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Update on Detainee Issues and Military Commissions Legislation

Washington, DC
September 7, 2006

10:00 A.M. EDT

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MR. BAILY: Good morning and welcome to the Foreign Press Center. This morning the State Department's Legal Advisor John Bellinger will be discussing the issues of detainees and the legislation that the administration has proposed to the Congress regarding military commissions. He will make a brief opening statement and then be happy to take your questions.

MR. BELLINGER: Nice to be with you. Sorry I am late. Actually, I'll speak a little bit more broadly than just on the Military Commission legislation and really on the President's entire set of remarks yesterday.

I think some DOD briefers will be available this afternoon to talk in more detail about the Defense Department directive, the Army Field Manual and the Military Commission legislation. So they will get into some more detail. But I'm happy to answer as many questions as I can about the President's statement yesterday.

The President's statement was a comprehensive statement on all aspects of detainee policy. It was intended to be as such to address as many of the issues relating to detainee policy as we could in a major Presidential address and to -- particularly to speak to the international community as well on these issues, and I'll say something about that in a moment.

There were many parts to the President's address. The -- of course, the headline is that he announced that all of the individuals who had been held in classified locations by the CIA around the world had been, by the time of the President's speech moved to Guantanamo Bay, Cuba, fourteen individuals, high-level al-Qaida planners and operatives including those directly responsible for planning 9/11, the attacks on the Cole, the attacks on our embassy people who committed acts of terrorism themselves, all moved to Guantanamo. And the President announced that he wants them to be brought to justice before the Military Commissions.



He said that at this point there are no individuals left in CIA custody anywhere in the world. These 14 were the remaining individuals now all in Guantanamo Bay where the ICRC will have access to them. They will have their full panoply of legal rights and will be treated just like anybody else in Guantanamo Bay.

Shortly before the President's remarks, Secretary Rice called President Kellenberger of ICRC to tell him that, that the ICRC would be able to have access to the individuals there. We are working out the modalities of that.

In addition, the President reiterated again his desire that Guantanamo be closed and that he wanted to rapidly move towards that day. He again reminded the audience that closing Guantanamo is difficult, that other countries have not agreed to take back their nationals or to provide sufficient either human rights assurances or security assurances, that the people would not pose a threat or would be treated humanely. But the President will work on those efforts and wants to reach the day that Guantanamo can be closed.

The President also emphasized legal changes that have been being made, that our processes and laws have evolved. He reiterated that he supported the McCain amendment, will abide by the McCain amendment. He mentioned that the Defense Department had, as of yesterday, issued a new Army Field Manual on interrogation techniques that will cover anyone in Defense Department custody anywhere in the world and that those would address any of these questions about what the interrogation techniques are, their uniformity or consistency. Those are now out there. A new Defense Department directive on the treatment of detainees, making clear that we will comply with Common Article 3 for those individuals who are not prisoners of war are protected persons. So that's the standard for anyone in Defense Department custody anywhere in the world.

He also said that he was submitting yesterday legislation to the Congress to authorize military commission legislations consistent with the Supreme Court's ruling in the Hamdan case and that he wanted to work with Congress to finish the legislation as quickly as possible so that, in particular, the 14 new individuals brought to Guantanamo could be tried for their crimes. He also described in significant detail previously classified information about the CIA's special program to gather intelligence from a very small number of high-level al-Qaida individuals. He laid out the specialized training for those CIA personnel who engage in this program and the very narrow set of individuals against whom it was directed.

He said that he believes that that program will need to continue in the future to collect information from al-Qaida members if we capture them in the future and said, though, that he would consult with Congress on the parameters of that program and that it, of course, would have to be consistent with existing law -- the McCain amendment and Common Article 3.

He then laid out the details of information that we had obtained from the individuals who had been in CIA custody, including those moved to Guantanamo, and in significant detail in his speech talked about how the information that they had provided had led to the unraveling of terrorist plots both in the United States and around the world. He made clear that information obtained through this program was shared with our allies around the world and had averted plots in various places, including in Europe; that thousands of lives had been saved as a result of information that had been obtained from these individuals. The CIA, I will say, has separately released a fact sheet that I think you've seen that lays out the details of the different plots that were uncovered.

