



United States Department of State

Washington, D.C. 20520

SEP 19 2008

Case No.: 200802926

Mr. Leonard Rubenstein  
Executive Director  
Physicians for Human Rights  
1156 15<sup>th</sup> St. NW  
Washington, DC 20005

Dear Mr. Rubenstein:

I refer to our letter dated August 4, 2008 regarding the release of certain Department of State material under the Freedom of Information Act (Title 5 USC Section 552).

We have determined that it is no longer necessary to withhold any portion of one document that had been released in part with our previous letter. One document therefore may now be released in full. All released material is enclosed.

Sincerely,

*Margaret P. Grafeld*  
*for*

Margaret P. Grafeld, Director  
Office of Information Programs and Services

Enclosure:

As stated.

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SOURCE: KODAKA.022020

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E.O. 12958: DECL: 8/20/12

[SERL] STATE 160166

[TAGS] KJUS, PHUM, PREL, KAWC, AF

[TITLE] SUBJECT: ENGAGING ATA ON ALLEGED MASS GRAVE SITE

[TEXT]

REF: (A) STATE 63415, (B) KABUL 506

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Dept. of State, A/ISS/IPS, Margaret P. Grafeld, Dir.  
 Release ( ) Excise ( ) Deny ( ) Declassify  
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CLASSIFIED BY S/WCI AMB. PIERRE-RICHARD PROSPER REASON 1.5  
 (B) AND (D)

1. (U) THIS IS AN ACTION REQUEST; SEE PARAS 5 AND 6.
2. (C) THIS WEEK A NEWSWEEK ARTICLE AND A PRESS RELEASE BY U.S. NGO PHYSICIANS FOR HUMAN RIGHTS (PHR) REPORTED INFORMATION REGARDING ALLEGED MASS KILLINGS IN NORTHERN AFGHANISTAN LAST NOVEMBER, AS WELL AS AN ALLEGED MASS GRAVE SITE IN DASHT-E LEILI NEAR SHEBERGHAN. THE

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DEPARTMENT BELIEVES THESE ALLEGATIONS MERIT INVESTIGATION.

3. (C) ACCORDING TO THESE REPORTS, BETWEEN 2000 AND 3000 TALIBAN AND FOREIGN FIGHTERS WERE CAPTURED IN KUNDUZ LAST NOVEMBER BY NORTHERN ALLIANCE FORCES UNDER THE COMMAND OF GENERAL DOSTUM. THE PRISONERS WERE SAID TO HAVE BEEN LOADED ONTO CONTAINER TRUCKS FOR TRANSPORT TO SHEBERGHAN PRISON. DURING TRANSPORT MANY, PERHAPS THOUSANDS, ARE SAID TO HAVE DIED FROM ASPHYXIATION, HEAT AND LACK OF WATER. NEWSWEEK CLAIMS THAT ITS STORY IS BASED ON INTERVIEWS WITH DRIVERS OF THE CONTAINER TRUCKS AND OTHER WITNESSES, WHO CLAIMED DOSTUM'S SOLDIERS PREVENTED THEM FROM PROVIDING RELIEF OR ASSISTANCE TO THE PRISONERS. WITNESSES REPORTEDLY STATED THAT IN DECEMBER DOSTUM'S MEN BLOCKED ACCESS TO THE DASHT-E LEILI AREA, AND THAT CONTAINER TRUCKS AND BULLDOZERS WERE ACTIVE AT THE ALLEGED BURIAL SITE.

4. (C) IN EARLY APRIL, DEPARTMENT REQUESTED IN REFTEL A THAT POST DEMARCHE AFGHAN AUTHORITIES ENCOURAGING

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PAGE 03 STATE 160166 220350Z  
 PROTECTION OF SEVERAL ALLEGED MASS GRAVE SITES REPORTED CONFIDENTIALLY BY PHR TO DEPARTMENT. (POST'S RESPONSE IS IN REFTEL B.) ONE OF THESE SITES, IN THE SHEBERGHAN AREA, MAY BE THE SAME AS THE SITE REPORTED THIS WEEK BY NEWSWEEK AND PHR.

5. (C//REL TO ATA) ACTION REQUEST: DEPARTMENT REQUESTS AMBASSADOR PLEASE ENGAGE ATA AT THE HIGHEST LEVELS AND DELIVER THE FOLLOWING POINTS:

--U.S. IS CONCERNED ABOUT RECENT ALLEGATIONS OF MASS KILLINGS LATE LAST YEAR AND A MASS GRAVE SITE IN NORTHERN AFGHANISTAN;

--AS YOU KNOW, THERE HAVE BEEN A NUMBER OF SIMILAR ALLEGATIONS ARISING FROM THE PERIOD OF THE SOVIET OCCUPATION AS WELL AS AFGHANISTAN'S LONG CIVIL CONFLICT; --WE BELIEVE THESE ALLEGATIONS CONCERN SERIOUS MATTERS, AND WE BELIEVE INVESTIGATION IS WARRANTED;

--WE ALSO BELIEVE THAT YOUR ACTIVE PURSUIT OF THESE SERIOUS ISSUES WILL CONTRIBUTE DIRECTLY TO STRENGTHENING THE ITGA AND AIDING AFGHANISTAN IN HEALING THE WOUNDS OF THE PROLONGED CONFLICT;

--WE WELCOME PRESIDENT KARZAI'S ANNOUNCEMENT THAT THE GOVERNMENT WILL INVESTIGATE THESE ALLEGATIONS.

