of involvement in terrorism. The basis of their detention was secret testimony that came from abroad through foreign intelligence services, according to lawyers for the men.

Lord James Hope, one of the judges in the case, mentioned "practices authorized for use in Guantanamo Bay by the U.S. authorities" in his written opinion, saying "some of

which would shock the conscience if they were ever to be authorized for use in our own country."

Gareth Peirce, a well-known human rights lawyer representing the detainees, said in an interview that the men were never told of the evidence against them but she suspected it was "a cocktail of international information" that could have included testimony from prisoners held in U.S. military bases in Guantanamo Bay, Cuba and Bagram, Afghanistan. Some of the men, who are from Algeria, Jordan and Libya, have been held since shortly after the Sept. 11, 2001, terrorist attacks in the United States.

Peirce said British intelligence preferred to operate on a "we don't ask" where the information it receives originates, "because it might stop the free flow of information."

"There is a hypocrisy here," she said, "Our government may occasionally criticize what the U.S. is doing, but is nonetheless very happy to use the product of interrogative conduct that abuses individual human rights."

The Law Lords took the case after the Court of Appeal ruled last year that evidence that may have been obtained through torture could be used in British courts if the information was obtained by foreign authorities and not British agents. In the ruling Thursday, Lord Tom Bingham, said he was "startled, even a little dismayed" at that decision, noting that "there has been no lawfully sanctioned torture in England since 1640."

Lord Donald Nicholls drew a distinction between police and courts. "If the police were to learn of the whereabouts of a ticking bomb, it would be ludicrous for them to disregard this information if it had been procured by torture," he said, adding that "it is an altogether different matter for the judicial arm of the state to admit such information as evidence."

A spokesman for the human rights group Amnesty International hailed the decision as "momentous" and said the ruling will likely mean the cases of eight detainees facing deportation will be reconsidered.

Home Secretary Charles Clarke said the British government "has always made it clear [that it] did not condone torture in any way" nor would it "encourage others to do so."

Clarke said the ruling would have "no bearing on the government's efforts to combat terrorism," because government cases do not rely on evidence "which we know or believe to have been obtained by torture."

The ruling comes one day after Secretary of State Condoleezza Rice said that "as a matter of U.S. policy," an international ban on "cruel, inhuman and degrading treatment" covers U.S. personnel "wherever they are." She has been responding to an international furor over reports that the CIA was operating secret prisons in Eastern Europe.

Another judge, Donald Nicholls, drew a distinction between the work of police and courts. "If the police were to learn of the whereabouts of a ticking bomb, it would be ludicrous for them to disregard this information if it had been procured by torture," he said, adding, "It is an altogether different matter for the judicial arm of the state to admit such information as evidence."

A spokesman for Amnesty International called the decision "momentous."

In a statement, Home Secretary Charles Clarke said the ruling would have "no bearing on the Government's efforts to combat terrorism," because government cases did not rely on evidence "which we know or believe to have been obtained by torture."

WASHINGTON POST

OPINION:

Many Words, Little Clarity From Rice

By Eugene Robinson
Friday, December 9, 2005; A31

I've been trying my best to follow the "clarifications" on kidnapping and torture that Condoleezza Rice has been offering to our European allies, and there seems to be only one clear message: Shut up and don't ask too many questions.

When Rice was in Kiev, Ukraine, the other day, I *thought* I heard her say that the United States government has never tortured people we suspect of being terrorists -- How could anyone even think such a thing? -- or maybe she said that, in any event, we promise to stop doing this awful thing we've never done.

The secretary of state pledged that we wouldn't inflict "cruel and inhumane and degrading treatment" on anyone, even foreign nationals on foreign soil. But was she doing to the words "cruel, inhumane and degrading" what Bill Clinton did to the word "is"? And did this new policy apply not only to U.S. personnel but also to civilian contractors working for the military or the CIA? Just as I was starting to get lost in the tall weeds of the U.N. Convention Against Torture, the White House helpfully explained that Rice's comments didn't represent a change of policy at all.

Glad we cleared that up.

Earlier in her trip I'm *sure* I heard Rice say that we would continue abducting terrorist suspects and making them vanish into months or years of secret detention. She didn't want to talk much about those clandestine "black site" CIA prisons in Eastern Europe, which of course don't exist, depending on what the meaning of the word "exist" is. I'm pretty sure I heard her say we still reserve the right to hold people in these nonexistent

prisons as long as we want, without charges or due process. I guess if she told us anything more about the nonexistent prisons, she'd have to kill us.

I'm *certain* I heard from Rice's lips a not-so-veiled threat to any European governments that might be inclined to play holier-than-thou on the issue of these "extraordinary renditions," which normal people would call "kidnappings." (Remember when "extraordinary rendition" meant nothing more sinister than what Jimi Hendrix did to "The Star-Spangled Banner" at Woodstock?) "Some governments choose to cooperate with the United States in intelligence, law enforcement or military matters," she said as she embarked on her trip. "It is up to those governments and their citizens to decide if they wish to work with us to prevent terrorist attacks against their own country or other countries, and decide how much sensitive information they can make public. They have a sovereign right to make that choice."

In other words, all you sanctimonious Eurocrats, it's your choice: Keep your mouths shut about the kidnappings and the secret CIA prisons, or else one day you might find yourselves in a dark alley on the bad side of town and maybe the cavalry won't arrive in time. Tony Soprano couldn't have said it better.

German Chancellor Angela Merkel *believed* she had heard Rice admit that the United States made a "mistake" when it sent one of the CIA's ninja-style squads to kidnap Khaled Masri, a German citizen whose only crime was that his name sounds like that of some suspected terrorist. Rice's people say Merkel misunderstood; Rice merely acknowledged that unspecified mistakes might have been made.

Masri says he was vacationing in Macedonia on New Year's Eve 2003 when local authorities arrested him and handed him over to the Americans. Five months later, long after it was clear this was a case of mistaken identity, he was released on a lonely hill in Albania.

We know the details of Masri's case, or at least his version of events, because earlier this week he filed suit in U.S. District Court in Alexandria against the CIA, former director George Tenet, the operators of the CIA-front air transport firm that flew him from Macedonia to a prison in Afghanistan, and the "John Doe" ninjas who kidnapped him.

Here is the lawsuit's account of the moment when, after Masri had been stripped naked, the CIA -- representing you and me and our great nation -- took him into custody:

"[He] saw seven or eight men dressed in black and wearing black ski masks. One of the men placed him in a diaper. . . . Mr. El-Masri was marched to a waiting plane, with the shackles cutting into his ankles. Once inside, he was thrown to the floor face down and his legs and arms were spread-eagled and secured to the sides of the plane. He felt an injection in his shoulder, and became lightheaded. He felt a second injection that rendered him nearly unconscious."

I'm still puzzling over Rice's words. Masri's, though, are quite clear.

TRANSCOM GHOST DOCS 446

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LOS ANGELES TIMES

OPINION:

Grading on the terrorist curve

Rosa Brooks

December 9, 2005

ON MONDAY, I'll be giving a final exam to 80 law students, and judging from their e-mail messages, they're worried about grades. But this term, I'm even more worried about their grades than they are.

That's because the Washington Post this week revealed yet another casualty of the Bush administration's "rule of law/what rule of law?" approach to fighting terrorism: Among those detained and secretly "rendered" to a third country for interrogation was "an innocent college professor who had given [an] Al Qaeda member a bad grade."

The background here is that the CIA seems to be having a little problem with what the agency terms "erroneous renditions." That's when you pick up an innocent guy and — oops! — send him off to a foreign country for some of that "enhanced interrogation" stuff.

In practice, terrorism suspects are often rendered to countries such as Egypt and Syria, which are known not merely for enhanced interrogation (like "waterboarding") but for what we might call "super-sized interrogation": electric shocks, pulling out fingernails, all that old-fashioned stuff. And if you carefully parse Secretary of State Condoleezza Rice's recent legalistic assertion that "the United States has not transported anyone, and will not transport anyone, to a country when we believe he will be tortured," it's apparently still cool to render suspects to countries where they will be tortured, as long as "we" don't "believe" the acts legally constitute torture, or as long as U.S. authorities are not absolutely, 100% convinced that a detainee "will" be tortured.

But back to the case of the innocent college professor. It appears that U.S. intelligence agents at some point picked up a guy they identified as an Al Qaeda member. He was duly interrogated (you guess how). And when interrogators demanded that he cough up the names of other terrorists still at large, the suspect got revenge by rattling off a list of everyone who'd ever annoyed him, including one of his old college professors, who had really burned him up by giving him a bad course grade.

This is the kind of news calculated to send chills up a professor's spine. The law school where I teach employs a grading curve, so giving low grades to some students is inevitable. But if one of the students who gets a bad grade from me ends up as a terrorism suspect in the hands of the, ahem, authorities, how long will it take before he fingers me? Because I'm not keen on experiencing rendition and enhanced interrogation firsthand, I'm contemplating the only thing possible to protect myself: asking any terrorists in my class

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to kindly identify themselves to me immediately, so I can be sure to give them a good grade.

But there are a couple of wrinkles in this plan. Because the government seems unable to avoid making errors, practically anyone might someday end up being suspected of terrorism, which makes it hard to know who ought to be given a good grade. Anyway, my law school insists on anonymous grading: Exams are identified only by number, not by student name. I can't think of any way around that one.

Maybe I don't need to, though, because today's terrorists — unlike the Al Qaeda guy who fingered his former professor — are a clever lot, likely to get top grades through sheer brainpower. At least, this is what I have learned from watching "Sleeper Cell," the Showtime miniseries that premiered this week. In "Sleeper Cell," the Los Angeles-based terrorists are well-groomed young people whose plans are as sophisticated as they are lethal. The most recent episodes have involved terrorist biochemistry experts peering at anthrax samples through microscopes while the FBI struggles to keep up.

According to the 9/11 commission, this is not just TV fantasy. Commission Chairman Thomas Kean concludes that the terrorists are doing pretty well: Despite four years of the war on terror, "the threat has not abated." Meanwhile, the U.S. government is flunking the war on terror. In this week's 9/11 commission "report card," the U.S. got a D for "Intelligence Oversight Reform," a D for "Government-Wide Information Sharing," a D for efforts to "Prevent Terrorists from Acquiring WMD" and an F on "Coalition Detention Standards."

Yet for all their acuity, Kean and his colleagues on the 9/11 commission apparently still don't grasp the full implications of living under a government that tolerates secret detentions, renditions and torture, and that assumes all terror suspects are guilty until proved innocent.

When you live under that kind of government, you need be mighty careful about handing out bad grades.

Citation: <http://www.latimes.com/news/opinion/commentary/la-oe-brooks9dec09.0,2616095.column?coll=la-news-comment-opinions>

LOS ANGELES TIMES

OPINION:

Why Condi roiled Europe

By Chris Mullin

December 9, 2005

MANY AMERICANS will be puzzled, and perhaps even a little hurt, that Europeans reacted with such incredulity to this week's denial by Secretary of State Condoleezza Rice that the U.S. has been ghosting suspected terrorist prisoners to countries where they

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are likely to be tortured.

Let me explain. First, Rice's statement appeared to have been very carefully lawyered. On the face of it, an assertion that the U.S. has not transported anyone to a country "when we believe he will be tortured" looks pretty watertight. But "will be" is the key phrase. She should have said "may be."

Second, she said: "Where appropriate, the United States seeks assurances that the transferred persons will not be tortured." This is risible. Just how much weight should we attach to a piece of paper signed by a member of, say, the Egyptian, Syrian, Libyan or Moroccan security services promising that the suspect will not be tortured? Even a cursory knowledge of the human rights situation in the countries concerned suggests the answer is: not much.

Third, it has recently become apparent that many Americans have a different definition of torture than that which prevails in Europe — and indeed in much of the rest of the world. Europeans have watched with incredulity what appears to be a serious debate in the United States about whether "waterboarding" (immersion just short of drowning) constitutes torture.

Fourth, Rice's protestations of innocence have to be matched against the known facts. There are witnesses. A small number of people have emerged alive from this secret gulag, and the stories they tell are wholly at odds with the bland assertions in her statement.

Fifth, if cruel, inhumane or degrading treatment isn't being applied, then what's it all about? Why has this vast, secret web been constructed, if not to ensure that whatever is happening takes place beyond the reach of U.S. law?

Finally, of course, some of us have long memories. We have been here before — in Chile, El Salvador, Iran under the shah, Vietnam ... you name it.

In his book, "Decent Interval," about the final days of the Vietnam War, former CIA agent Frank Snepp recounts the fate of a high-level communist prisoner, Nguyen Van Tai. "Just before the North Vietnamese tanks rolled into Saigon, a senior CIA official suggested it would be better if he disappeared. The South Vietnamese agreed. Tai was loaded into a plane and thrown out at 10,000 feet over the South China Sea."

I have no doubt that the truth about the secret prisons and the mistreatment of detainees will emerge in due course. Retired CIA agents will start writing their memoirs. There will be hearings in Congress, official breast-beating, promises that it will never happen again, perhaps even a resignation or two. Openness is one of the great strengths of American society.

The weakness, however, is that memories are short and, after 20 years, it happens all over again.

CHRIS MULLIN is a member of the British Parliament.