And then finally, the President spoke directly to the international community. The penultimate paragraph of the President's speech emphasizes that he has spoken to world leaders about issues in the war on terrorism,

particularly concern, and he has listened to the concerns raised by other countries about some of our policies, including in Guantanamo, and detention policies that he says specifically we are a nation of laws and that as we work to strengthen and clarify our laws at home to address these difficult problems of dealing with terrorists, that he will also work with other countries around the world. And that he wants to work together with the international community to build a common foundation that will allow us to attack these problems together.

So it was a comprehensive statement on all aspects of detainee policy, recognizing that five years after September 11th that our policies, our laws, our procedures, have evolved; that now is the time to bring to justice those individuals who are in our custody and who have committed crimes so that they can be tried before military commissions. And he tried to address as many of the different issues that are out there.

So with that, I am happy to take your questions.

MR. BAILY: Yes, ma'am.

QUESTION: I am Katja Gloger with Stern Magazine from Germany. Good morning. I am wondering about the military commissions. Is it true that the information obtained through coercive interrogation methods could be used during those trials? And if so, how could you guarantee a fair trial for those persons?

MR. BELLINGER: Information that's derived from torture is specifically prohibited, may not be used in the trials. The information that is derived from coercion could be used but only if the judge who is presiding over the trial determines that use of that information would not deny the individual a fair trial.

We looked specifically at this question of whether information derived from "coercion" should simply be prohibited. The problem is that being in custody and being questioned is inherently coercive and so if that would immediately set up someone saying because I was incarcerated and being questioned, that was coercive so you can't admit anything. So we have got a balancing test that says that if information that the accused believes is coercive is admitted that the judge will then determine whether that information may be admitted, and if the judge determines that it would deny the individual a right to a fair trial it would not be admitted.

QUESTION: Can I follow that up?

MR. BELLINGER: Yeah.

MR. BAILY: But wait for the mike, please.

QUESTION: Barry Schweid, Associated Press. On your last point, what is -- is this a sua sponte decision, legal decision, by the Administration? Is there some legal basis for leaving leeway for coercively obtained information to be used? You put the emphasis on a fair trial. Wouldn't the emphasis be as a defendant or a defendant been mistreated and that pro forma, that on its face, requires acquittal? In other words, where do you get the -- where does the U.S. Government get this formula, this typically is a lot of words like "balancing?" Where do you get this balancing act? Where does it derive from?

Frankly, in the whole darn thing, if you could address this for a little bit, the whole system of jails and all, is this something that simply evolved under exigent, unprecedented circumstances, or do you have any legal historical basis for the actions that were taken to counter terrorism? Is it just a new threat and you've got to make it up as you go along?

MR. BELLINGER: Let me try to take your specific question and your general question. I'll take your general question first, which is a good one and it's one that we have tried to speak to our international partners about. On September 11th, clearly the United States was not prepared for those attacks or they would not have happened. We were not prepared as a matter of intelligence, law enforcement, nor were we prepared legally.

And so yes, after September 11th, while there were numerous rules on the books that were available to treat past wars and people in past wars, we quickly determined that they don't fit these new people very well. For example, after much discussion, as everyone knows, about the Geneva Conventions and the need for the U.S. to comply with the Geneva Conventions, but anyone who actually looks closely at the terms of the Geneva Convention will actually probably agree that the individuals captured are not prisoners of war under the Geneva Conventions because al-Qaida is not a party to the Geneva Conventions in the first place and they don't fit the terms in the treaty.

So what rules does one use to apply to these sorts of individuals? And so our policies have had to evolve as we have gone along and we have tried to develop rules that adopt appropriate balancing tests. So for example, the Defense Department -- in any normal war, one holds individuals until the end of the conflict. We are of course aware that this conflict could go on for a very long time. It's also not entirely clear who one is picking up because they don't wear uniforms and carry their arms openly. So the Defense Department has put in place, as you know, different types of review procedures: the combatant status review tribunals, the administrative review boards that do different reviews.