--WE URGE YOU TO CONSIDER WHAT YOU CAN DO TO SECURE AND PRESERVE POTENTIAL EVIDENCE AT THE ALLEGED MASS BURIAL SITES, AS WELL AS TO PROTECT POTENTIAL WITNESSES;

--WE ARE PREPARED TO DISCUSS WAYS IN WHICH YOU MIGHT BE

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 ASSISTED IN SUCH EFFORTS.  
 END POINTS.

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6. (C) ACTION REQUEST, CONTINUED: DEPARTMENT ALSO REQUESTS THAT AMB. FINN PLEASE APPROACH BRAHIMI TO DETERMINE IF AND HOW THE UN CAN ASSIST, BUT NOT LEAD, THE ITGA, IN ITS INVESTIGATION OF THIS MATTER. AMBASSADOR SHOULD ALSO SEEK CONFIRMATION OF PRESS REPORTS THAT THE UN PARTICIPATED IN THE INITIAL INQUIRY INTO EVENTS AT DASHT-I-LEILI. IF TRUE, HAS THE UN PREPARED ITS OWN REPORT THAT CAN BE SHARED WITH THE USG? IN ADDITION, IS THE UN OFFERING TO ASSIST THE ITGA IN INVESTIGATING THIS AND OTHER ALLEGATIONS OF HUMAN RIGHTS ABUSES?

7. (U) PLEASE SLUG RESPONSE FOR S/WCI, SA AND DRL.

8. (U) KABUL MINIMIZE CONSIDERED.

POWELL

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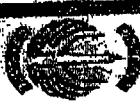
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## AFGHANISTAN SIGNIFICANT OPERATIONS

Mazar-e-Sharif

NON-RESPONSIVE

Kabul

Bagram

PROSPER SUPPOSEDLY WANTS TO MEET  
<sup>AMB</sup> WITH THE BIG 3 (POSTUM/DAOUDIATTA) AND  
VISIT DASHT-E-LU, SITE OF A POSSIBLE MASS  
GRAVE OUTSIDE OF SHEBERGHAN.

NON-RESPONSIVE

Shindand

Zaranj

Kandahar

Jacababad

NON-RESPONSIVE

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Non-Responsive

(S/REL US AS CAN CK NZ) The UN Forensics Team's Final Report Issued this Month Reveals that the Mass Grave at Daoudi in Bamian Showed Evidence of Taliban Executions

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of Hazaras and that the Grave at Sheberghan Confirmed the Suffocation of a Number of  
Taliban Prisoners held by the Northern Alliance.

Non-Responsive

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- Karzai asked about Newsweek article on Taliban asphyxiated in containers and buried in mass graves. Requested US-Afghan joint statement expressing that US and Afghan government should not be neglectful of this issue, having "set a higher standard for human life."

## Central Intelligence Agency



Washington, D.C. 20505

July 23, 2008

Mr. Leonard S. Rubenstein  
Executive Director  
Physicians for Human Rights  
1156 15<sup>th</sup> St. NW  
Washington, D.C. 20005

Reference: F-2008-01238

Dear Mr. Rubenstein:

In the course of processing your 21 June 2006 Freedom of Information Act request to the Department of Defense for specific records concerning the mass grave at Dasht-e-Leili in Afghanistan, five Foreign Broadcast Information Service documents were located and referred to us for review and direct response to you.

We have reviewed the enclosed documents and determined that they can be released in their entirety.

Thank you for your patience while we processed this referral.

Sincerely,

A handwritten signature in black ink that reads "Delores M. Nelson".

Delores M. Nelson  
Information and Privacy Coordinator

Enclosures

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**HEADER**

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**CONTROLS**

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WARNING: TOPIC: INTERNATIONAL POLITICAL

SERIAL: EUP20030110000051

**BODY****COUNTRY: AFGHANISTAN, FRANCE**

SUBJ: Afghan General Dostom on Alleged Mistreatment of Taliban

Prisoners

SOURCE: Paris Liberation (Internet Version-WWW) in French 10 Jan

03

**TEXT:**

Unattributed article: "Say, 190 Dead...Not So Many."

FBIS Translated Text General Dostom is currently Afghan President Karzai's peace envoy in the North. A visit in his stronghold, where he is trying to get people to turn in their weapons.