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THE GUARDIAN

No torture, please, we're British

Leader

Friday December 9, 2005

Guardian

There are few better examples of the poison which anti-terrorist laws are capable of leaking into the criminal justice system than the appeal court judgment of 16 months ago. The issue before the court was whether it was permissible in Britain to use evidence against terror suspects, that may have been obtained by torture in other states. To the alarm of many, the court concluded that although there was no evidence in the case before it that torture had been used, even if there had been evidence of torture, the material gained would still have been admissible as long as Britain had not "procured or connived" at the torture. It was not just domestic human rights groups that were dismayed. Amnesty and other international organisations protested that this ruling by two of the highest judges in the land sent a shocking signal to the international community. Belatedly but definitively, seven law lords yesterday unanimously quashed the decision.

The ruling was unequivocal. Lord Bingham, the senior law lord, noted the abhorrence with which "torture and its fruits" had been held in English law for over 500 years. He went on: "I am startled, even a little dismayed, at the suggestion (and the acceptance by the Court of Appeal majority) that this deeply-rooted tradition and an international obligation solemnly and explicitly undertaken can be overridden by a statute and a procedural rule which make no mention of torture at all."

There was an understandable and almost audible sigh of relief yesterday from domestic and international human rights groups at this reversal. With good reason. Under international law there is an absolute prohibition on the use of torture. The appeal court had ignored a succession of international treaty obligations, one of which, the European Convention on Human Rights, the UK was instrumental in drafting. The judgment breached both the UN convention against torture and the International Covenant on Civil and Political Rights. It put Britain on a collision course with international human rights campaigners. As Amnesty International noted, the earlier judgment gave "a green light for torture".

All seven judges were agreed that the suspects should not be required to prove the prosecuting evidence was based on torture. As Lord Bingham noted, the 10 foreign suspects, held without charge or trial for two years who brought the appeal, did not know

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But the Liberal Democrat peer Lord Carlile, the independent reviewer of anti-terror laws, predicted the courts would apply the judgment "rigorously" and would re-examine the evidence in a small number of cases.

Citation: <http://politics.guardian.co.uk/terrorism/story/0,15935,1663308,00.html>

WASHINGTON POST

Washington Post
December 9, 2005
Pg. 4

Congress Near Deal On Treatment Of Detainees

Congressional negotiators were near a deal yesterday on a defense bill that would put into law a ban on torture and other inhumane treatment of detainees, a step the White House has opposed.

A congressional aide said House Republicans had accepted the amendment pushed by Sen. John McCain (R-Ariz.), which swept through the Senate 90 to 9 despite fierce White House opposition.

House Armed Services Committee Chairman Duncan Hunter (R-Calif.) would not say whether the McCain amendment would be in the defense authorization bill.

Saturday, December 10, 2005

Rice Wins Over E.U. Counterparts, Capping Months of Groundwork

By Glenn Kessler
Washington Post Staff Writer
Saturday, December 10, 2005; A16

BRUSSELS, Dec. 9 -- Secretary of State Condoleezza Rice's attempt this week to defuse the crisis with European governments over U.S. detainee policy did not start well. At first, she was confronted with skeptical questions from the news media and appeared to retreat in a fog of statements her staff then struggled to explain. By the end of the trip, however, European officials had praised her and declared her explanations satisfactory, allowing Rice to return home Friday on a positive note.

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Rice laid the groundwork for such an outcome months ago, when she invested considerable effort in restoring transatlantic ties frayed by tense differences over the invasion of Iraq. Having experienced both the gloomy postwar period and the era of good feelings with Rice, European foreign ministers showed little appetite for letting the debate fester about torture of prisoners.

Not a single government minister questioned Rice directly about the existence of secret CIA prisons during an one-hour discussion of the topic at a private dinner here Wednesday, according to officials who attended. The European ministers emerged with a chorus of praise, saying they wanted to put the issue behind them.

Rice faced a difficult rhetorical challenge on her trip -- and it may be some time before it is certain that her message resonates beyond her European counterparts.

Many European media criticized the foreign ministers for so readily accepting Rice's declaration that the United States is pledged to respect international law. "She spoke too often like a defense lawyer rather than a candid friend," the London-based Economist said of reports that the United States had sent suspects to third countries for interrogation. "As she well knows, the difficult question is whether America has shipped them to places where they may be tortured."

As Rice flew home on Friday, meanwhile, the International Committee of the Red Cross renewed a demand that the Bush administration provide access to detainees sent by the United States to undisclosed locations around the world.

On her trip, Rice needed to signal that U.S. policy had changed without directly saying so, since that would appear to confirm that the administration had once condoned repulsive interrogation techniques. She had to suggest that European governments endorsed the CIA's seizure and transport of terrorism suspects and had also approved the secret prisons, without confirming the prisons' existence. In Germany, she had to hint that the CIA had made a mistake in abducting a German citizen and shipping him to a brutal Afghan jail, without confirming the incident or admitting a mistake.

Rice sought to change the context of the debate. The European public and news media had become convinced the Bush administration condones torture. U.S. officials were irritated that European governments, in the face of the public outcry, had made little effort to defend either the United States or the importance of prosecuting the war against terrorism -- even though both Madrid and London have been struck by terrorists since the Sept. 11, 2001, attacks.

Moreover, on a continent where the word "intelligence" evokes thoughts of secret police, Rice wanted to make the case that gathering intelligence is essential to thwarting potential attacks. In both public and private venues, Rice warned European officials that unless they cooperated on counterterrorism, they might one day face their own version of the 9/11 Commission.

Minutes before leaving for Europe last Monday, Rice read a lengthy statement that sounded as if it had been written by a committee of U.S. government lawyers -- which it had been. The statement did not quiet the media storm. Indeed, 29 of the 38 questions reporters asked Rice during her European stops concerned the U.S. treatment of detainees. After the relentless questions -- and the realization that the issue was overshadowing her trip -- she consulted with the White House and issued a new statement.

In Kiev, Ukraine, Rice seemed to state that the administration no longer exempted U.S. personnel at home or abroad from abiding by the provisions in the U.N. Convention Against Torture that prevent cruel, inhuman and degrading treatment of prisoners. This helped her in Europe, but it spawned confusion in the United States, where it was viewed variously as a new policy, a loophole-ridden feint or an effort to box in administration hard-liners opposed to restrictions on interrogation.

Rice's European trip had been planned before the controversy erupted, but it fell to her to articulate U.S. policy after the European Union wrote to her last week seeking clarification.

Her aides realized the issue would overwhelm the positive stories they had sketched -- building a relationship with the new German government, winning access to a Romanian air base, bolstering democratic forces in Ukraine and expanding NATO's presence in Afghanistan. But they felt European officials would appreciate Rice's willingness to respond to the outcry personally.

"I'm quite happy that Condoleezza Rice went to Europe," Austrian Chancellor Wolfgang Schuessel said after meeting President Bush at the White House on Thursday. "She took the heat."

NEW YORK TIMES

December 10, 2005

U.S. Rebuffs Red Cross Request for Access to Detainees Held in Secret

By **STEVEN R. WEISMAN**

WASHINGTON, Dec. 9 - The United States said Friday that it would continue to deny the International Committee of the Red Cross access to "a very small, limited number" of prisoners who are held in secret around the world, saying they are terrorists being kept incommunicado for reasons of national security and are not guaranteed any rights under the Geneva Conventions.

Adam Ereli, the State Department's deputy spokesman, said the United States would not alter its position after the president of the International Red Cross said in Geneva that his

organization was holding discussions to gain access to all detainees, including those held in secret locations.

Mr. Ereli said that the Geneva Conventions requiring humane treatment of prisoners of war did not apply to certain terrorism suspects seized as "unlawful enemy combatants," but that, in any case, the United States treats most of them as prisoners of war.

"We're going the extra mile here," Mr. Ereli said, by allowing the Red Cross access to Al Qaeda suspects and others held at Guantánamo Bay, Cuba, and in Afghanistan. The Red Cross also has access to prisoners held in Iraq.

Aside from those detainees, about two or three dozen terrorism suspects, including a handful of top Al Qaeda operatives, are said by current and former intelligence officials to be held in secret locations.

On Thursday in Geneva, John Bellinger, the senior legal adviser of the State Department, acknowledged that the International Red Cross does not have access to all detainees held by American forces but declined to discuss the existence of secret detention centers.

The Red Cross has recognized that some of those held by the United States are not prisoners of war, and do not have the full protection of the Geneva Conventions. But it has argued that no prisoners, not even those alleged to be terrorists, should fall into what it calls a "black hole" outside any protection under international humanitarian law. A central purpose of the Red Cross is to visit prisoners and protect their human rights.

On Friday, Jakob Kellenberger, the president of the International Red Cross, said the situation of those held secretly remained "a major concern" that would continue to be the focus of discussions with the United States. "We continue to be in an intense dialogue with them with the aim of getting access to all people detained in the framework of the so-called war on terror," he said.

Mr. Ereli of the State Department said that "cases that pose unique threats to our security" would be denied visits by the Red Cross, even on a confidential basis.

In a related development, the Defense Department announced Friday that Anne-Marie Lizin, a representative of the Organization for Security and Cooperation in Europe, a 55-nation group, would visit American detention facilities at Guantánamo and may question the commanding officers and other staff members.

"The department strives for transparency in our operations to the extent possible, in light of security and operational requirements and the need to ensure the safety of our forces," a department statement said.

Mr. Ereli said "there's no legal requirement" to provide Red Cross access to Guantánamo. "Nevertheless, and even though we're not required to do so, we do provide access to the

vast majority of detainees under our control, and we do accord Geneva protections to them."

The Red Cross has been seeking greater access to detainees for at least two years but has been careful to mute its criticism in order to keep the negotiations more productive, according to committee officials.

In Europe over the last week, Secretary of State Condoleezza Rice emphasized that it is American policy not to subject detainees to "cruel, inhumane or degrading" punishment in any location, no matter whether they are held by military or intelligence authorities.

Ms. Rice also said on her European trip that the United States would not hand any prisoners over to other countries in the process known as rendition without obtaining assurances that they would not be tortured.

Citation: <http://www.nytimes.com/2005/12/10/politics/10detain.html>

NEW YORK TIMES

EDITORIAL:

December 10, 2005

Illegal, Immoral and Pointless

There are many reasons why Americans should not torture prisoners, but here is one that may help those who are still not moved by the fact that it is morally wrong and illegal, damages the nation's image, and puts American soldiers who are taken prisoner in mortal peril: It usually doesn't work.

Torture is a terrible way to do the very thing that the administration uses to excuse it - getting accurate information. Centuries of experience show that people will tell their tormenters what they want to hear, whether it's confessing to witchcraft in Salem, admitting to counterrevolutionary tendencies in Soviet Russia or concocting stories about Iraq and Al Qaeda.

Which brings us to the sorry tale of Ibn al-Shaykh al-Libi, identified as a former Qaeda leader. Douglas Jehl recounted in yesterday's Times how Mr. Libi was captured in Pakistan in late 2001 by American forces and later sent for questioning to Egypt, which the C.I.A. uses as a proxy for this sort of grubby work. The Egyptians interrogated Mr. Libi for a year and sent him back to the American authorities talking about how Qaeda members had received chemical weapons training in Iraq.

There was only one problem: Mr. Libi says he made the story up to appease the Egyptians, who he says tortured him.

The Defense Intelligence Agency tried warning early on that Mr. Libi's credibility was dubious, partly because the Pentagon knows the Egyptians abuse their prisoners. But the president and his team went ahead anyway and presented Mr. Libi's fairy tale as one of the justifications for invading Iraq. The information was later repudiated, and Mr. Libi is now said to be at a secret C.I.A. camp. He will probably never be brought to justice for any terrorism he did plan or commit because his case, like those of others under illegal detention, has been so compromised by his treatment that it would probably be thrown out of court.

It took too long, but the Senate is finally trying to clean up this mess, voting 90 to 9 for an amendment by Senator John McCain to reimpose age-old rules of decency for the detainees in the "war on terror." The House should endorse that amendment, which is attached to the Pentagon budget bill, and send it to President Bush.

There was talk this week of Mr. Bush's backing away from his threat to veto the entire Pentagon budget if the McCain amendment is attached. We hope that's true, but this is a time for Americans' elected representatives to stand on principle. Mr. McCain should not water down his bill to satisfy the White House or fringe Republicans in the House. If Mr. Bush cannot manage to overrule his vice president and ends up vetoing the measure, it should not be hard to override such an irresponsible act. All it would take is for Congress to vote against torture.

Citation: <http://www.nytimes.com/2005/12/10/opinion/10sat1.html>

Sunday, December 11, 2005

WASHINGTON POST

EDITORIAL:

Torture and the Constitution

Sunday, December 11, 2005; B06

DOES THE Constitution permit the use of "waterboarding," or simulated drowning, to extract information from people detained by the government? To most Americans, the very question may sound ludicrous. Waterboarding, after all, has been recognized as a torture technique since the time of Torquemada and the Spanish Inquisition. U.S. soldiers who were caught using it on enemy insurgents in the Philippines, in 1901, or the Vietnam War, in 1968, were prosecuted. When suffocation by water was used by foreign governments, such as the Augusto Pinochet dictatorship in Chile, the State Department didn't hesitate to call it torture.

Yet the Bush administration sees it otherwise. Not only have senior officials denied that CIA interrogation techniques, which are known to include waterboarding, constitute torture, but administration lawyers argue that the practice doesn't necessarily violate the lesser international legal standard of "cruel, inhuman and degrading treatment." In

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ratifying the Convention Against Torture and Other Cruel Inhuman and Degrading Treatment in 1994, the Senate defined "cruel, inhuman and degrading" as any practice that would violate the Fifth, Eighth or 14th amendments. Secretary of State Condoleezza Rice pledged during her tour of Europe last week that administration policy was to prohibit all U.S. personnel from breaking that standard, presumably including those who staff secret CIA prisons. Since the administration continues to maintain that it is not legally bound by the constitutional test outside the United States, Sen. John McCain (R-Ariz.) is pressing legislation that would make that purported policy a law.