And so we have been trying to adapt our policies. I would not say we are making them up as we go along, but there are not clearly existing rules either domestically or internationally that apply to individuals like this.

And this gets to the point in the President's speech where he says that he has listened to our international partners and wants to work with them. And this recognizes that in fact we are all of us facing a new kind of threat from not just a small domestic terrorist group that all of our countries have been able to deal with before, but a massive international terrorist group that is able to inflict attacks really on par with the way countries used to do that.

And what I have seen in the last six months as we have engaged in more intense dialogue with our foreign partners is frankly a recognition that the law which perhaps critics thought was clear is maybe not quite so clear as people thought. So I think one is seeing even an evolution in international thinking on these issues and we're trying hard to work together with our foreign partners.

QUESTION: Guy Dinmore of the Financial Times. Going back to the first question, you know there have been reports and memos of the water boarding, dogs, sexual abuse, extremes of temperature and all the rest, and some of these are, you know, official FBI memos that have been released under the official Freedom of Information Act.

Can you elaborate more on how you distinguish between what is torture and what is coercion and what will be permitted?

MR. BELLINGER: With respect to anybody who is in Defense Department control and, of course, many of the allegations

of abuse, Abu Ghraib in particular, involved Defense Department personnel. And as you know, there were different procedures that were approved in different places. There is now a single set of procedures in the Army Field Manual laid out. It is all unclassified. There's a long list of things that are prohibited like water boarding, nudity, other things. You will have to ask the Defense Department on the details just because I can't remember them all. But it's all a single standard applicable to Defense Department anywhere with a long list of prohibited activities. Common Article 3 would apply. And despite earlier reports that there might be some portions that might be classified, it's all unclassified and all there for anyone to see going forward.

With respect to the CIA the President made clear that he believes there will need to continue to be a specialized program if we capture al-Qaida -- senior al-Qaida leaders in the future. Any procedures that the CIA would use in the future, of course, would be classified. The idea here is not to telegraph to terrorists who we know do train against our procedures in their field manuals, not to telegraph to them specifically what to expect or they will train against it. But the President also said that he will consult with Congress on any of those aspects of that program going forward so that Congress would be comfortable with that program and, of course, it would have to comply with existing law, the McCain Amendment and the Supreme Court's decision in Hamdan.

QUESTION: Guy Dinsmore. (Inaudible) that wasn't quite what I meant. Well, that's partly what I meant. But some of these people have been held for several years in these secret prisons subjected to what most people would say was -- could well have been torture, you know, reports of water boarding. If these people now come to trial under a military tribunal, how will a judge determine what treatment they received while they were in these secret prisons, what is torture, the evidence that was obtained by the CIA under these prisons, will it be accepted as fair evidence?

MR. BELLINGER: Absolutely fair question. And those will be things that would have to -- if these individuals are tried and there are issues about their treatment or the terms of their interrogation or the length of their confinement, those are all issues that I am certain a vigorous defense attorney would raise at trial. I think you have seen in the cases that we have tried to bring forward so far, there has been no lack of vigor in the Defense's arguments so far. And so I would expect that those issues would be raised.

There is, as I say, a ban on use of information derived from torture. It would be up to the judge to determine based on an argument by the accused whether he believed that something were torture and needed to be prohibited, if it were coercive, if it would need still not to be introduced because it would deny a fair trial. So if there are questions that come up about confinement or treatment, and I expect that they would be -- those would be things that would come out at trial just as they do in our ordinary criminal system.

QUESTION: Giampiero Gramaglia, ANSA, Italy. Mr. Bellinger, last fall you were personally and deeply involved in a massive U.S. effort to calm down European concerns on secret prisons, tortures, renditions, et cetera. How do you think that the disclosures made yesterday by the President will announce the confidence of the allies to the United States. And how do you consider the first reaction to the speech of the President?