Last November, officials of the United Nations again accused Dostom of having "imprisoned and tortured" witnesses to the container affair that the UN has been investigating for months. Thousands of Taliban surrendered in November 2002 in Kunduz, the site of the last battle in the North between the forces of the Taliban and the Northern Alliance allied with the American coalition. Hundreds, possibly even thousands of these prisoners reportedly died from suffocation in containers where Dostom's troops had crammed them, perhaps under the passive eye of American soldiers. (Shown in the photo is a container full of prisoners arriving at the Sheberghan prison in December 2001.)

The NGO Physicians for Human Rights, based in Boston, discovered a mass grave of these Taliban victims in Dasht-e-Leili, west of Mazar-e Sharif, in January 2002.

Faced with these charges, Dostom replies to Liberation: "My men commandeered containers to carry the prisoners so they would not escape (...). There were quite a few wounded. There were 10 or 15 containers in which it is possible that 10, 15, 20 or 30 prisoners

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per container perished. In all, say 190 dead. We lost 3,000 to 4,000 men in this war. So 190 people dead during a transport is really not so many."

Description of Source: Paris Liberation (Internet Version-WWW) In French – left-of-center daily newspaper

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WARNING: TOPIC: DOMESTIC POLITICAL, INTERNATIONAL POLITICAL, HUMAN

RIGHTS

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**UNCLASSIFIED****BODY****COUNTRY: IRAN, AFGHANISTAN****SUBJ: Correction -- Iran radio: UN official visits mass graves  
in Afghanistan****SOURCE: Tehran Voice of the Islamic Republic of Iran Provincial  
Network in Pashto 1230 GMT 12 Dec 02****TEXT:**

corrected version, changing editorial note in penultimate graf  
to make read: "in northern Jowzjan Province's capital Sheberghan"

FBIS Translated Text A representative of the UN Human  
Rights Committee, (?Mr William Hugh), has visited a number of mass  
graves discovered in the northern regions of Afghanistan.

Since last summer, dozens of mass graves have been discovered in  
northern Afghanistan. In many of the graves the corpses belonged to  
inhabitants from the northern Afghan zone who were massacred by  
Taleban militants when they ruled Afghanistan.

Moreover a number of mass graves were discovered in Jowzjan  
Province and Dasht-e Leili mass grave near Dostum's stronghold in  
northern Jowzjan Province's capital Sheberghan. They are said to  
be corpses of Taleban and Al-Qa'lidah members, who may have died in  
the regional conflicts.

The spokesman of the UN office in Kabul, Manoel Almeida e Silva,  
told a news briefing that word indistinct the human rights  
committee had come to Afghanistan at the request of the UN.

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11-Jul-2008

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**UNCLASSIFIED****BT****CONTROLS****UNCLAS****WARNING: TOPIC: DOMESTIC POLITICAL, HUMAN RIGHTS, INTERNATIONAL****POLITICAL, LEADER****SERIAL: SAP20020830000034**

\*\*\*\*\* THIS IS A COMBINED MESSAGE \*\*\*\*\*

**BODY****COUNTRY: AFGHANISTAN****SUBJ: TAKE 1 OF 2--AFP: Afghan Warlord Rejects Claims 1,000****Taliban Suffocated to Death****SOURCE: Hong Kong AFP in English 0734 GMT 30 Aug 02****TEXT:**

FBIS Transcribed Text KABUL, Aug 30 (AFP) -- US-allied Afghan warlord Abdul Rashid Dostam has rejected accusations that some 1,000 Taliban prisoners suffocated while in his custody and pledged to cooperate with any investigation into the deaths.

Dostam, in a joint statement with two other senior Northern Alliance commanders, admitted that some 200 Taliban followers died in containers while they were being shipped to a prison at his northern Shebarghan stronghold late last year after a lengthy siege in the city of Kunduz.

But the statement said the deaths were mainly as a result of injuries sustained by the prisoners in the fighting at Kunduz and emphasised that their deaths were not intentional.

"The operation of sending prisoners to Shebarghan prison continued for four days. In no case were any prisoners killed. In no case was there any intention that they should die in containers," it said.

"It was of our utmost interest and that of the international coalition to interrogate the prisoners."

The commanders listed suffocation as one of several causes of the 200 deaths they accepted.

"Most of (the deaths) were due to wounds suffered in the fighting but also due to disease, suffocation, suicide and a general weakness after weeks of intense fighting and bombardment." A report by Newsweek magazine earlier this month cited a witness quoted in an internal United Nations memorandum who said some 960 people died in the containers.

The memorandum said their bodies were now buried in the sands of Dasht-e-Leili near Shebarghan.

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But the statement, which was also signed by the powerful Tajik commander Atta Mohammad and local Hazara leader Sardar Mohammad Sahidi, said that "we believe these numbers are totally inaccurate."

The statement said that United Nations investigators and human rights teams had been given full access to the site.