What Ms. Rice's statements concealed is that administration lawyers have concluded that waterboarding and other CIA pressure methods don't necessarily violate the Constitution. Case law, they say, doesn't offer a clear guide to what actions represent a clear breach. The standard, they say, is flexible. In the case of a terrorist who may have information that could save thousands of lives, goes the administration reasoning, extreme measures might be acceptable. That's why, when he was asked about waterboarding and a series of other abusive acts during his confirmation hearing earlier this year, Attorney General Alberto R. Gonzales testified that "some might . . . be permissible in certain circumstances."

Europeans and Americans who interpreted Ms. Rice's statements last week as an assurance that the CIA will no longer use waterboarding, prolonged shackling or induced hypothermia in its secret prisons were misled. Administration officials tell us there has been no decision to abandon those practices. Similarly, those who have hoped that the McCain amendment would end CIA abuses, as we have, must lower their expectations. The creation of a legal standard, while essential, probably will have to be followed by an effort to compel the administration to respect it, through further legislation or court action.

Interpreting the Constitution as permitting waterboarding in secret prisons is, to most experts outside the administration, legally outrageous and politically untenable. It means that the Bush administration accepts, in principle, that the FBI may use waterboarding, painful stress positions, forced nudity and other methods on Americans, in American prisons, "in certain circumstances." That's why the Justice Department has classified its memos on the subject and kept its conclusions secret. That's why President Bush and Vice President Cheney have worked so hard to stop the McCain amendment, which would pave the way for legal challenges to their interpretation. They want to give themselves the authority to commit human rights abuses without having to explain or justify themselves to the public, the world -- or an impartial court.

NEW YORK TIMES

December 11, 2005

News Analysis

Rice's Visit: Official Praise, Public Doubts

By RICHARD BERNSTEIN

TRANSCOM GHOST DOCS 457

BERLIN, Dec. 10 - Secretary of State Condoleezza Rice left behind two Europes when she returned home this weekend from her diplomatic tour aimed at reassuring the allies of the United States that the Bush administration did not practice torture and abided by its international obligations.

One was the Europe of government leaders and diplomats who generally praised Ms. Rice for her reassurances, and said that they were satisfied with what she had told them.

The other was the skeptical Europe of the media and much of the public, those still inclined to feel that Ms. Rice papered over some specific, nasty truths about the abuse of American power - and, more generally, that the United States is an out-of-control superpower whose abuses are widespread and deeply troubling.

In the first Europe, there was the Dutch foreign minister, Bernard Bot, who had complained at the beginning of the week that Ms. Rice had failed to give a "satisfactory answer" to concerns about the Central Intelligence Agency's activities in Europe, saying after the NATO foreign ministers meeting in Brussels on Thursday that he was "very satisfied."

Even the Belgian delegate, Karel de Gucht, coming from a country that has virulently opposed American policy on Iraq, announced his impression that the European delegates had welcomed Ms. Rice's statements.

Of course, to welcome a statement is not the same as to be persuaded by it.

There was, for example, the German right-of-center daily Die Welt, which is usually very friendly to the United States, which editorialized, "It is not particularly reassuring if the West's biggest power has to affirm that it does not torture prisoners." The paper said this was especially the case at a time when Vice President Dick Cheney continued "actively to advocate the legalization of torture in secret U.S. prisons."

Precisely which activity of Mr. Cheney the German paper was referring to is unclear, possibly the opposition of the Bush administration to legislation proposed by Senator John McCain, Republican of Arizona, that would make torture illegal, an opposition that has gotten plenty of attention in Europe.

Certainly the loudest and most strident declaration of anger at the United States came in the speech made by the British playwright Harold Pinter as he received this year's Nobel Prize in literature. Mr. Pinter, in well-publicized remarks, blamed the United States for "a vast tapestry of lies" used to justify the "criminal outrage" of the American prison camp at Guantánamo Bay in Cuba, the "bandit act" of invading Iraq, and many other "crimes."

There has always been a segment of public opinion in Europe, most notably on the intellectual left in Britain, that has been angrier at the United States over the years than at American enemies, whether the Sandinistas in Nicaragua (a big part of Mr. Pinter's

concern) or, for that matter, Al Qaeda's followers in Iraq who behead kidnapping victims on videotape.

That might explain at least part of the differing reactions in Europe to Ms. Rice's diplomatic visit.

Whether Mr. Pinter is wrong or right in his critique, it is certainly the case that he offered no practical suggestions about how to balance civil rights and civil protection in a world that has experienced the terrorist attacks on the World Trade Center and the Pentagon, and in Bali, Madrid, London and Amman, or, for that matter, in a conflict waged at least in part by religious fanatics who slit the throats of civilians while screaming, "God is Great!"

The European foreign ministers of NATO, however, must think practically. Exactly what Ms. Rice told them to mollify them remains unknown, but it seems a virtual certainty that she imparted the impression that the United States, like Europe, is struggling to strike the proper balance between rights and protections in what the United States likes to categorize as "a new kind of war."

"At no time did the United States agree to inhumane acts or torture," Ms. Rice said in a public portion of her presentation to the NATO foreign ministers. "Even if terrorists are not covered by the Geneva Conventions, they have still applied the principles governing those Geneva Conventions," she said.

There has been plenty of skepticism expressed in Europe about that comment, given that the Bush administration in its first term took the stance that the Geneva Conventions had become "quaint" given the nature of the present enemy and therefore did not apply to "enemy combatants" in the fight against terrorism.

Still, there are plenty of reasons that European officials, in contrast to the European public and press, emerged from the meeting with Ms. Rice expressing their satisfaction.

One is the denials from Poland and Romania in response to news reports that they have harbored secret C.I.A. prisons on their territory. The United States has neither confirmed nor denied the existence of these prisons, but for Europe's leaders to declare that the United States, Poland and Romania are all lying would be a huge breach of diplomatic etiquette, especially in the absence of any proof that the press reports are true.

Second, as many commentators have pointed out, usually in a harshly critical tone, European intelligence services have been cooperating with the United States in gathering intelligence on terrorism suspects, so it would be hypocritical to say the least to condemn the United States for a set of practices that European governments have known about all along and quietly condoned.

There were reports in the German news media last week, for example, that information provided by German intelligence may have led the C.I.A. to its kidnapping of Khaled al-

Masri, the Kuwaiti-born German citizen who was flown to Afghanistan two years ago and interrogated for several months in a prison there, apparently because American intelligence mistook him for another man.

The report about the role of German intelligence remains unconfirmed, but, given that the case seems in European eyes to be a prime illustration of abusive American practices, any German complicity would be highly embarrassing to the German government.

The plain fact is that Europe, as the attacks in Madrid and London, have unmistakably demonstrated, is a target of the kind of group that carried out the Sept. 11 attacks in the United States, and the European leaders know that the best way to protect against more such attacks is to gather good intelligence.

In this sense, the European governments and the United States might be disappointed, even horrified, by such practices as renditions, by which terror suspects are interrogated in countries like Egypt and Syria, where torture is likely, and are taken there via European airports.

But judging from the leaders' responses to Ms. Rice's assurances, they seem willing to believe that the United States is seeking intelligence that, as Ms. Rice argued, can make Americans and Europeans safer.

Citation: <http://www.nytimes.com/2005/12/11/international/europe/11rice.html>

Monday, December 12, 2005

LOS ANGELES TIMES

OPINION:

Mind games at Gitmo

Psychiatrists and psychologists should have nothing to do with interrogating prisoners.

By Nancy Sherman

NANCY SHERMAN, author of "Stoic Warriors" (Oxford University Press, 2005), is a philosophy professor at Georgetown University.

December 12, 2005

I RECENTLY visited the Guantanamo Bay Detention Center with a small group of civilian psychiatrists, psychologists, top military doctors and Department of Defense health affairs officials to discuss detainee medical and mental healthcare.

I am a military ethicist. The unspoken reason for the invitation to go on this unusual day

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"It calls for conduct to be consistent with the Army field manual, but doesn't presuppose what that is to be."

On Capitol Hill, House and Senate negotiators are at the make-or-break stage. With Mr. McCain and Mr. Hadley apparently at an impasse, some Congressional officials said Monday that Congress could fail to pass the military budget bill for the first time in 40 years, and doom Mr. McCain's measure with it, without a resolution. Mr. McCain's provision is also included in a separate military spending bill, but its fate in that legislation is uncertain.

As the Senate reconvened Monday, the majority leader, gave a more upbeat forecast, saying that work on the military budget and policy measure had been finished and could be voted on by midweek.

Senator Carl Levin of Michigan, the senior Democrat on the Armed Services Committee, disputed that, saying: "I think it represents a statement of hope and wish, and that we're fairly close. But as far as I know, it's not accurate."

Mr. Levin also said he believed that the House so far had refused to accept the McCain language.

"My understanding is that the House will not accept the McCain amendment as it was written in the Senate, that they want to change it in a significant way," Mr. Levin said. "And that's unacceptable to us."

Scott Shane, Carl Hulse and Douglas Jehl contributed reporting for this article.

Citation: <http://www.nytimes.com/2005/12/13/politics/13detain.html>

CHICAGO TRIBUNE

<http://www.chicagotribune.com/news/nationworld/chi-0512130128dec13.1,4874882.story?coll=chi-newsnationworld-hed>

European ministers deny links to CIA `prisons'

By John Crewdson
Tribune senior correspondent

December 13, 2005

STRASBOURG, France -- Interior ministers across Europe have unequivocally denied that the U.S. Central Intelligence Agency ever incarcerated terrorism suspects on their soil or used their airports or airspace to transport prisoners destined for torture chambers

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in Egypt, Syria and elsewhere.

That announcement, made Monday by European Commission Vice President Franco Frattini, deepened the mystery surrounding news reports that the CIA has used facilities in at least two Eastern European countries to detain suspects.

The announcement met with a mixed reaction among the 100 or so European parliamentarians who attended the sometimes fractious session of the European Parliament's Committee on Civil Liberties.

Frattini, a former Italian foreign minister and European commissioner for justice, said he could do nothing beyond requesting the assurances and suggested that any inquiry into "secret prisons" or the mistreatment of terrorism suspects within Europe should come from the Council of Europe, a larger body separate from the European Union. Not coincidentally, a Council inquiry has been under way for several weeks.

Frattini later said he was "satisfied" with assurances by Secretary of State Condoleezza Rice, who visited several European nations last week, that the U.S. had abided by the United Nations convention against torture and its treaty obligations with European nations.

But Rice's statements have received decidedly mixed reviews.

Rice's words "do not tranquilize the world. They are disturbing," one parliamentarian, Ana Gomes of Portugal, told Frattini. Gomes said she interpreted Rice's assurances as "a veiled threat to disclose that there has been support from European governments" for some clandestine U.S. anti-terrorism policies.

"I don't have powers to investigate," Frattini replied. "I asked ministers to give me answers. They gave me answers. They solemnly denied. I can only draw conclusions. Let the Council of Europe investigate. That's my conclusion."

The Bush administration has not confirmed or denied the alleged use of Soviet-era prisons by the CIA to hold some of the former top-ranking Al Qaeda leaders it is known to have in custody.

The Washington Post, which first reported the existence of alleged secret CIA prisons in Eastern Europe, said it declined to name the countries at the CIA's request. In the aftermath of the Post's report, suspicion has fallen primarily on two staunch U.S. allies, Poland and Romania.

Polish Prime Minister Kazimierz Marcinkiewicz said Saturday that he ordered an investigation "to check if there is any proof that such an event took place in our country."

He said he expected to give the Polish people an answer next week. Besides Romania, more than a half-dozen other European governments, including those in Malta,

Switzerland, Turkey and Belgium, have announced some sort of investigation into whether their intelligence services collaborated in illegal or other inappropriate activities with the CIA.

Frattoni reminded his audience, to scattered applause, that "terrorism is against the right to live," and suggested that the European Union, the Council of Europe and other European institutions try to strike a balance between protecting human rights and making Europe safe.

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BBC NEWS

Tuesday, December 13, 2005

CIA abduction claims 'credible'

Allegations that the CIA abducted and illegally transported terror suspects across European borders are credible, an investigator has said.

Swiss senator Dick Marty has submitted a report on the claims, made in the media, to a meeting of the human rights committee of the Council of Europe.

Mr Marty criticised the US for refusing to confirm or deny the allegations.

The US government and its intelligence agencies say that all their operations are conducted within the law.

Extra pressure

Mr Marty's findings were released in an official statement by a committee of the 46-member Council of Europe, the continent's human rights watchdog.

"The elements we have gathered so far tend to reinforce the credibility of the allegations concerning the transport and temporary detention of detainees - outside all judicial procedure - in European countries," he said.

He went on: "Legal proceedings in progress in certain countries seemed to indicate that individuals had been abducted and transferred to other countries without respect for any legal standards."

The BBC's Alix Kroeger in Strasbourg says the strongly worded report will add to the pressure for more in-depth inquiries.

The European Union has so far declined to investigate, although it has said any member state with secret prisons on its territory could have its EU voting rights suspended.

Poland and Romania have been named by the media as possible locations of CIA secret prisons, but have denied the allegations.

In his statement, he said it was "still too early to assert that there had been any involvement or complicity of member states in illegal actions".

But, he warned, if the allegations proved correct any European states involved "would stand accused of having seriously breached their human rights obligations to the Council of Europe".

However, Mr Marty told a news conference he believed any prisoners held secretly by the US in Europe had now been moved to North Africa.