MR. BELLINGER: The -- my hope would be that our allies will welcome the statements that were made by the President. The President, as I say, spoke specifically to the international community by saying that he had listened to their concerns and wanted to work together with them. My hope is that we have addressed in this statement and through policies that we have been adopting many of the concerns that have been raised with respect to Guantanamo, with respect to those individuals who have been held in classified locations.

So at this point, for example, the President has made clear that he would like to close Guantanamo. I believe that in the run-up to the U.S.-EU summit in June and at the summit that European leaders accept that and now recognize, in fact, because we have been explaining it in more detail, the difficulties actually involved in trying to close Guantanamo.

With respect to the individuals in secret sites, we have addressed that by moving them all so they're now in Guantanamo for all -- for the ICRC to have access to and where they will have lawyers and there are no longer any individuals to whom the ICRC is being denied access. So we hope that we have addressed those concerns. The desire is to move forward on these issues, to turn a page with respect to many of them and to be able to move forward.

QUESTION: Yes, Toshiya Umehara from Asahi Shimbun. I have two sets of questions. One is, yesterday in his remarks President Bush said these detainees are not common criminals. And who are those detainees? Are they alleged terrorists or they are already defined as terrorists and then is the principle of presumed innocence applied to them? That's one, and another thing is you mentioned the vigorous defense in the current military commission system. And then both civilian and military defense lawyers have already asked -- has been asking why not using the traditional court martial. And by introducing as new legislation, in fact you would easily expect another set of challenges via federal court system. And that way, you know, in result, you are delaying the closure and how do you respond to those concern?

MR. BELLINGER: With respect to the court martial versus military commissions, in order to move forward on military commissions after the Supreme Court's decision, we have to submit legislation to Congress so that Congress would authorize the military commissions. We have put together a package that we are confident addresses all of the Supreme Court's concerns so that it would, if passed by Congress, address all of the concerns raised by the Supreme Court. That was the purpose -- to abide fully by the Supreme Court's ruling. And we need Congress to pass that legislation so that we can move forward and begin to bring people to justice.

With respect to the difference between the court martial and the military commissions, I think most people do understand that the court martial system really does not -- certainly was not intended to and does not fit very well trials of international terrorists. It was largely intended to try our own soldiers if they commit common crimes, so it has a whole array of different procedural protections that just simply don't make sense if you have captured someone on a battlefield several thousand miles away who you can't immediately read their rights to, bring a speedy trial to and other issues.

So what we have tried to do in the legislation we put forward is to both combine aspects of the court martial system of which there are many, many, many parts of the court martial system in our legislative package, while adapting that to the need to try individuals like these. And yes, they will absolutely have the presumption of innocence.

The President was, in fact, very careful in his remarks yesterday to lay out the information that the intelligence community has collected about them, while not making statements about whether they were guilty or even could be prosecuted. It will be up to the prosecutors to determine whether they actually can be prosecuted.

MR. BAILY: Let's go to Barry.

QUESTION: Can I please try a -- the coercion thing a little bit more --

MR. BELLINGER: Yeah, sure.

QUESTION: -- because when you addressed it a second time you said it a bit differently. Leaving aside how you make a -- how one makes a distinction between torture and coercion is beyond me. I'm not a lawyer, but it's beyond me. But is it that it will be up to the judge to decide whether a specific segment of information obtained through coercion can be used at the trial or will it be up to the judge to decide if coercion by itself means that they can be no trial of this guy? Are you talking about excluding certain material or losing the case?

MR. BELLINGER: The rules say that the use of torture, the introduction of torture -- evidence derived from torture is absolutely banned. It's clear -- torture is a defined term both in international treaties and in our domestic law. It may still be up to a judge to determine whether it fits those definitions, but it is -- it should be pretty clear because those terms are defined.

With respect to what is coercion, though, that is not a term that really is used in law, certainly not in treaties or in domestic law, and that's one reason why we didn't want to prohibit it because if you simply said anything that's coercive is prohibited, it may be --

QUESTION: Incarceration is prohibited.