"We have been open to the best of our ability about the numbers and events . . . Both the UN and Physicians for Human Rights (PHR) have never confirmed the numbers."

The Boston-based rights group PHR, which carried out a preliminary investigation at Dasht-e-Leili earlier this year, has said the site is the most significant mass grave in northern Afghanistan but has not made any claim as to how many bodies may be buried.

Initial investigations by the UN on a handful bodies have determined that they died of suffocation.

The UN's special representative to Afghanistan, Lakhdar Brahimi, said earlier this week that no formal investigation had been launched into the grave.

The newly-launched independent Afghan Human Rights Commission is expected to eventually hold an inquiry. The UN and the Afghan government have both pledged to give any investigation their full cooperation.

The site has not been secured but UN officials have made regular visits and are satisfied that it has not been tampered with.

Dostam, Mohammad and Sahidi said "we are ready to cooperate with any investigation as we have always been. We are ready to bring to justice any personality proved to be guilty of serious violation."

The three also expressed anger at the attention that has been lavished on the Dasht-e-Leili incident. Claims of massacres against ethnic Hazaras, Uzbeks and Tajiks carried out by the mainly Pashtun Taliban in the north have gone largely unreported.

"There has been no serious reporting questioning about Taliban atrocities or about those who have previously supported the Taliban.

"We believe that (any investigation) must also examine the Taliban and al-Qaeda atrocities which have been committed against the people of the north, west and central parts of the country."

Dostam is one of the most controversial figures in Afghan politics. The one-time communist helped reduce large parts of Kabul

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to rubble in the early 1990s as his forces attacked troops loyal to the then government of President Burhanuddin Rabanni and his defence minister Ahmad Shah Masood.

But he later patched up his differences with Masood and joined the Northern Alliance, which teamed up with the US-led coalition late last year to oust the Taliban after the September 11 terror attacks.

Description of Source: Hong Kong AFP in English -- Hong Kong

/\*\*\*\*\* BEGINNING OF TAKE 002 \*\*\*\*\*/

REF: 1. SAP20020830000034 Hong Kong AFP in English 0734 GMT 30

Aug 02 //-- Hong Kong

SOURCE: Hong Kong AFP in English 0734 GMT 30 Aug 02

TEXT:

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RUEABND/DRUG ENFORCEMENT ADMIN HQ WASHINGTON DC//POL//

RUEAIIS/STORAGE CENTER FBIS RESTON VA

RUEHC/SECSTATE WASHINGTON DC//INR//

RUEHC/SECSTATE WASHINGTON DC//SA/PAB//

RUEHEG/AMEMBASSY CAIRO

RUEHFR/AMEMBASSY PARIS

RUEHMD/AMEMBASSY MADRID

RUEHNE/AMEMBASSY NEW DELHI

RUEKDIA/DIA WASHINGTON DC

RUEKJCS/SECDEF WASHINGTON DC

RUEPKAA/COLMGTOFC82DABNDIV FT BRAGG NC

RUEPMAX/GISA FT BRAGG NC

RUEPPOG/CDR PSYOPGP FT BRAGG NC//ASOF-POG-SB//

RUEPPOG/CDR4THPSYOPGP FT BRAGG NC//AOCP-POG-SB//

RUEPTUT/COLMGTOFCXVIIIBNC FT BRAGG NC

RUEPVAI/CDRUSASOIC WASHINGTON DC//DIS//

RUEPWDC/DA AMHS WASHINGTON DC

RUETIAA/NSACSS FT GEORGE G MEADE MD

RUHHAEA/NAIC WRIGHT PATTERSON AFB OH

RUHUDMC/612AIS DAVIS MONTHAN AFB AZ//INTA//

RUMIAAA/USCINCSO MIAMI FL//SCJ3-PSY//

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|--|
| APPROVED FOR<br>RELEASE DATE:<br>11-Jul-2008 |
|--|

UNCLASSIFIED

page 2

C05262889

**UNCLASSIFIED**

RUMIAAA/USCINCSO MIAMI FL//SCPA/SCJ2-IW//  
RUMICEA/USCINCCENT INTEL CEN MACDILL AFB FL

RUQVKEW/AFIWC KELLY AFB TX//OSKC//

ACCT FFWA-EWDK

BT

**CONTROLS**

UNCLAS

WARNING: TOPIC: INTERNATIONAL POLITICAL

SERIAL: EUP20020821000176

\*\*\*\*\* THIS IS A COMBINED MESSAGE \*\*\*\*\*

**BODY**

COUNTRY: AFGHANISTAN, FRANCE, UNITED STATES

SUBJ: TAKE 1 OF 2--French Daily: US 'Embarrassed' Over Newsweek

Report

SOURCE: Paris Le Figaro in French 21 Aug 02 3

**TEXT:**

Report by Jean-Jacques Mevel: "Washington Embarrassed Over  
'Death Containers'"

FBIS Translated Text The standard container, 12 meters long and 2.4 meters wide, sometimes eroded by rust, is part of the war landscape. It is used to bring in both armies and foreign aid. Sarajevo used them as protection against sniper fire. Afghanistan discovered a new use for them -- for destroying prisoners of war, sentenced to a slow death behind their locked double doors.