Tony Lloyd, a member of the Council's parliamentary assembly, told the BBC the charges that people may have been effectively kidnapped and taken to other countries for possible torture "were of such magnitude that they have to have proper answers".

Torture ban

Mr Marty urged the US to comment formally on the allegations, saying he "deplore[d] the fact that no information or explanations" were given during last week's tour of Europe by US Secretary of State Condoleezza Rice.

Ms Rice refused to address claims the CIA operated secret prisons abroad, where suspects could be interrogated without reference to international law.

She said American interrogators were bound by a UN treaty banning the use of torture, regardless of whether they were working in the US or abroad.

A group of British MPs investigating the matter, the All Party Parliamentary Group on Extraordinary Rendition, said the UK could be at risk of breaching its legal obligations.

International law expert Professor James Crawford, of Cambridge University, told the group the UK government must satisfy itself on the issue of torture rather than relying on US assurances.

Story from BBC NEWS:

<http://news.bbc.co.uk/go/pr/fr/-/2/hi/europe/4524864.stm>

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BBC NEWS

Tuesday, December 13, 2005

TRANSCOM GHOST DOCS 464

Defining torture in a new world war

Analysis

By Paul Reynolds

World Affairs correspondent, BBC News website

US Secretary of State Condoleezza Rice has sought to clarify US policy towards torture - saying that all American personnel are covered by a UN convention - but the issue still remains clouded.

She said in Kiev during her visit to Europe: "As a matter of US policy, the United States obligations under the [convention] which prohibits, of course, cruel and inhumane and degrading treatment, those obligations extend to US personnel wherever they are, whether they are in the United States or outside of the United States."

This statement was designed to show that the CIA was included under the prohibition, but it leaves two problems unresolved.

The first is the definition of torture and cruel and degrading treatment. Are certain techniques excluded?

The second is whether such practices are carried out by US allies to whom Washington often hands over or "renders" prisoners in unannounced transfers. What monitoring is carried out?

The defence of the practice of transferring prisoners around the world for interrogation relies a great deal on a definition of torture.

In the US view, torture has to involve "severe pain", and harsh interrogations do not necessarily amount to torture.

Ms Rice accepted that prisoner transfers, known as "renditions", take place and said they were not unusual. The French had moved Carlos the Jackal directly from Sudan that way in 1994, she pointed out.

She did not address the issue of where these prisoners, thought to be senior al-Qaeda suspects like Khaled Sheikh Mohammed, the man who thought up the attacks of 9/11, end up. The Washington Post has alleged that there are or have been secret CIA prisons in Eastern Europe, Afghanistan and Thailand. By being located outside the US, they would avoid coming under the scrutiny of US courts.

But as she set off a European visit during which the rendition flights and the ultimate aim of such flights will be a key issue, the Secretary of State stressed several times that the United States did not engage in torture.

And it is really the torture issue which is the key. If the flights were simply for the purpose of moving prisoners between open court systems, nobody would complain.

It is the idea that they are tortured in secret detention camps that has concerned critics and has forced Ms Rice to issue her statement.

The UN Convention on Torture

The United States acted, she said, in accordance with its legal obligations, among which is the 1984 UN "Convention against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment.

This defines torture in the following way: "Torture means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind..."

The Convention also outlaws "cruel and degrading treatment" but does not define them.

Defining 'severe'

It will be seen that, as far as the definition of torture is concerned, a lot depends on what is meant by "severe." In a memorandum on 1 August 2002, the then Assistant US Attorney General Jay Bybee said that "the adjective severe conveys that the pain or suffering must be of such a high level of intensity that the pain is difficult for the subject to endure." He even suggested that "severe pain" must be severe enough to result in organ failure or death.

Such an interpretation would obviously leave an interrogator a great deal of latitude, and that memo was subsequently disowned by the Bush administration.

What seems to have evolved is a series of interrogation techniques which in the US view do not amount to torture as defined by the UN Convention but which go beyond the simple business of asking questions.

Recent reports on the American ABC News network, quoting CIA sources, listed six so-called "Enhanced Interrogation Techniques."

1. **Grab** : the interrogator grabs a suspect's shirt front and shakes him.
2. **Slap** : an open-handed slap to produce fear and some pain.
3. **Belly Slap** : a hard slap to the stomach with an open hand. This is designed to be painful but not to cause injury. A punch is said to have been ruled out by doctors.

4. **Standing** : Prisoners stand for 40 hours and more, shackled to the floor. Said to be effective, it also denies them sleep and is part of a process known as sensory deprivation (this was a technique used by British forces in Northern Ireland for a time until it was stopped).

5. **Cold Cell** : a prisoner is made to stand naked in a cold, though not freezing, cell and doused with water.

6. **Water Boarding** : the prisoner is bound to a board with feet raised, and cellophane wrapped round his head. Water is poured onto his face and is said to produce a fear of drowning which leads to a rapid demand for the suffering to end.

The McCain amendment

Some or all of these techniques might be outlawed if the US Senate has its way. The Senate has approved by 90 to nine a measure outlawing "cruel, inhuman, or degrading treatment or punishment."

Again, much depends on definitions but President Bush apparently feels that McCain's amendment would prevent the CIA from carrying out "enhanced" interrogation. He is threatening to veto the Bill onto which this prohibition has been tacked as an amendment. The White House and McCain, a former pilot who was himself tortured by the North Vietnamese, are trying to reach a compromise.

Senator McCain has written against any ill-treatment of prisoners: "We should not torture or treat inhumanely terrorists we have captured. The abuse of prisoners harms, not helps, our war effort. In my experience, abuse of prisoners often produces bad intelligence because under torture a person will say anything he thinks his captors want to hear - whether it is true or false - if he believes it will relieve his suffering," he said in an article in Newsweek.

He is particularly against "waterboarding". "I believe that it is torture, very exquisite torture," he said.

But the administration clearly feels that the CIA's hands should not be tied too tightly.

Stephen Hadley, the US National Security Adviser, has spoken of the dilemma faced by governments which say they abide by the rule of law yet which need to get information to save lives. "The president has said that we are going to do whatever we do in accordance with the law. But you see the dilemma. What happens if on September 7th 2001, we had gotten one of the hijackers and based on information associated with that arrest, believed that within four days, there's going to be a devastating attack on the United States?"

One very grey area of the rendition policy is that sometimes a prisoner is handed over secretly to a country which itself carries out the interrogation. Such a country might not be so particular as to the methods used.

There is a view among some lawyers that the US would violate international law if it knew of such practices by governments to which it hands over suspects.

Story from BBC NEWS:

<http://news.bbc.co.uk/go/pr/fr/-/2/hi/americas/4499528.stm>

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BBC NEWS

Tuesday, December 13, 2005

CIA flight assurances 'worthless'

Jack Straw's statement that there are no records of the CIA flying terror suspects through the UK to face torture may be "worthless", a group of MPs say.

The MPs are not reassured by the foreign secretary and say they have legal advice suggesting the government must actively investigate the claims.

But Mr Straw later told MPs there was no need at all for a judge-led inquiry.

And he said that unless people believed he and his US counterpart were lying, there was no truth in the allegations.

The foreign secretary was giving advice to the Commons foreign affairs committee.

He said officials had no records of requests from the US for flights carrying suspects to pass through UK territory and airspace during George Bush's presidency.

Nor had other papers been discovered on the issue.

His comments comes on the day a report to the Council of Europe said claims about the flights were "credible".

Swiss senator Dick Marty told the Council of Europe there were indications that the CIA had abducted and illegally transported terror suspects across European borders.

Legal responsibilities

Conservative MP Andrew Tyrie and Liberal Democrat foreign affairs spokesman Sir Menzies Campbell have set up the all party parliamentary group on extraordinary rendition.

Mr Tyrie said Mr Straw's comments should "reassure nobody".

He said it was "hardly surprising" there were no records because the Home Office had said "records of transit application are not kept once the transit has been completed".

"It is crystal clear that the UK must investigate allegations that it has been complicit in torture," argued Mr Tyrie.

"Checking for instances of the US requesting permission is simply derisory."

Blind eye?

The group of MPs asked James Crawford, Whewell Professor of International Law at Cambridge, for legal advice about the government's responsibilities on investigating the issue.

Professor Crawford argues that to comply with its legal obligations, the UK government must satisfy itself that secret CIA flights are not leading to torture.

He said: "The question that must be asked is whether torture is likely to take place if a person is transported, irrespective of whether or not the government claims that the answer is no, or what its hopes or beliefs may be."

He added: "A government is not exonerated from conduct which leads directly to a person being tortured merely by closing its eyes to that prospect."

US Secretary of State Condoleezza Rice has admitted terror suspects are flown abroad for interrogation, but denies they are tortured.

She said suspects were moved by plane, and it was under a process known as rendition which was a "lawful weapon".

US assurances

The all party group of MPs says ministers can get little or no legal cover by relying on Dr Rice's assurances.

During his grilling by the foreign affairs committee, Mr Straw said it was impossible to "prove a negative" but it was "extremely improbable" that any rendition flights had passed through the UK.

No records of requests from the US, or other papers corroborating the claims had been found, and there were the assurances from Dr Rice that suspects were not being taken to torture.

"Unless we all start to believe in conspiracy theories and that the officials are lying, I'm lying and that behind this there is some kind of secret state in league with some dark

forces in the US, and we believe Secretary Rice is lying, there is simply no truth in claims that the UK has been involved in rendition," he said.

Mr Straw also confronted claims that a British intelligence officer had handed a man called Benyam Mohammed al-Habashi to the CIA and he had later been tortured.

The foreign secretary said the British security services had no role in Mr al-Habashi's capture or transfer from Pakistan.

Nor had the security service officer involved observed any abuse, he said.

Mr Straw said he would consider whether he could tell MPs if British services had transferred the man to the CIA inside Pakistan.

Story from BBC NEWS:

http://news.bbc.co.uk/go/pr/fr/-/2/hi/uk_news/politics/4525164.stm

Published: 2005/12/13 18:20:58 GMT

WASHINGTON POST

Swiss Investigator Details CIA Findings

By JAMEY KEATEN

The Associated Press

Tuesday, December 13, 2005; 11:13 AM

PARIS -- A Swiss investigator probing claims of secret CIA prisons in Europe said his committee has evidence that supports allegations that prisoners were transferred between countries and temporarily held "without any judicial involvement."

"Legal proceedings in progress in certain countries seemed to indicate that individuals had been abducted and transferred to other countries without respect for any legal standards," lawmaker Dick Marty said in a written report summarizing his investigations so far.

Marty told a news conference he believed the United States was no longer holding prisoners clandestinely in Europe and he believed they were moved to North Africa in early November, when reports about secret U.S. prisons first emerged in The Washington Post. He did not provide any other details.

He presented his findings in Paris to a committee of the 46-nation Council of Europe, a human rights watchdog.

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Marty added that "information gathered to date reinforced the credibility of the allegations concerning the transfer and temporary detention of individuals, without any judicial involvement, in European countries."

He is investigating the CIA's reported transfers of prisoners through European airports to secret detention centers, actions that would breach the continent's human rights principles.

"Based on what I have been able to learn, currently there are no secret detainees held by the United States in Europe," Marty told a news conference in Paris, adding that he believed prisoners had been taken to Morocco.

Poland and Romania have been identified by the New York-based Human Rights Watch as sites of possible CIA secret prisons, but both countries have repeatedly denied any involvement.

Marty, in his report, added it is "still too early to assert that there had been any involvement or complicity of member states in illegal actions."

He was critical of the United States for not formally denying the allegations. He said he "deplores the fact that no information or explanations" were provided by Secretary of State Condoleezza Rice, who faced repeated questions about the CIA prison allegations on her recent visit to Europe.

Rice has said the United States acts within the law and argued that Europeans are safer because of tough U.S. tactics, but she refused to discuss intelligence operations or address questions about clandestine CIA detention centers.

Marty has requested air traffic log books to try to determine flight patterns of several dozen suspect CIA airplanes. He has also requested satellite images of the Sczytno-Szymany airport in northeastern Poland and the Mihail Kogalniceanu Air Base in eastern Romania, after they were identified by Human Rights Watch as possible sites of clandestine CIA detention centers. European officials say such prisons would violate the continent's human rights principles.

After hearing Marty's presentation, Tony Lloyd, a member of the Council of Europe committee, said: "The really difficult thing is the idea is that there is a kind of legal black hole in the middle of Europe."

Citation: <http://www.washingtonpost.com/wp-dyn/content/article/2005/12/13/AR2005121300425.html>

Wednesday, December 14, 2005

WASHINGTON POST

TRANSCOM GHOST DOCS 471

Investigator Sees Signs of CIA Role in Abductions

Poland and Romania Queried on Prison Issue

By Craig Whitlock

Washington Post Foreign Service

Wednesday, December 14, 2005; A21

PARIS, Dec. 13 -- A European investigator said Tuesday that information he has gathered suggests U.S. intelligence operatives have abducted and transferred terrorism suspects in Europe "without respect for any legal standards" and that he has formally asked Poland and Romania whether the CIA operated secret prisons on their soil.

Dick Marty, a Swiss parliamentarian who is leading a probe into CIA counterterrorism tactics for the Council of Europe, the continent's main human rights body, also criticized Secretary of State Condoleezza Rice as not forthcoming about the CIA's anti-terrorism operations in Europe.

In a brief status report released Tuesday in Paris, Marty said he "deplores the fact that no information or explanations had been provided on this point by Ms. Rice during her visit to Europe" last week.