MR. BELLINGER: Exactly, incarceration is prohibited. I don't want to be interviewed, interrogated between 8:00 and 10:00 in the morning please, and if you do, that's coercive. I mean I use some colloquial examples but, again, if you -- coercion is not a defined term, and that's why we could not prohibit it. But we do leave it up to the judge to determine if he thinks that something is so coercive and obviously we are talking about serious mistreatment, if he thinks that that's so coercive that it would deny the individual a fair trial, then it would not be introduced.

QUESTION: Kirit Radia from ABC News. If you could just explain something to me on these CIA prisons themselves. I understand that the remaining 14 prisoners have been removed from these facilities. But could you tell me if those facilities still exist. And to ask it a different way, could future arrests be sent to these facilities?

MR. BELLINGER: The President made clear that we are not going to talk about where the facilities were and who may have been involved. So we're not going to talk about those aspects of where the facilities are.

In the future, if we are able to capture al-Qaida leaders in the future, while they may be held by the Defense Department and questioned by the Defense Department, at the same time the President has said he also believes he needs to have a CIA program and will consult with Congress on that. So we reserve the right to still have people questioned by the CIA pursuant to a program with which we would consult with Congress about.

QUESTION: Christoph von Marschall, Der Tagesspiegel, Berlin. I want to come back to the reaction of the Europeans. I'm certainly sure that my country is happy about the clarification on torture, but they are still demanding that they want to know where the detainees have been kept before, which the Administration doesn't want to clarify. And second, they are unhappy about the military tribunals, and they think that military tribunals are not the courts which are mentioned in the Geneva Convention as these are courts by the Armed Forces who are the same institution who was holding the detainees. So it's not an independent court in their view. Could you comment on that? And are you personally happy

that the President is still wanting to have this military tribunals and not independent court?

MR. BELLINGER: Well, on the military tribunals, they are -- we think they are sufficiently independent. There is an appeals system from the military commissions into our federal system. So that at the conclusion of a trial, it would be -- the accused, if convicted, could appeal his case directly into our criminal justice system. If the suggestion is that military trials should not be permitted at all, then even the court-martials would not be able to be used and there really would not be a system to be able to try these people at all. So I think the -- if there really is the suggestion is that the military should not be used to try them at all, then there really would not be a system to try these individuals. And I think -- everybody would like to see those who have committed crimes be tried. And the best system to try them, particularly those who have committed, we think, violations of war crimes against this would be in a military system. And we have come forward with a package that we think suits all of the concerns of our Supreme Court and that would provide them full and fair trials.

With respect to the secret sites, you know, at this point we are looking forward to the future with European countries want to continue to try to find out where the sites were, that's, you know, whether they were somewhere in their territory and that is something that will be left up to Europeans. We are not going to talk about that. We have appreciated those countries, wherever they are in the world, who have helped us. What we -- President did make clear is that information derived from questioning these individuals was shared with European countries and shared in a way that saved European lives. So I think European governments will have to decide whether, you know, they think that that intelligence cooperation is something that they would rather not have.

QUESTION: Could you explain why you think that civil criminal courts and not a court that's where they could be tried? Why only military? Why do you say if not military courts, there is no way at all to bring them to trial. Why?

MR. BELLINGER: Well, there are different categories of individuals here. For the -- before these 14 were moved, many of the people in Guantanamo had never set foot in the United States, had trained in al-Qaida training camps in Afghanistan and were captured there. And while they were training in acts of terrorism, there may have been an Egyptian or a Pakistani who would come to train. They had not committed crimes that were in violation of our U.S. criminal laws because those were not crimes that were on our books at the time in September 11, 2001.

On the other hand, if the were in fact training in acts of terrorism, planning to conduct attacks against the United States, does that mean that they should simply be let go? I think not. The answer is that a system needs to be designed in which those who had been conspiring to commit attacks on the United States or elsewhere around the world can be tried in a fair system for their crimes.

MR. BAILEY: Let's go to Ron over there.