Rumors to this effect are nothing new in Kabul. But the weekly Newsweek believes that it has revealed a major crime: hundreds of Afghan, Pakistani, Arab, and Chechen prisoners were apparently killed in this way in November by members of the Northern Alliance, the United States' allies in its offensive against the Taliban and Usama Bin Ladin.

The massacre of unarmed combatants is not the only worrying conclusion reached by the magazine. The report raises the question of the attitude adopted by the American special forces, which were used in large numbers in the region. There could be nothing worse for the Pentagon than to be accused of having turned a blind eye to atrocities perpetrated by its Afghan allies, like Israel's Ariel Sharon, who was implicated in the Lebanese massacre at Sabra and Shatilah in 1982, when Tsahal left hundreds of Palestinian civilians to perish at the hands of the Christian militias.

**UNCLASSIFIED**

page 3

C05262889

## UNCLASSIFIED

Citing a confidential report, Newsweek also stresses the nervousness of the United Nations and of the major powers that lead it. Having been alerted in the spring, the Security Council seems to be in no more of a hurry to investigate than it was after the collapse of Srebrenica and the massacre of thousands of Muslim prisoners by the Serbs in summer 1995. True, in both instances the Council risked indicting one of its own members...

It all began with the discovery of a mass grave not far from Mazar-e-Sharif, the stronghold of Rashid Dostum, Afghan warlord and leading figure of the Northern Alliance. In January, amid the sands of Dasht-e Leili, two representatives of the American organization, Physicians for Human Rights (PHR) came, almost by chance, across signs familiar to forensic scientists -- abandoned garments, protruding bones, and the persistent stench of death.

Bill Haglund, a veteran of humanitarian missions in Rwanda and the Balkans, decided to find out the truth. He had a trench dug, 6 meter long and 1.5 meter deep. This uncovered 15 decomposing corpses, huddled together. "They were recent corpses," the expert told Newsweek. All around them, across an area of half a hectare, the ground seemed to have been recently turned, by a bulldozer.

The autopsies carried out by the American organization showed that these were young men. Many of them were almost naked, and some of them had their hands tied behind their backs. None of them bore the marks of deadly wounds, from blows or gunshots. According to Bill Haglund, the evidence points to death by asphyxia and hyperthermia.

The story about the "containers of death" comes from a prisoner at Sherberghan, the nearby jail where Rashid Dostum detained hundreds of survivors of the siege of Kunduz, a key stage in the Taliban's defeat. Newsweek received confirmation of the story from two anonymous, but credible, witnesses. The first saw the prisoners being loaded into containers, as many as 200 at a time. "The purpose was to make them die; it is the only possible explanation," he said. The second, the driver of one of the container trucks, saw the result on reaching his destination: "The doors were opened. The bodies spilled out like a haul of fish from a net."

Between 29 November and 1 December, three convoys plied between Sheberghan, with a total of 27 containers. Not everyone died, thanks to the courage displayed by some of the drivers. Rashid Dostum's men admitted that some 100 people had died during the journey, either through asphyxiation or as a result of earlier

UNCLASSIFIED

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C05262889

## UNCLASSIFIED

wounds. The mass grave at Dasht-e Leili, if it is on the scale suggested by the PHR, could contain many more. One Afghan humanitarian organization has suggested a figure of a thousand dead.

Washington is of course embarrassed by the charges leveled at one of its strongest supporters. Colin Powell's department has passed the buck by asking Kabul to launch an inquiry. As for the American forces staff, they are saying nothing. The Pentagon got off to a bad start: having said that no American soldiers were there, it had to acknowledge that a unit of special forces was indeed at Sherberghan. On 1 December, it was they that held John Walker, the American "Taliban," as he left one of the containers.

The United Nations, too, will have to specify whether it knew about this, and if so for how long. Newsweek directly accuses it by citing an internal note written shortly after the exhumations at Dasht-e Leili: the facts "are sufficient to justify a full criminal investigation." The author realized that he was dealing with an explosive issue. He asked his superiors to grant him cover from New York, "in view of the political sensitivity of the issue." His request was evidently shelved. When asked about this, Kofi Annan's spokesman said he knew nothing about the document, and he too has referred the issue to Kabul.

\*\*\*\*\* BEGINNING OF TAKE 002 \*\*\*\*\*

REF: 1. EUP20020821000176 Paris Le Figaro in French 21 Aug 02 3

//issue to Kabul.

SOURCE: Paris Le Figaro in French 21 Aug 02 3

TEXT:

Description of Source: Paris Le Figaro in French -- leading center-right daily

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ADMIN

(endall)

BT

#4583

NNNN

UNCLASSIFIED

page 5

C05262892

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**CDS**

PTAUZYUW RUEKJCS3175 2331015-UUUU~RUEALGX.