He said the only formal response he has received from U.S. officials was a copy of a Dec. 5 speech by Rice in which she defended U.S. policy and said Europe had benefited from the aggressive American approach to tracking down terrorism suspects around the world.

Marty offered no details of what he has uncovered during his investigation, which was prompted by a report in The Washington Post last month that the CIA has operated secret prisons for high-level al Qaeda figures in Eastern Europe since the Sept. 11, 2001, attacks.

The Post has not published the names of the East European countries involved in the covert program, at the request of senior U.S. officials. They argued that the disclosure might disrupt counterterrorism efforts in those countries and elsewhere and could make them targets of possible terrorist retaliation.

Marty is also scrutinizing reports that the CIA has regularly transported al Qaeda suspects across Europe on a fleet of private planes.

The recent rush of disclosures about CIA activities in Europe has led to a number of investigations by prosecutors, parliaments and government agencies, including in Britain, Germany, Spain, Italy, Poland, Austria and Denmark. Opposition lawmakers and human rights groups in Europe, saying that the alleged activities would violate local and international law on the treatment of prisoners, have questioned whether their own governments were complicit in the operations and have demanded answers.

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On Saturday, Polish Prime Minister Kazimierz Marcinkiewicz said his government would open its own investigation into whether Poland allowed the CIA to run a secret prison on its territory. Although numerous Polish officials have denied the existence of any such prisons for weeks, Marcinkiewicz said persistent suggestions to the contrary "could be dangerous for Poland." Some European reporters and human rights groups have said they believe prisons were located in Poland and Romania. The government of Romania has also denied the allegations.

On Tuesday, Marty cited those two countries as targets of his probe into the prisons, saying he had requested specific information on the subject from their governments. At a news conference, he said he believed that the CIA has since closed its jails in Eastern Europe and transferred its prisoners to North Africa. That statement echoed a report last week by ABC News.

There are signs that the disclosures about the CIA prisons and other operations could threaten counterterrorism cooperation between U.S. intelligence agencies and their European counterparts.

Poland's former intelligence chief, Zbigniew Siemiatkowski, on Tuesday repeated a denial that Poland had ever hosted a prison for al Qaeda captives. But he blamed the CIA for leaking information about its worldwide secret prison network and suggested foreign spy agencies would be more careful about working with the United States in the future.

"It makes everybody wonder, what is going on with such an institution as the CIA that top-secret information is being leaked and whether it is worth sacrificing, literally, life for cooperation with the agency," Siemiatkowski said in a radio interview.

Rene van der Linden, president of the Council of Europe's parliamentary assembly, called on the U.S. Congress to pass a pending torture ban as a way to reassure its allies that the U.S. government would not resort to abusive measures when dealing with terrorist suspects.

"If these allegations remain unresolved, they risk damaging the image of the USA in Europe and thus transatlantic relations, at a time when global security requires a strong alliance amongst our countries," van der Linden said in a statement.

WASHINGTON POST

U.S. Envoy Calls Torture Severe And Extensive at 2 Iraqi Prisons

By Ellen Knickmeyer
Washington Post Foreign Service
Wednesday, December 14, 2005; A22

TRANSCOM GHOST DOCS 473

Mr. Cheney strongly opposes Mr. McCain's measure and unsuccessfully sought to have the Central Intelligence Agency exempted from its restrictions.

Also on Tuesday, Secretary of State Condoleezza Rice, in a speech to the Heritage Foundation, tried to recalibrate her position on the treatment of terrorism suspects in American detention, saying the administration was willing to do anything legal to prevent a terrorist attack.

During her trip through Europe, she made several statements about the administration's policy on torture, culminating with one in Kiev Wednesday when she said the United States prohibits "cruel and inhumane and degrading treatment" of suspects, "whether they are in the United States or outside of the United States."

She reiterated that in a truncated form on Tuesday but added that "we should be prepared to do anything that is legal to prevent another terrorist attack."

The statement in Kiev, which went a long way to placating skeptical Europeans, was based on policy, not legality. So her statement Tuesday could be seen as an effort to scale back from her remarks last week. But some officials dismissed any suggestion of major policy shifts.

"Do not read this in a tortured, convoluted and contrived way," a senior State Department official said.

Joel Brinkley contributed reporting for this article.

NEW YORK TIMES

December 14, 2005

Kidnapping Study Tends to Fault U.S. Agents

By KATRIN BENNHOLD

International Herald Tribune

PARIS, Dec. 13 - Preliminary evidence suggests that American agents kidnapped people in European countries, held them there temporarily, and illegally transferred them across the countries' borders, a European investigator said Tuesday.

The investigator, Dick Marty, said he believed that the United States was no longer holding detainees in Europe, having transferred them to North Africa in early November, after The Washington Post reported that the C.I.A. maintained prisons in at least eight countries, including some in Eastern Europe.

Mr. Marty, who is investigating those reports and whether European governments had turned a blind eye to United States breaches of European rules on human rights, emphasized the preliminary nature of his report. According to the statement released Tuesday, it is based primarily on published information, continuing legal proceedings,

talks with some of the nongovernmental organizations and individuals involved - including Secretary of State Condoleezza Rice - and discussions with journalists.

On that basis, Mr. Marty said in his interim report, "the elements we have gathered so far tend to reinforce the credibility of the allegations concerning the transport and temporary detention of detainees - outside all judicial procedure - in European countries." The report added, "Legal proceedings in progress in certain countries seemed to indicate that individuals had been abducted and transferred to other countries without respect for any legal standards."

He sharply criticized the United States for failing to give a full accounting of its actions, notably during Ms. Rice's visit to Europe last week. But he also said he believed there was some degree of collaboration from European officials. Human Rights Watch has identified Poland as the site of the C.I.A.'s main base for holding and interrogating terrorist suspects and has said Romania was a key transit point for detainees. Both countries have denied the charges.

Washington and a number of European capitals have also come under pressure to account for dozens of C.I.A. flights on the continent, some of which are thought to have transported suspects to countries with a record of torture and cruel treatment.

During the visit last week, Ms. Rice admitted that the United States had moved terrorist suspects to third countries to be "questioned, held or brought to justice." But she said that American agents acted only with the permission of the government of the country where the suspect was captured. She also said that all American personnel - including the C.I.A. - are subject to the United Nations Convention Against Torture.

But she failed to confirm or deny the reports on the secret detention centers, a point Mr. Marty criticized in a statement accompanying the report, saying he "deplores the fact that no information or explanation had been provided on this point by Ms. Rice during her visit to Europe."

The State Department declined to comment on Mr. Marty's report. A spokesman said Ms. Rice had "said all she plans to say on this matter for right now."

Mr. Marty also said he suspected that European secret services knew about the alleged C.I.A. transfers.

"I think it would have been difficult for these actions to have taken place without a degree of collaboration," he said, adding, "It is possible that secret services did not inform their governments."

At least eight European Union member states, many of which have started their own investigations, demanded a clarification from the United States last month. Many decided to accept Ms. Rice's response for now. But until Mr. Marty publishes his final conclusions, officials say, the issue will not go away.

"We were given assurances by the Americans, and we don't have the intention to demand more," said a French diplomat, who in accordance with French practice spoke on condition of anonymity. "But we'll see what the Council of Europe investigation finds out."

Mr. Marty said the Legal and Human Rights Committee of the council would next debate the issue at the end of January.

Brian Knowlton contributed reporting from Washington for this article.

Citation: <http://www.nytimes.com/2005/12/14/international/europe/14europe.html>

CHICAGO TRIBUNE

<http://www.chicagotribune.com/news/nationworld/chi-0512140158dec14,1,6972039.story?coll=chi-newsnationworld-hed>

Vatican: Torture is never justified

No exception for war on terror, cardinal says

Associated Press

December 14, 2005

VATICAN CITY -- Pope Benedict XVI's top official for justice issues said Tuesday that torture is unacceptable for extracting information that might thwart a terrorist attack.

In analyzing what causes terrorism, the pope said in the Vatican's annual review of world conflicts that "consideration should be given not only to its political and social causes but also to its deeper cultural, religious and ideological motivations."

The pope also issued a warning about fundamentalism.

"Religious fanaticism, today often labeled fundamentalism, can inspire and encourage terrorist thinking and activity."

His message, which was issued for the approaching new year, also lamented that international diplomacy aimed at eliminating nuclear menace had become "bogged down."

The pontiff paid tribute to his predecessor, Pope John Paul II, who vigorously opposed the war in Iraq, and said the church would continue "serving the cause of peace."

At a news conference about the peace message, Cardinal Renato Martino, head of the Vatican's pontifical council on peace and justice, was asked whether torture could be a

Two Senate Republican colleagues who voted for Mr. McCain's measure in October said Wednesday it was important for Congress to back the language.

"We need to have clear guidance, in law, that makes it very clear that inhumane treatment of detainees in American captivity is absolutely unacceptable," Susan Collins of Maine said. "This problem is hurting us around the world. It's contrary to our values, and we simply must have this as part of the final bill."

Senator John Thune of South Dakota said: "Because it has become such a high-profile issue here of late, not only around the country but around the world, I think it's in our best interests to address it. A strong unequivocal statement that we don't apply or tolerate torture in any form is probably right now a good thing to do."

NEW YORK TIMES

December 15, 2005

Oversight

Senate Is Set to Require Details on Secret Prisons

By DOUGLAS JEHL

WASHINGTON, Dec. 14 - The Senate is poised to approve a measure that would require the Bush administration to provide Congress with its most specific and extensive accounting about the secret prison system established by the Central Intelligence Agency to house terrorism suspects.

The measure includes amendments that would require the director of national intelligence to provide regular, detailed updates about secret detention facilities maintained by the United States overseas, and to account for the treatment and condition of each prisoner. The facilities, established after the Sept. 11 terror attacks, are thought to hold two dozen to three dozen terrorism suspects, including Khalid Shaikh Mohammed, who is said to be the mastermind of the attacks.

An agreement reached Wednesday between Democrats and Republicans called for the measure to be approved by unanimous consent, but it was unclear on Wednesday night when a final vote might occur.

While the C.I.A. has provided limited briefings to members of Congress about the detention facilities, the information has generally been shared with only a handful of Congressional leaders, who are prohibited from discussing the information with their colleagues. The Senate measure would widen that circle considerably, by requiring the director of national intelligence to provide reports each 90 days to the House and Senate intelligence committees. Among other things, the reports would be required to address the size, location and cost of each detention facility; "the health and welfare" of each prisoner there, and whether the treatment of those prisoners had been humane.

The new Senate measure, part of a bill authorizing intelligence spending, is separate from an amendment by Senator John McCain, Republican of Arizona, that is still being debated as part of a military spending bill. Both reflect a widening sense of unease in Congress about the treatment of prisoners captured and held by the United States as part of what the administration calls its war on terrorism. The McCain amendment would prohibit the cruel, inhuman or degrading treatment of prisoners in American custody anywhere in the world, including at secret facilities run by the C.I.A.

The Bush administration has never officially acknowledged that secret detention facilities exist, but the basic facts surrounding them have been described by current and former government officials. The location of the prisons in particular remains a carefully guarded secret, though the European Union is seeking information to confirm a report by The Washington Post last month that said that at least two were in Eastern Europe.

In a bow to that nuance, the Senate bill uses the phrase "if any" to describe the secret prisons and specifies that the reports about them remain classified, to minimize the prospect of public disclosure.

Senator Pat Roberts of Kansas, the top Republican on the Senate intelligence panel, agreed to include the amendments in a measure that was to be presented to the Senate for unanimous approval, Congressional officials said.

The new reporting requirement is not in a version of the intelligence bill that has been approved by the House, so the amendments to the Senate measure would have to be endorsed by a House-Senate conference committee, and then win final passage from the House and Senate before they could become law.

Representative Jane Harman of California, the top Democrat on the House Intelligence Committee, said she would seek to persuade the conference committee to approve the new requirement. "There is more information that should legitimately come to the full intelligence committee," Ms. Harman said in an interview.

No senator has publicly objected to the amendments, which were introduced by the two Senate Democrats from Massachusetts, Edward M. Kennedy and John Kerry. Another measure included in the bill, also introduced by Mr. Kennedy, would require the White House to provide classified intelligence documents on Iraq that have until now been withheld from Congress.

Citation: <http://www.nytimes.com/2005/12/15/politics/15intel.html>

LOS ANGELES TIMES

EDITORIAL:

Duty, honor, clarity

December 15, 2005

TRANSCOM GHOST DOCS 478

IN HIS BATTLE AGAINST THE Bush administration, Sen. John McCain has the one weapon the administration has always said is indispensable in the war against terrorism: moral clarity. McCain simply wants all U.S. personnel involved in the war to abide by the Army Field Manual's regulations for interrogation. An amendment he sponsored, attached to the Pentagon's annual budget bill, would clarify the U.S. position on torture, bringing it in line with U.S. and international law and basic standards of human decency. Yet the administration has been fighting his proposal with a tenacity not seen since — well, since the president's primary campaign against McCain in 2000.

McCain's amendment should be a no-brainer. It would prohibit all U.S. personnel from practicing cruel, inhumane and degrading treatment against prisoners — wherever they may be found. It passed the Senate by a 90-9 vote. The administration, however, prefers ambiguous rules that allow it to define torture as it sees fit.

In response to McCain, the administration has tried a number of tactics. First, it threatened to veto the bill. Then Vice President Dick Cheney made an embarrassing attempt to exempt CIA agents from the amendment (so that they can torture prisoners in "nonexistent" European secret prisons). Secretary of State Condoleezza Rice then offered further legalistic obfuscations (torture is prohibited in the United States and by U.S. personnel abroad, but could occur in prisons outside U.S. jurisdiction).