QUESTION: Ron Baygents with Kuwait News Agency. Would you be able to give us a little bit of highlight on what might be the top concerns in the proposed Bush legislation that was submitted yesterday versus the McCain, Warner, Graham -- Lindsey Graham package that's being developed since these are members of the President's own party and so forth. Could you just say, well, you know, we're in agreement largely but there's a few salient areas that we are not sure that they're addressing at this point, that they're willing to make sure gets in there with perhaps the CIA factor and so forth? And then, the second question is, is there any scenario in which the presiding judge could say: clearly, I believe these people have been tortured; I'm sorry, this case is thrown out; these people need to be freed and released?

MR. BELLINGER: Let me take a stab at your first question because I -- it would be hard for me to speak for Senators McCain and Graham to know exactly what their views are. I will say from our perspective, we have tried very hard to come up with a legislative package that not only addresses all of the concerns of the Supreme Court. We don't want there to be additional legal challenges. I mean, we know in any vigorous defense, people will bring legal challenges, but we have wanted to stay well inside the concerns raised by the court. In addition, we have tried to come up with a package that we think will be broadly supported by Congress and we'll have enough votes so that it can be passed quickly and that's why the President said in this short term before Congress goes out, potentially for a number of months, they need to act with urgency. So we have tried to craft a package that we think will have a broad consensus in Congress, including from Senators McCain and Graham.

I know one issue that they have been concerned about in particular and that we have again tried to strike a appropriate balance is whether the accused must always be present during the trial. The legislation that we have put forward states that the trials are expected to be open at all times and that is the expectation, but they do allow in certain limited circumstances for the accused to be excluded on the following conditions. One, if intelligence information is produced and a cabinet official of the United States Government certifies that it is essential for our or that the -- providing that information to the accused would prejudice our national security and that the evidence cannot be redacted or presented in any other way just to introduce the evidence, a cabinet official would have to make those certifications. Then the judge would look at the information and determine, one, does he agree that it would -- that it cannot be presented in any other way. There is no other substitute and if it were introduced, that it would not interfere with the accused rights to a full and fair trial. And in any case, his lawyer would be there present and able to examine the information. So I know that had been one area of concern and so we have tried to strike a balance here that we think would be acceptable to all.

QUESTION: There was a second part.

MR. BELLINGER: Oh, what was part two?

QUESTION: Well, it was just a question of whether there was any scenario in which a judge could hear all this facts and decide, I believe this person has been tortured and then therefore I'm throwing this case out and these people should be released?

MR. BELLINGER: Well, the judge will have broad discretion. I would have to look back at the rules. That's a good question for those -- the experts who you will have this afternoon.

MR. BAILEY: We'll go here and then in the back.

QUESTION: Hi. Brian Knowlton with the *International Herald Tribune*. Since the new Army manual applies to DOD personnel and not CIA, can you clarify if al-Qaida people are taken to secret CIA locations in the future how treatment will be constrained from here on out or changed and are any of the legal changes that you're seeking going to that question? Also, if you could just say -- could you give us your best estimate on when the first tribunals in Guantanamo of some of these 14 might take place? Thank you.

MR. BELLINGER: Five years later, I'm going to stop estimating because the purpose when we created the Military Commissions in November of 2001 was that we would be able to try people promptly and of course that has

gotten caught up in a whole variety of legal challenges for five years. We are very anxious to try those individuals who we think have committed crimes. We are convinced particularly with this new legislation that we have a military commissions that are full, that are fair and we really think that once the world sees people beginning to be tried, that the world will be convinced that we're doing that we need to just be able to move forward and start trying people, instead of constantly squabbling about the rules before anyone has begun to be tried. So my hope is and this -- the President's purpose in emphasizing to Congress is that we need to move forward, he needs the legislation so that we can begin the military commissions. So he does not want Congress to leave without having passed legislation. If they were to leave town and potentially not come back until January, he would have lost four months. If it's passed at the end of September, we hope that we could move forward relatively quickly. With respect -- as you know, there are a number of cases that are ready to move forward now with respect to the 14, those cases need to continue to be developed. And just remind me of your first question.