ZNR UUUUU

**HEADER**

P 211015Z AUG 02

FM DIA WASHINGTON DC

INFO RUCJACC/USCINCCENT MACDILL AFB FL//CARA//

RUEALGX/SAFE

P 211016Z AUG 02

FM FBIS RESTON VA

TO RAYWAP/ATTORNEY GENERAL D BRANCH CANBERRA ACT AS

RAYWBBK/DIO CANBERRA AS

RAYWBFA/ONA CANBERRA ACT AS

RHEFJWC/JWAC DAHLGREN VA

RHEFNGA/CDRNGIC CHARLOTTESVILLE VA

RHEFNIS/DIRNAVCRIMINVSRV WASHINGTON DC

RHEFQAN/MARCORINTACT QUANTICO VA

RHHJJAA/JICPAC HONOLULU HI

RHHJJPI/PACOM IDHS HONOLULU HI

RHMMUNA/USCINCPAC HONOLULU HI

RUCXGRD/COGARD INTELCOORDCEN WASHINGTON DC

RUCXONI/ONI WASHINGTON DC//2140//

RUDKKC/TASHKENTBETA

RUEABND/DRUG ENFORCEMENT ADMIN HQ WASHINGTON DC//POL//

RUEAFDC/CDRICORPS FT LEWIS WA//AFZH-GS//

RUEAIIS/STORAGE CENTER FBIS RESTON VA

RUEHC/SECSTATE WASHINGTON DC//INRI//

RUEHC/SECSTATE WASHINGTON DC//SA/PAB//

RUEHEG/AMEMBASSY CAIRO

RUEHNE/AMEMBASSY NEW DELHI

RUEKDIA/DIA WASHINGTON DC

RUEKJCS/SECDEF WASHINGTON DC

RUEPKAA/COLMGTOFC82DABNDIV FT BRAGG NC

RUEPMAX/GISA FT BRAGG NC

RUEPPOG/CDR PSYOPGP FT BRAGG NC//ASOF-POG-SB//

RUEPPOG/CDR4THPSYOPGP FT BRAGG NC//AOCP-POG-SB//

RUEPTUT/COLMGTOFCXVIIABNC FT BRAGG NC

RUEPVAI/CDRUSASOIC WASHINGTON DC//DIS//

RUEPWDC/DA AMHS WASHINGTON DC

RUERZCA/CDR 500TH MIBDE CP ZAMA JA//IAGPD-OS//

RUETIAA/NSACSS FT GEORGE G MEADE MD

|  |
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| APPROVED FOR<br>RELEASE DATE:<br>11-Jul-2008 |
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UNCLASSIFIED

page 2

C05262892

**UNCLASSIFIED**

RUFGAID/USCINCEUR INTEL VAIHINGEN GE  
RUFOADA/JAC MOLESWORTH RAF MOLESWORTH UK  
RUHBABA/CG III MEF//G-2//  
RUHHAEA/NAIC WRIGHT PATTISON AFB OH  
RUHUDMC/612AIS DAVIS MONTHAN AFB AZ//INTA//  
RUMIAAA/USCINCSO MIAMI FL//SCJ3-PSY//  
RUMIAAA/USCINCSO MIAMI FL//SCPA/SCJ2-IW//  
RUMICEA/USCINCCENT INTEL CEN MACDILL AFB FL  
RUQVKEW/AFIWC KELLY AFB TX//OSKC//  
RUYLBAH/DODSPECREP OKINAWA JA  
ACCT FBWA-EWDK

BT

**CONTROLS**

UNCLAS

WARNING: TOPIC: DOMESTIC POLITICAL, HUMAN RIGHTS, INTERNATIONAL  
POLITICAL, LEADER, URGENT

SERIAL: SAP20020821000049

**BODY**

PASS: ATTN WIRE SELECT

COUNTRY: AFGHANISTAN, UNITED STATES

SUBJ: AFP: Afghan Defense Minister Rejects Reports of Mass

Grave, Launches Probe

SOURCE: Hong Kong AFP In English 0904 GMT 21 Aug 02

## TEXT:

FBIS Transcribed Text KABUL, Aug 21 (AFP) -- Afghan Defence Minister Mohammad Qasim Fahim on Wednesday 21 August denied reports of a mass grave of Taliban prisoners said to have suffocated in Northern Alliance trucks, but said an investigation had been launched.

"I don't believe that there would be a mass grave in Dasht-e-Leili," Fahim said in the capital Kabul.

"The ministry of defence has some contact with the concerned sources in the area and the province to do the exact investigation."

The United States on Monday said it was looking into reports in Newsweek magazine that some 1,000 Taliban prisoners may have died of asphyxiation in container trucks while being transferred by the US-backed Northern Alliance.