And now the Army has rewritten the rules on which the McCain amendment relies. The 10 classified pages added to the Army Field Manual offer greater detail on how to walk the line between legal and illegal interrogation. The new rules do outlaw practices once not mentioned specifically — forcing prisoners into stress positions and using police dogs, for example, as was done at Abu Ghraib. Thus they offer the type of clarity that McCain seeks but the administration hopes to avoid. But other additions may stretch the limits on what McCain and his supporters would consider acceptable techniques.

In general, however, the changes are an improvement. The House voted overwhelmingly on Wednesday in support of McCain's amendment, although not on the amendment itself. Still, the vote shows the president may soon be in the awkward position of having to veto the Pentagon's spending bill so it can continue to engage in torture.

The administration's attempts to preserve legal ambiguity about torture — to create the type of secret legal spaces often found in the worst regimes — is a shameful chapter in U.S. history. In his attempt to close it, McCain deserves all the support he can get.

Citation: <http://www.latimes.com/news/opinion/editorials/la-ed-torture15dec15,0,987950.story?coll=la-news-comment-editorials>

USA TODAY

OPINION:

TRANSCOM GHOST DOCS 479

Accountability means not leaving serious judgments to junior personnel. Harsh interrogation methods, such as covert operations under current federal law, should require approval by a high-ranking administration official.

Obviously, distinctions must be made between terrorist leaders and low-level operatives. Even so, those arguing that it is better to sacrifice the lives of U.S. troops — or even an American city — rather than cause a terrorist temporary discomfort are making a terrible mistake. They urge a self-destructive policy and a misguided morality.

Andrew C. McCarthy is a former federal prosecutor and a senior fellow at the Foundation for Defense of Democracies. Clifford D. May is president of the FDD.

Friday, December 16, 2005

WASHINGTON POST

President Relents, Backs Torture Ban

McCain Proposal Had Veto-Proof Support

By Josh White
Washington Post Staff Writer
Friday, December 16, 2005; A01

President Bush reversed position yesterday and endorsed a torture ban crafted by Sen. John McCain (R-Ariz.) after months of White House attempts to weaken the measure, which would prohibit the "cruel, inhuman, or degrading" treatment of any detainee in U.S. custody anywhere in the world.

The announcement of a deal at the White House yesterday was a setback for the administration, which had pressed the senator to either drop the measure or modify it so that interrogators, especially with the CIA, would have the flexibility to use a range of extreme tactics on terrorism suspects. In the end, McCain, bolstered by strong support in both houses of Congress, was willing to add only two paragraphs that would give civilian interrogators legal protections that are already afforded to military interrogators.

That language specifically would allow those civilians to defend their use of interrogation tactics by arguing in court that a "person of ordinary sense and understanding would not know the practices were unlawful." But legal experts said that provision also carries with it an implicit responsibility: Should CIA operatives or other civilians believe they were being directed to use an interrogation technique that was illegal, they would be obligated to disobey the order.

Such details aside, the debate over the amendment was viewed by many on Capitol Hill as a question of taking a broad stand for or against torture after international

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condemnations of the alleged abuse at Iraq's Abu Ghraib prison and other U.S.-controlled facilities.

Bush gave his support publicly in a joint appearance with McCain in the Oval Office yesterday, one day after the House gave veto-proof support for the senator's language in a symbolic 308 to 122 vote. The Senate had already approved the provision 90 to 9. Bush praised McCain's effort.

"We've been happy to work with him to achieve a common objective, and that is to make it clear to the world that this government does not torture and that we adhere to the international convention [on] torture, whether it be here at home or abroad," Bush said.

Though the White House held out the agreement as a compromise, McCain retained the language he has been proposing all along, which would prohibit the abuse of any detainee in U.S. custody and would also make it a legal requirement that Defense Department interrogators abide by the rules in the Army's field manual on interrogations.

"We've sent a message to the world that the United States is not like the terrorists," McCain said while sitting next to Bush at the White House. "We are . . . a nation that upholds values and standards of behavior and treatment of all people, no matter how evil or bad they are. And I think that this will help us enormously in winning the war for the hearts and minds of people throughout the world."

McCain's provision is included in the defense appropriations bill and the defense authorization bill, both of which Congress hopes to adopt by year's end. Bush had previously threatened to veto the bills, and Rep. Duncan Hunter (R-Calif.), chairman of the House Armed Services Committee, threatened yesterday to block the legislation unless he receives written assurances from the White House that they will not handcuff intelligence officials.

Human rights groups applauded the agreement, calling it a giant leap forward. "We've come a long way as a country since 9/11, and this development is a sign of that," said Tom Malinowski, Washington advocacy director for Human Rights Watch. "We've gone from a sense of 'anything goes' to a recognition that torture hurts America even more than it hurts the enemy."

Malinowski and others, however, warned that a separate proposed amendment by Sen. Lindsey O. Graham (R-S.C.) could eliminate certain rights of detainees held at the U.S. detention facility at Guantanamo Bay, Cuba. In a new draft of the amendment, the U.S. government would be allowed to indefinitely detain people at Guantanamo based on evidence obtained through "coercion." Some attorneys for prisoners say that they think the White House is still trying to protect its ability to use techniques they believe amount to torture, and that the administration has shifted that fight to Graham's amendment.

Tom Wilner, a lawyer who represents a group of Kuwaiti detainees at Guantanamo Bay, said the new Graham language would make the U.S. military prison in Cuba a place

where the McCain-backed prohibition against torture would be essentially unenforceable. The Graham amendment, he said, could give U.S. troops an incentive to engage in coercive interrogations of detainees, without fear of being held liable. The provision would also strip detainees of access to U.S. courts.

"This is a tremendous reversal of U.S. law," Wilner said. "I think this language being enacted will more than erase anything good that comes out of McCain."

Meanwhile, an unidentified Republican senator has used Senate rules to hold up approval of the intelligence authorization bill, objecting to language that would require the administration to give Congress regular reports on detainees held in secret CIA detention facilities abroad, officials said. The facilities, known in classified documents as "black sites," have stirred international controversy.

Congressional aides said the language had been accepted by Sen. Pat Roberts (R-Kan.), chairman of the Senate intelligence committee.

"Yesterday, however, we were told there were Republican objections and the bill would not come up unless the amendments were removed," a staff aide said.

The White House announcement yesterday ended months of negotiations with McCain.

The discussions began seriously in July, when Vice President Cheney pulled McCain, Graham and Sen. John W. Warner (R-Va.) into a room off the Senate floor and sternly argued that the provision could usurp the president's authority and would interfere with his ability to protect the nation from terrorist attack.

But McCain would not budge, officials said, and after several months of tense negotiations with Cheney, he went to Bush, said congressional aides. Bush tapped national security adviser Stephen J. Hadley to take over the discussions about six weeks ago.

First, Hadley asked McCain to exempt CIA officials from the ban on harsh treatment, a move McCain rejected. Then Hadley requested language that would allow the president or the attorney general to grant waivers in extraordinary circumstances -- such as if a terrorism suspect has information about an impending attack on the United States -- which McCain also rejected, congressional aides said.

Staff writers Charles Babington, Carol D. Leonnig and Walter Pincus contributed to this report.

WASHINGTON POST

OPINION:

Stepping Back From Torture

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IRA prisoners of sleep, making them lean against a wall for long periods, using "white noise" that would confuse them.

The clincher for British interrogators was mock execution. The preferred method in the mid-1970s was to take hooded IRA prisoners up in helicopters over the lakes near Belfast and threaten to throw them out if they didn't talk. Sometimes, they actually were thrown out. The prisoners didn't know that the helicopter was only a few yards above the water. I'm told that technique nearly always worked. (So, too, with the "waterboarding" that U.S. interrogators used to break al Qaeda leader Khalid Sheik Mohammed.) The British eventually had to give up their extreme techniques because of public outcry, and I'm told they got less information. But they eventually prevailed against the IRA.

What of the extreme case that should haunt us all, when an al Qaeda prisoner may know the location of a ticking nuclear bomb? Here, too, the right answer is the rule of law. Under the new rules, an aggressive interrogator who discovers information that prevents a nuclear attack may still be charged with a crime. But I doubt any judge or jury would ever convict him. That's the essence of a lawful society -- that hard decisions are left to courts, not to individuals. McCain got it exactly right when Newsweek asked him about this ultimate test. "You do what you have to do. But you take responsibility for it."

It's a long walk back from Abu Ghraib and Guantanamo Bay, but President Bush took a first step yesterday, prodded by the man who has been his greatest political rival. Their partnership, in itself, is encouraging.

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WASHINGTON POST

EDITORIAL:

A Blow Against Torture

Friday, December 16, 2005; A34

THANKS TO a belated White House retreat, Congress is on the verge of taking an important step toward curtailing the systematic human rights violations committed by the Bush administration in its handling of foreign prisoners. President Bush said yesterday that he would agree to an amendment by Sen. John McCain (R-Ariz.) prohibiting "cruel, inhuman, or degrading" treatment of all prisoners held by the United States. The president's grudging acceptance came after the House and Senate voted overwhelmingly to reestablish a standard that he wrongly chose to set aside some three years ago. Mr. Bush had threatened to veto any bill containing the amendment; Vice President Cheney campaigned for an explicit authorization for the CIA to abuse its detainees. In response, Congress sent a powerful message -- by votes of 90 to 9 in the Senate and 308 to 122 in the House -- that such policies are unacceptable, even in a global war against terrorism. That it did so was due in large part to Mr. McCain's tenaciousness, which Sen. John W. Warner

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(R-Va.) rightly described as "a profile in courage."

Whether Mr. Bush will heed the message, or the new legal standard, unfortunately remains an open question. A close Pentagon ally, Rep. Duncan Hunter (R-Calif.), was still fighting yesterday to dilute the McCain amendment. Concessions already obtained by the administration from Mr. McCain and a separate amendment authored by Sen. Lindsey O. Graham (R-S.C.) could prevent any foreign detainee from seeking relief in a U.S. court in the event that he was tortured, or any CIA personnel from being held accountable for abuse. Mr. Graham and Sen. Carl M. Levin (D-Mich.) recently agreed to yet another administration provision that would -- incredibly -- allow evidence obtained by torture to be considered by military review panels that decide whether to hold prisoners at the Guantanamo Bay naval base as "enemy combatants."

Worse, Mr. Bush's political appointees at the Justice Department and the Pentagon have redefined both "torture" and "cruel, inhuman and degrading treatment" as not covering in all circumstances such CIA techniques as "waterboarding," or simulated drowning; "cold cell," the deliberate induction of hypothermia; mock execution; and prolonged and painful "short-shackling." It has taken these positions even though "cruel, inhuman and degrading treatment" as defined by the Senate covers everything that would be prohibited by the Constitution. In protecting its ability to use these odious techniques, in other words, the administration has adopted logic that accepts, in principle, the idea that the FBI could constitutionally use them on U.S. citizens in certain circumstances.

So passage of Mr. McCain's amendment will not end waterboarding or curtail the administration's policy of abuse unless there is aggressive follow-up by Congress. There must be an independent check on the administration's legal interpretations. One way would be a statutory requirement that all CIA interrogation methods be submitted to congressional intelligence committees for review. A Senate proposal to require regular reports by the administration on the CIA's secret prisons and the status of each prisoner being held could be expanded to cover interrogation plans. A court ruling may be necessary on the administration's theory that the Constitution allows for techniques such as waterboarding; this won't be possible if Congress prohibits foreign prisoners from bringing cases of mistreatment before federal judges.

In short, restoring the rule of law over an administration that deliberately chose lawlessness in its treatment of detainees may be an arduous process. And yet the McCain amendment is a vital, and hard-won, opening move.

NEW YORK TIMES

EDITORIAL:
December 16, 2005
Editorial

Ban Torture. Period.

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British after the war. The camp was closed in July 1947, the Guardian reported.

Many prisoners were former members of the Nazi party or of the SS, rounded up to prevent an insurgency, the Guardian said. Other detainees included businessmen and industrialists who had flourished under Adolf Hitler's regime.

The documents detail an investigation by Inspector Tom Hayward of Scotland Yard.

The report included the result of an investigation into the death of one inmate, Walter Bergmann, 20, who had offered to spy for the British but came under suspicion because he spoke Russian.

"There seems little doubt that Bergmann, against whom no charge of any crime has been made, but on the contrary, who appears to be a man who has given every assistance, and that of considerable value, has lost his life through malnutrition and lack of medical care," Hayward reported.

Prisoners told Hayward they had been whipped and beaten. Hayward wrote that he initially found the charges incredible but "our inquiries of warders and guards produced most unexpected corroboration."

Hayward's reports led to courts-martial of three men. Two were acquitted and the other was found guilty of neglecting inmates and dismissed, the newspaper reported.

Citation: <http://www.latimes.com/news/nationworld/world/la-fg-torture18dec18,1,2510232.story?coll=la-headlines-world>

Monday, December 19, 2005

CHICAGO TRIBUNE

<http://www.chicagotribune.com/news/nationworld/chi-0512190125dec19,1,20626.story?coll=chi-newsnationworld-hed>

McCain concedes U.S. torture ban not absolute

Associated Press

December 19, 2005

WASHINGTON -- Sen. John McCain, who pushed the White House to support a ban on torture, suggested Sunday that harsh treatment of a terrorism suspect who knows of an imminent attack would not violate international standards.

McCain (R-Ariz.) said legislation before Congress would establish in U.S. law the international standard banning any treatment of prisoners that "shocks the conscience," including mock executions.