QUESTION: Yeah. What's the differences -- what new constraints there might be at the CIA camps --

MR. BELLINGER: Oh yes. Right, right. Absolutely.

QUESTION: -- and whether you have any legal changes, you know?

MR. BELLINGER: The Defense Department part really is a big part of this, as you know, because there are many concerns that have been raised about U.S. detention policies and the objective was to address all of them. As you know, from Abu Ghraib and Afghanistan and Iraq and Guantanamo there were questions raised about Defense Department techniques. So that part should put all of the issues with respect to the interrogation and treatment of individuals in Defense Department custody, which accounts for the vast, vast majority of anyone captured by the United States under one single, clear set of rules that are out there for all to see and that are consistent with the Geneva Conventions.

With respect to the CIA, which would be responsible for only holding a very small number of people -- holding none right now -- those procedures would have to be consistent with the new laws that have come into effect since some of these issues had been raised. So in fact, the McCain Amendment would have to be compliant with the McCain Amendment's prohibition on cruel, inhuman or degrading treatment and would have to be consistent with the Supreme Court's decision that Common Article 3 applies. The procedures themselves will -- before going forward we would consult with Congress to determine that Congress is in fact also comfortable. We have a robust and vigorous intelligence oversight process by our congressional committees and the CIA's intention is to work with those committees who represent our Congress to make sure that they're comfortable with this program.

At the same time, I think the American people do expect that if we capture senior members of al-Qaida in the future, who we think have got information about plots in the United States or around the world, the American people expect -- and I think the world community would expect -- that these individuals are going to be questioned and questioned vigorously to know what information that they have and that there needs to be a way to do that. What the President said -- he wants to be able to have a program going forward, but he wants it to comply with the law and we want to work with the Congress to do it.

QUESTION: Suzanne Goldeberg from The Guardian. It has to do with the Army Field Manual again. Is it the desire of the Administration, or can we be assured that the information obtained from the methods that are now specifically barred

in the Army Field Manual, such as waterboarding and sexual stuff -- that will not be admissible at trials, even if that information was obtained, you know, prior to the issuance of the Army manual as a broad matter of policy? Or will that be left to the issuance of the Army manual as a broad matter of policy, or will that be left to the discretion of the individual judge?

MR. BELLINGER: That's a question that you're just going to have to put to the experts this afternoon on the tie-in between the procedures in the Army Field Manual. It's a good question; I just don't know the answer to how that specifically ties in. Again, the legislation would state that information derived from coercion could not be introduced if the judge thinks it would deny a fair trial. I'm assuming that a judge would look at the information that the Army Field Manual said is prohibited and consider whether that was coercive or not, but you'll have to ask that to this afternoon's experts.

MR. BAILY: We have time for one last one.

QUESTION: Giampiero Gramaglia, Italian News Agency ANSA. Those are international terrorists responsible for act of terrorism worldwide. And there is an international expectation to said that they are judged by tribunal. Why don't try, because it's so difficult feat in those judgment in the U.S. laws, why don't try with the international tribunal not insist with the U.S. tribunals?

MR. BELLINGER: Well, I think the crimes committed by these individuals on September 11th or afterwards are not things that are tryable by any of our international tribunals right now. Remember that the ICC, for example, the Rome Statute did not come into effect until 2003, and I'm not sure at all that it would cover these sorts of crimes. So as a public policy question I think it is a fair question. And in part what the President was getting at when he said we need to work with our international community to determine what the foundation ought to be going forward for dealing with international terrorists. So it is a good question as to how do our societies generally deal with bringing people like this to justice. But right now I do not think that there is any international tribunal that would have jurisdiction over these crimes.

MR. BAILY: Thank you very much. We'll have a briefing again this afternoon at 1:30 on the Military Commissions and the Field Manuals, so you can follow up with some of your questions. That's here as well.

(10:58 A.M.)

Released on September 7, 2006

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