The United Nations said in May it had found evidence of a mass grave in northern Afghanistan when the UN Assistance Mission in Afghanistan and the Office of the UN Commissioner for Human Rights exhumed three bodies in Dasht-e-Leili.

**UNCLASSIFIED**

page 3

C05262892

**UNCLASSIFIED**

Description of Source: Hong Kong AFP in English -- Hong Kong  
service of the independent French press agency Agence

France-Presse

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**ADMIN**

(endall)

**BT**

#3175

NNNN

**UNCLASSIFIED**

page 4

~~SECRET~~~~REFORM~~**CDS**PTASZYUW RUEKJCS2402 2411536-~~8888~~-RUEALGX.ZNY ~~8888~~**HEADER**

P 291536Z AUG 02

FM DIA WASHINGTON DC

(b)(2)

RUEALGX/SAFE

P R 291622Z AUG 02

(b)(2)

FM HNSNG WASHINGTON DC/~~██████████~~//

TO RUEKDIA/DIA WASHINGTON DC

(b)(2),(b)(3):1  
0 USC 424

INFO RUEHC/SECSTATE WASHINGTON DC

RUEKJCS/SECDEF WASHINGTON DC

RUEKJCS/Joint STAFF WASHINGTON DC

RUENAAA/CNO WASHINGTON DC

RUEAHQA/HQ USAF WASHINGTON DC

RUEADWD/DA WASHINGTON DC

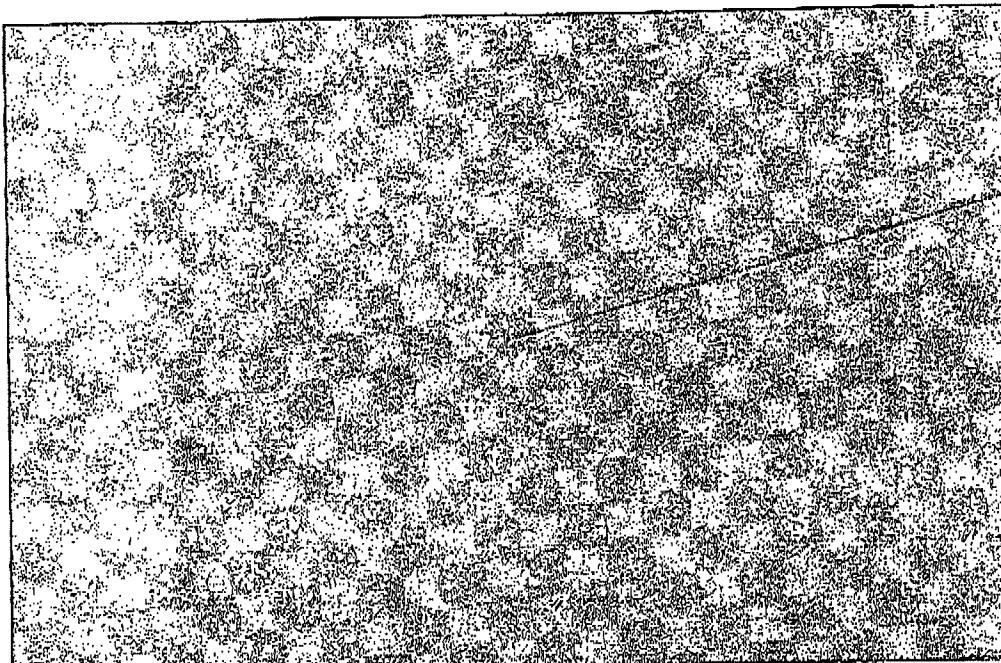
(b)(2)

RUEAIIA/CIA WASHINGTON DC

RUCNFB/FBI WASHINGTON DC

~~REFORM~~~~SECRET~~

page 2

~~SECRET~~~~NOFORN;~~(b)(2),(b)(3):10  
USC 424

RHEFSNG/HMSNG WASHINGTON DC

RUEALGX/SAFE WASHINGTON DC

BT

(b)(2)

CONTROLS

(b)(2),(b)(3):10  
USC 424~~SECRET NOFORN~~

CITE: (U)

(b)(2),(b)(3):10 USC  
424

SERIAL: (U)

(b)(2),(b)(3):10 USC

BODY

424

(b)(2)

COUNTRY: (U) AFGHANISTAN (AF).

SUBJ: [REDACTED] EUROPEAN UNION SPECIAL ENVOY  
PROBING POSSIBLE U.S. INVOLVEMENT IN ALLEGED WAR CRIMES IN THE NORTH (b)(2),(b)(3):  
(U) (U) 10 USC 424WARNING: (U) THIS IS AN INFORMATION REPORT, NOT FINALLY EVALUATED  
INTELLIGENCE. REPORT ~~CLASSIFIED SECRET NOFORN~~.

DEPARTMENT OF DEFENSE

(b)(1),(b)(2),(b)(3):1  
0 USC 424,1,4 (c)

DOI: (U) 20020823.