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Asked on ABC's "This Week" whether such treatment of a terrorism suspect who could reveal information that could stop a terrorist operation would shock the conscience, McCain said it would not.

"In that million-to-one situation, then the president of the United States would authorize it and take responsibility for it," McCain said.

"We've gone a long way from having that kind of scenario to having prisons around the world, to the renditions, to the things that have been done which are, in my view, not appropriate," he said.

McCain said he is confident Congress will set the interrogation procedures all U.S. agencies will follow.

After months of rejecting a call for anti-torture legislation, President Bush last week accepted McCain's proposal to ban cruel, inhuman and degrading treatment of terrorism suspects.

Bush had threatened to veto any bill that contained the ban while maintaining that the U.S. did not condone torture.

Vice President Dick Cheney, who had opposed such a restriction, said he supported the compromise Bush worked out with McCain.

Pressure for the ban had built from Republicans in Congress as well as from abroad.

The legislation proposed by McCain is part of a massive defense bill before Congress.

CHICAGO TRIBUNE

<http://www.chicagotribune.com/news/nationworld/chi-0512190137dec19,1.1265813.story?coll=chi-newsnationworld-hed>

Torture at secret jail alleged

Items compiled from Tribune news services

December 19, 2005

KABUL, AFGHANISTAN -- Eight men at the U.S. detention camp in Guantanamo Bay, Cuba, have given their lawyers "consistent accounts" of being tortured at a secret prison in Afghanistan from 2002 to 2004, Human Rights Watch said Sunday.

The men, five of whom were identified, told their lawyers that they had been arrested in various countries, mostly in Asia and the Middle East, the New York-based rights group said. Some recounted being flown to Afghanistan and then driven a few minutes from the

landing strip to the prison, the organization said.

The detainees said they were guarded by Afghans and Americans in civilian clothes, leading the rights group to suggest that "the prison may have been operated by personnel from the Central Intelligence Agency."

U.S. military officials in Afghanistan declined to comment.

CHICAGO TRIBUNE

<http://www.chicagotribune.com/news/nationworld/chi-0512190115dec19.1.7561866.story?coll=chi-newsnationworld-hed>

McCain tempers torture policy

Items compiled from Tribune news services

December 19, 2005

WASHINGTON, D.C. -- Sen. John McCain, who pushed the White House to support a ban on torture, suggested Sunday that harsh treatment of a terrorism suspect who knows of an imminent attack would not violate international standards.

The Arizona Republican said legislation before Congress would establish in U.S. law the international standard banning any treatment of prisoners that "shocks the conscience," including mock executions.

Asked on ABC's "This Week" whether such treatment of a terrorism suspect who could reveal information that could stop a terrorist operation would shock the conscience, McCain said it would not.

"In that million-to-one situation, then the president of the United States would authorize it and take responsibility for it," McCain said.

LOS ANGELES TIMES

Report Cites Torture in U.S. Prison

From Associated Press

December 19, 2005

KABUL, Afghanistan — The United States operated a secret prison in Afghanistan as recently as last year, torturing detainees by chaining them to walls and forcing them to listen to loud music in total darkness for days, a human rights group alleged in a report released today.

abroad.

A senior U.S. official acknowledged that while the cover system had served the agency well for many years, it had not been designed to withstand the scrutiny made possible by the Internet.

After learning of the extent to which the Tribune had cracked the CIA's cover network, CIA Director Porter Goss ordered sweeping changes in the way the agency's covers are created, according to government sources who asked not to be named.

Tuesday, December 27, 2005

WASHINGTON TIMES

Washington Times
December 27, 2005
Pg. 1

Torture Jails Force Ouster Of Iraq Chief

By Paul Martin, The Washington Times

LONDON -- Iraqi Interior Minister Bayan Jabr, whose ministry is accused of operating clandestine prisons where some detainees were tortured, will vacate his job shortly, security and political sources in Baghdad said yesterday.

Mr. Jabr has been under pressure to step down since a Nov. 15 raid by U.S. forces of a secret prison in the Baghdad neighborhood of Jadriyah, where 166 prisoners were discovered, most of them Sunni Muslims and some showing signs of torture.

The minister also had been criticized amid widespread though largely unproven charges of abuses, including hit squads operating within the Interior Ministry, which is dominated by Shi'ite Muslims.

Multiple sources contacted by telephone from London agreed that Mr. Jabr would not retain his position. Most said he was being forced out, although one said he would resign of his own volition because he found the pressure unbearable.

Political factions that are negotiating to form a government after Dec. 15 elections have generally agreed that the next interior minister -- who runs the nation's police force and its prisons -- will come from a party that does not operate a militia, several sources close to the talks said.

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Mr. Jabr is a senior official in a major Shi'ite party, the Supreme Council for Islamic Revolution in Iraq (SCIRI), which operates the Badr Brigade militia and maintains close ties with neighboring Iran.

A senior security source supervising some Interior Ministry activities confirmed that Mr. Jabr would not continue in office.

"He has said he has had enough," the source said.

U.S. Ambassador Zalmay Khalilzad also has made clear that Mr. Jabr would be unlikely to stay.

"The selection of the minister of interior will be very important. You can't have someone sectarian; you need to have someone who has the confidence of all communities," Mr. Khalilzad said recently.

His remarks echoed demands from a wide range of Iraqi politicians that the next ministers of defense and interior be "neutral."

U.S. officials disputed a claim last week by Gen. Muntazar Jasim al-Samarrai, the Interior Ministry's former head of a special forces brigade, who told The Washington Times that Mr. Jabr already had been relieved of his duties.

The claim is not true, said Lt. Col. Fred Wellman, a spokesman for the U.S.-led Multi-National Security Transition Command in Iraq. "The minister is continuing to work at his desk inside his office at the Adnan Palace."

Repeated attempts to contact Mr. Jabr for comment were unsuccessful.

Gen. al-Samarrai, a Sunni Muslim, fled to Jordan in July, claiming that a purge of Sunnis and moderates had taken place and that he was receiving death threats.

Last night, Gen. al-Samarrai backed down somewhat from his earlier remarks, saying Mr. Jabr continued to work at the ministry, but remained adamant that the interior minister was being forced out.

Since the raid on the prison in Jadriyah and a subsequent U.S.-Iraqi inspection on a second prison elsewhere in Baghdad, where some prisoners also showed signs of having been tortured, the Iraqi government has moved to restructure the Interior Ministry, he said.

For example, Gen. al-Samarrai said, the Interior Ministry official in charge of the detentions, Tahseer Nasr Lawandi, had been arrested. Gen. al-Samarrai said Mr. Lawandi is an Iranian intelligence colonel who had been given Iraqi citizenship.

The general also has said there are several other detention centers where torture was routine.

An official investigation was ordered by the Iraqi government, of which SCIRI is a main constituent.

Under recent legislation, militias were to be disarmed and merged into official security forces. A preliminary report on the investigation has been delayed, and Prime Minister Ibrahim al-Jaafari has promised that it will be released "very soon."

Hamid Mousa Al-Bayati, chairman of the Communist Party, also said Mr. Jabr's role would come to an end.

"There is agreement among all parties concerned that the minister of defense and the minister of interior must remain neutral in any future government in office. It was agreed that anyone who occupies these posts must have no relations with political parties or political groups," he told the Iraqi News Agency.

London Daily Telegraph
December 27, 2005

US Ambassador Corrects Slip-Up Over Sending Suspects To Syria

By Anton La Guardia, Diplomatic Editor

The American ambassador to London has been forced to retract his categorical denial that the US had sent any terrorism suspects to Syria, a country that routinely practises torture.

It was the second embarrassment for Robert Tuttle, a millionaire car dealer and art collector, who last month vehemently denied that US forces had used white phosphorus as a weapon - only to be contradicted by the Pentagon a day later.

Mr Tuttle's latest mishap came during a radio interview in which he defended America's controversial policy of "extraordinary rendition" - secret operations to capture and move terrorist suspects to US custody.

It is alleged that America has secret prisons in eastern Europe.

Asked about suspects being "dumped" in Syria, Mr Tuttle told Radio 4's Today programme: "I don't think there is any evidence that there have been any renditions carried out in the country of Syria. There is no evidence of that. I think we have to take what the Secretary [Condoleezza Rice] says at face value.

"It is something very important. It is done very carefully and she has said we do not authorise, condone torture in any way, shape or form."

The interview was recorded last Thursday and broadcast yesterday. But on Friday the US embassy sent a clarification that was broadcast at the end of the interview.

The statement said: "The ambassador recognised that there had been a media report of a rendition to Syria but reiterated that the United States is not in a position to comment on specific allegations of intelligence activities that appear in the press."

The spokesman added: "The President and Secretary Rice have made clear that even in today's circumstances, where we are confronting a new kind of threat, the United States does not condone torture.

"Its officials do not participate in such activities anywhere, and we do not hand over anyone in our custody to anywhere where we believe that they will be tortured - full stop.

We take our actions in the fight against terrorism with full respect for our international obligations and with full respect for the sovereignty of our partners."

The correction appears to be a reference to the case of Maher Arar, a Canadian software engineer who also holds Syrian citizenship, who says he was arrested by US officials in 2002 while switching flights in New York during a trip from Damascus to Ottawa.

He claims to have been tortured for 10 months by the Syrians, before being released without charge. Mr Arar is suing the US government. In its last annual report, Amnesty International said torture, including of children, was "widely reported" in Syria.

Mr Tuttle, who had served in the White House under Ronald Reagan, was appointed to London this year after a lacklustre performance by his predecessor, William Farish, a horse breeder who largely stayed out of the limelight.

On the Today programme, Mr Tuttle admitted being wrong over white phosphorus. "When that happens the thing to do is to speak up, and say a mistake was made and you regret it."

Wednesday, December 28, 2005

CHICAGO TRIBUNE

<http://www.chicagotribune.com/news/nationworld/chi-0512280226dec28,1,1069204.story?coll=chi-news-hed>

'Waterboarding' spurs debate on what is torture

By John Crewdson

Tribune senior correspondent

TRANSCOM GHOST DOCS 491

the target has a chance to remain fully whole makes him more likely to be truthful and to break more quickly."

CHICAGO TRIBUNE

<http://www.chicagotribune.com/news/nationworld/chi-0512280167dec28,1,2773144.story?coll=chi-news-hed>

Italy presses U.S. on torture claim

Wants details on CIA officer's trip to Egypt

By John Crewdson
Tribune senior correspondent

December 28, 2005

MILAN, Italy -- Prosecutors investigating the CIA's alleged kidnapping of a radical Muslim preacher here want the FBI to question the CIA's former chief in Milan about whether he participated in the interrogation of Osama Moustafa Hassan Nasr, who claims he was tortured after being "rendered" by the CIA to Egypt nearly three years ago.

Five days after Nasr, better known as Abu Omar, was snatched off the sidewalk in this northern Italian city and flown to Egypt, the CIA chief, Robert Seldon Lady, began a two-week visit to Cairo.

Lady's identity no longer is secret because of an Italian warrant for his arrest and that of 21 other CIA operatives on kidnapping charges. Nor is Lady a spy any longer, having retired at the end of 2003, according to his Italian residence permit.

In communications with family and friends who visited his Egyptian prison, Abu Omar claimed to have been tortured by his Egyptian captors. He said the torture began almost immediately after he refused an offer to return to Milan as an informer for Egyptian intelligence.

Prosecutors here have Lady's travel reservations to Cairo and evidence that his cell phone was in that city when it received two calls from Italy during his visit. Daria Pesce, Lady's Italian lawyer, will say only that the Cairo trip was "official" business.

In a formal request for information under a mutual assistance treaty between Italy and the U.S., Milan's chief anti-terrorism prosecutor, Armando Spataro, is asking U.S. authorities to question Lady, believed to be in Florida, about why he went to Egypt shortly after Abu Omar's arrival there; whether he participated in Abu Omar's interrogation; and whether he had any reason to believe Abu Omar was being mistreated.

Without special dispensation from the CIA, Lady presumably would be prohibited from discussing a covert operation even with the FBI, and certainly with the Italian

prosecutors, because of the secrecy agreement that all U.S. intelligence officers sign as a condition of employment.

The CIA has refused to discuss the Milan "rendition," the agency's term for the practice of forcibly transporting terrorism suspects to third countries for interrogation, or even to acknowledge its role in the operation, despite hundreds of pages of evidence compiled by Spataro's investigators that leave little doubt of CIA involvement.

The information request also asks for the interrogation of Lady's boss, the chief of the CIA's station in Rome, who still works under cover at the counterterrorism center at CIA headquarters in northern Virginia. The Tribune is not identifying the man at the CIA's request.

On Saturday Spataro sent the information request to Italian Justice Minister Roberto Castelli, who will decide whether to officially transmit it to the U.S. Justice Department. Castelli has not yet passed on to U.S. authorities Spataro's earlier request to extradite Lady and the 21 other CIA operatives accused in the case.

What was Lady doing?

The question of what Lady was doing in Cairo goes to the heart of the furor in Europe over the CIA's practice of "rendering" militant Muslims like Abu Omar to friendly Middle Eastern countries such as Egypt and Jordan, and not-so-friendly ones such as Syria.

It also underscores what appears to be a disconnect between the debate in the U.S. over how aggressive military and CIA interrogators can be in questioning suspected terrorists, and the Bush administration's practice of shipping suspected terrorists to countries where torture is commonplace.

Techniques known to have been used by U.S. interrogators include a practice called "waterboarding" in which a cloth is placed over the subject's face and then water is poured over it, creating the sensation of drowning. The practice, which some human-rights groups say is torture, reportedly has been successful with several high-level Al Qaeda detainees, including Sept. 11 mastermind Khalid Shaikh Mohammed.

But the reported withholding of pain medication from Abu Zubaydah, Osama bin Laden's former No. 3, who was captured in March 2002 after being wounded in a gunfight in Pakistan, "never happened," according to an authoritative U.S. official who spoke on condition that he not be identified.

Congressional Democrats and a few Republicans allege that the U.S. is evading federal laws and international conventions by "outsourcing" the torture of suspected terrorists to third countries.

Earlier this month, President Bush offered his assurance that "we adhere to the law of the

U.S. We do not torture. We do not render to countries that torture."

A central goal of America's foreign policy since World War II has been promoting respect for human rights. But by the State Department's own account, countries to which the CIA has rendered those it suspects--not always correctly--of terrorist connections have some of the world's worst human-rights records, Egypt foremost among them.

A U.S. law implementing the Senate's ratification of the United Nations Convention Against Torture makes it a crime for a U.S. official outside the U.S. to inflict torture, threaten to inflict torture or conspire with others to inflict torture, which is defined as "severe physical or mental pain or suffering."

The CIA is required to refer possible violations of federal law to the Justice Department, but no referral has been made in the Milan case. The CIA's internal inspector general, however, is investigating an undetermined number of renditions to see whether agency rules or federal laws were violated.

According to Egyptian Prime Minister Ahmed Nazief, 60 to 70 suspects have been rendered by the U.S. to his country alone, far more cases than are publicly known. Torture is illegal in Egypt, as it is in virtually every country, and Nazief attributes reports of torture to isolated "police abuses."

State Department differs

But the U.S. State Department's latest survey of human rights found that "torture and abuse of detainees by police, security personnel, and prison guards" has "remained common and persistent" in Egypt.

"Principal methods of torture reportedly employed," the report says, "included stripping and blindfolding victims; suspending victims from a ceiling or doorframe with feet just touching the floor; beating victims with fists, whips, metal rods or other objects; using electrical shocks; and dousing victims with cold water."

Jordan also has a record of physical abuse of detainees, according to the State Department, as do Saudi Arabia and Morocco. Several suspects are believed to have been rendered to those countries by the CIA.

The UN Convention Against Torture and U.S. law prohibit transferring detainees abroad if there are "substantial grounds for believing" they will be subjected to torture.

But some Bush administration officials, including Atty. Gen. Alberto Gonzales, say the standard they apply is only that it must be "more likely than not" that no torture will occur.

Additional assurances, Gonzales says, are required from countries with a history of using torture. Other officials say there have been instances in which U.S. government officials

have checked on some of those it has rendered to make sure they are not ill-treated.

And yet accounts of torture given by Abu Omar and other rendered detainees who have been released from Egyptian prisons after they were found to have no links to terrorism are similar in their grisly details.

During a recent visit to Berlin, Secretary of State Condoleezza Rice, under fire from European allies over the CIA's use of European airports and airspace in conducting renditions, asserted that information gleaned from renditions had helped "save European lives."

But Spataro, noting that Milan police already had Abu Omar under surveillance and were preparing to arrest him on charges of recruiting foreign fighters to go to Iraq, declares that "the Abu Omar kidnapping did not save any human life."

When the Italian police asked the CIA if it had any idea where Abu Omar had gone, the agency's written response was that it believed he had returned to Albania, where he lived for several years before obtaining political asylum in Italy.

Spataro has added the CIA official who wrote the memo and the former Rome station chief to the official list of suspects in the case, which makes them liable for arrest if they return to Italy.

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CHICAGO TRIBUNE

<http://www.chicagotribune.com/news/nationworld/chi-0512280227dec28,1,1462421.story?coll=chi-news-hed>

Suspect told wife of torture by Egyptians

John Crewdson, Altin Raxhimi and Nevine Bayoumi contributed to this report

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Marsela Glina, Abu Omar's Albanian wife, went to Egypt in July with their two children, hoping to make contact with the husband she had not seen in eight years.

Although Abu Omar left her behind in Albania when he moved to Milan, where he took an Egyptian wife, the couple had remained in touch. He had sent regular child-support payments and maintained an interest in their children.

In Egypt, Glina saw him three times in jail, and she recalled the visits in a telephone

Senior administration officials have tried to stress that the cases are isolated instances among the more than 80,000 detainees held since Sept. 11. Yet much remains unknown about the CIA's highly classified detention and interrogation practices, particularly when it grabs foreigners and takes them to other nations.

Renditions represent just a fraction of the captures handled by the CIA and its allies. More than 3,000 foreigners have been detained in operations involving the CIA and friendly intelligence services since Sept. 11, the intelligence official said.

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LOS ANGELES TIMES

Italy's Pursuit of CIA Operatives Stalls

Resistance by Berlusconi government and apathy about being able to keep the U.S. from infringing sovereignty fetter case of imam spirited abroad.

By Tracy Wilkinson
Times Staff Writer

December 30, 2005

ROME — The secret agents who captured Abu Omar weren't very secret.

In the days surrounding their abduction of the radical Egyptian cleric on a Milan street nearly three years ago, they chatted openly on their cellular phones, ran up huge bills at luxury hotels and even managed to let their rental cars be photographed by traffic cameras as they drove illegally through pedestrian walkways.

The case became the most well-documented example of a secret CIA practice aimed at hunting down terrorism suspects. But Italy's efforts to bring the perpetrators to justice have stalled, a casualty of political stonewalling, international intrigue and public apathy.

Italy has issued Europe-wide arrest warrants for the alleged captors of the cleric, whose full name is Hassan Osama Nasr: 22 CIA operatives, including the former station chief in Milan. Italian prosecutors say Abu Omar, whom investigators suspected of heading a terrorist network, was transported by U.S. agents to an Egyptian prison, where he has said he was tortured.

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The operation in Milan was one example in what is now known to be the much wider practice by U.S. intelligence services of using European soil and airspace for the possibly illegal detention of dozens of suspects. The practice involves hidden prisons and clandestine flights in and out of European airports.

Getting to the bottom of the activities has proved difficult and, in some cases, embarrassing for governments not only in Italy but also Germany, Spain, Switzerland and Britain.

The men and women who grabbed Abu Omar as he walked to a Milan mosque in February 2003 are long gone, the last of them having left the country ahead of the decision of an Italian court in June to issue nationwide arrest warrants. Last week, another court expanded the warrants to the European Union, so the suspects now risk arrest anywhere in the 25-nation bloc.

State prosecutors based in Milan, who are pressing the case, believe the paper and electronic trail left behind by the CIA operatives provides a remarkable trove of evidence, especially for an operation that was supposed to be clandestine. The prosecutors asked the government to demand extradition from the U.S. of the 22 suspects.

And that is where the case has stalled.

The pro-U.S. government of Prime Minister Silvio Berlusconi is refusing to forward the extradition requests and instead has asked for more documentation, a highly unusual request that prosecutors regard as a delaying tactic.

Berlusconi has repeatedly denied that his government knew about or authorized the abduction, even as former CIA officers in Washington said the operation was conducted with Italian government cooperation.

Berlusconi shrugged off the contradiction. Last week, he justified the operation, saying governments should not be expected to fight terrorism "with a law book in hand."

The ease and openness with which the operatives acted in Milan suggest that they knew they had the green light from Italian authorities. Among other activities, they ran up bills totaling more than \$150,000 at some of Milan's best hotels.

"Berlusconi was an accomplice," said Giusto Catania, a leftist Italian member of the European Parliament who sits on its civil liberties committee. Catania is one of a group of EU lawmakers spearheading a continent-wide investigation into alleged CIA activities, as reports of secret prisons and flights mount.

It is not in the prime minister's interest for the Italian inquiry to advance, Catania said, because of his apparent role in permitting the rendition.

Berlusconi believes he will weather any domestic criticism, said a senior advisor to the

prime minister, speaking anonymously because he was not authorized to discuss the matter publicly.

"The prosecutors did the right thing and developed all the evidence, but now it's gone from the judicial [realm] to the political," the advisor said. "The case is going nowhere."

Abu Omar's captors took him to the U.S.-run side of Aviano Air Base in northern Italy; from there he was flown in a CIA-contracted Learjet to the United States' Ramstein Air Base in Germany, where he was transferred to a Gulfstream executive jet for the last leg of the journey to Egypt, according to Italian investigators and court documents.

He has told friends and family that he was questioned for hours at Aviano and tortured in prison in Egypt by interrogators who beat him and used electrical shocks on his body.

Phone records suggest that one of the CIA agents — former Milan station chief Robert Seldon Lady — may have been present in Egypt during the torture, prosecutors say. They have forwarded a request asking U.S. authorities to question Lady and his boss, the Rome CIA station chief, about his presence in Egypt.

Italian prosecutors said the CIA operation was an egregious violation of national sovereignty, a call taken up by some members of the political left. The prosecutors say that rather than furthering the war on terrorism, the stated goal of the Bush administration, the abduction was a setback.

"Kidnapping Abu Omar was not only a crime against the state of Italy, but also it did great damage to the war on terrorism," lead prosecutor Armando Spataro told the Los Angeles Times over the summer, even as he amassed more evidence and lengthened the list of suspects. "We could have continued the investigation and found evidence on other people. He would be on trial by now."

Senior counter-terrorism law enforcement officers in Milan concurred, saying they were weeks away from arresting Abu Omar when the CIA nabbed him. CIA officials later disputed that, but the bitterness felt by the Italian officials, who had considered themselves partners with the CIA agents in the fight against terrorism, was deep and unmistakable.

Abu Omar had received political asylum in Italy because of his claims of being persecuted in Egypt. But Italian investigators who were trailing him in Milan suspected the bearded cleric of helping to build a terrorist network in Europe and of recruiting volunteers to fight in Iraq. He was a veteran of wars in Bosnia-Herzegovina and Afghanistan and was using his position as imam in Milan to raise money for the "holy war" against the West, according to prosecutors who cite wiretaps of Abu Omar's telephone conversations.

Abu Omar, who apparently is still being detained in Egypt, has told associates that he believes his capture was designed in part to turn him and have him spy for the West. He

said his Egyptian interrogators asked him to return to the Islamic milieu of Europe and inform on people who might be planning attacks. He said he refused.

Italian prosecutors have tried to broaden the prosecution of his captors. But, in addition to official roadblocks, they are confronted with a general sense of resignation among Italians, another obstacle to the criminal case. Outrage over the abduction has been tempered by a feeling among many Italians that the Americans will do as they choose on national territory, and nothing can be done about it.

"In a certain sense, Italians expect Italy to be taken for granted," said Giuseppe Cucchi, a retired army general with Italy's civil protection office who is familiar with intelligence operations.

Cucchi, who for years was Italy's military representative to the North Atlantic Treaty Organization, pointed to two incidents in recent years that fostered this belief.

A senior Italian intelligence agent was killed by American troops in Iraq this year at a checkpoint shooting; the U.S. government cleared its officers of any wrongdoing, despite Italian objections.

In 1998, a U.S. Marine pilot severed the cables of a ski gondola in northern Italy, killing 20 people; the Americans cleared their personnel of wrongdoing.

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Suspected CIA tactics spread outrage in EU

Human-rights concerns arise over `rendition' of terrorist suspect

By John Crewdson
Tribune senior correspondent

January 1, 2006

STRASBOURG, France -- The cases of Abu Omar, a radical Muslim snatched by the CIA under the noses of the Milan police and flown secretly to Egypt, and Khalid el-

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Masri, a German national forcibly transported by that same agency from Macedonia to an Afghan prison by mistake, have propelled what once seemed a settled debate over human rights to the center of the European political stage.

It is difficult to name a Western European nation that has not announced some kind of investigation into whether the U.S. has been using its airports or airspace to ferry terrorist suspects to countries such as Egypt, Syria and Jordan for interrogations.

"Renditions," as the CIA calls that practice, have become an incendiary issue in Sweden, Norway, Austria, Switzerland, Germany, France, Great Britain, Spain, Portugal and even tiny Malta.

A report that the CIA secretly detained high-level Al Qaeda operatives in Eastern Europe has caused additional turmoil in Poland and Romania, considered the most likely host nations.

The Polish government said last week it had concluded an investigation into the possibility that the CIA housed senior Al Qaeda leaders in its prisons but did not make the findings public. The Romanians have vowed not "to waste time" by investigating.

But the 25-member European Union is taking seriously assertions that the CIA may have been operating without legal authority, and in some cases with impunity, on European soil.

A special committee of the European Parliament will begin a formal inquiry here this month. EU Justice Commissioner Franco Frattini has warned that any EU nation that assisted the CIA with abductions, renditions and secret incarcerations could lose its EU voting rights.

As a result of the controversy, Europe finds itself grappling with a difficult issue already known to politicians and voters in the U.S.: How much should the attacks of Sept. 11, 2001, change the rules of the game?

Before Sept. 11, most of the world had agreed on fundamental human rights: no physical or psychological mistreatment behind bars, access to courts and lawyers, no search or seizure of evidence without judicial approval, no incarceration without formal charges.

Since then the Bush administration has relied on the president's powers as commander in chief of the armed forces to allow the CIA to capture terrorist suspects abroad, question them using techniques that some human-rights groups call torture, or deliver them to a third country where they reportedly have been interrogated with far harsher methods.

Assurances by Secretary of State Condoleezza Rice during a recent visit to Western Europe that the U.S. abides by all international treaties and conventions mandating the humane treatment of prisoners only fanned European skepticism, largely because of Rice's refusal to confirm or deny a Washington Post report that some former Al Qaeda