(b)(2)

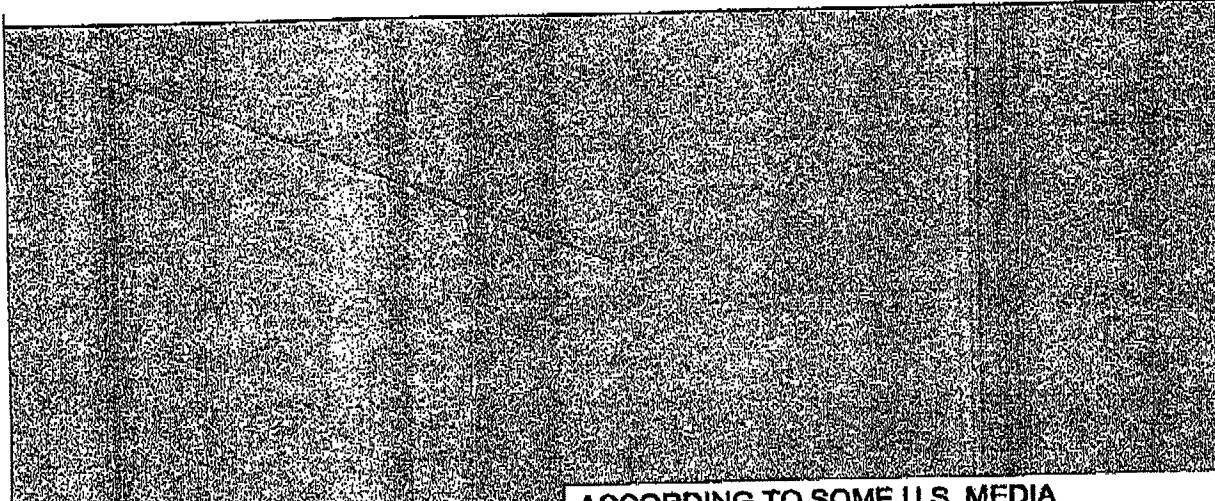
page 3

~~NOFORN;~~~~SECRET~~

~~SECRET~~~~NOFORN~~

(b)(1),1.

4 (c)



ACCORDING TO SOME U.S. MEDIA REPORTS, UP TO A THOUSAND TALIBAN SOLDIERS WERE LOCKED IN CONTAINERS WITH NO AIR AND LEFT TO DIE. THEY WERE THEN DUMPED INTO A MASS GRAVE IN DASHT-E LEILI (CNA), NEAR SHEBERGHAN

IN JOWZJAN PROVINCE.

(b)(1),1.4 (c)

(NFU)

- (b)(1),1.4 2. [REDACTED] THE U.S. MEDIA  
(c) ACCOUNTS OF WHAT HAD HAPPENED WERE BASED ON NO FACTUAL EVIDENCE.  
[REDACTED] THERE WERE TWELVE AFGHAN DOCTORS FROM SHEBERGHAN HOSPITAL PRESENT WHEN THE TRUCKS ARRIVED. THERE WERE ALSO U.S. MILITARY MEDICS PRESENT ON THE SECOND DAY WHO HELPED TRIAGE AND ASSIST THE DOCTORS IN THE TREATMENT OF THE WOUNDED. WHEN THE TRUCKS ARRIVED THERE WERE BETWEEN EIGHTY AND NINETY TALIBAN SOLDIERS FOUND DEAD IN THE TRUCKS. IT APPEARED ALL OF THE SOLDIERS FOUND DEAD WERE SERIOUSLY WOUNDED IN THE FIGHTING AND HAD DIED OF THEIR WOUNDS. THERE WERE AN ADDITIONAL THREE HUNDRED SOLDIERS WOUNDED TO ONE DEGREE OR ANOTHER, RANGING FROM MINOR TO LIFE THREATENING. OF THE THREE HUNDRED WOUNDED THE TWELVE DOCTORS AND U.S. MILITARY MEDICS SUCCESSFULLY TREATED TWO HUNDRED EIGHTY-FIVE, WITH FIFTEEN SUBSEQUENTLY DYING OF THEIR WOUNDS. THE DEAD SOLDIERS WERE DUMPED AT THE MASS GRAVE SITE IN DASHT-E LEILI, WHICH HAD BEEN USED AS A BURIAL GROUND FOR MANY YEARS BY THE TALIBAN. [REDACTED] OFFERED THE NAMES OF THE TWELVE DOCTORS. [REDACTED] TOLD [REDACTED] TO REQUEST AN OFFICIAL INTERNATIONAL INVESTIGATION BE CONDUCTED WITH FORENSIC SCIENTISTS AND INCLUDE THE U.S. MILITARY IN ORDER TO ESTABLISH A

(b)(1),1.4

(c)

~~NOFORN~~~~SECRET~~

page 4

~~SECRET~~  
~~NOFORN~~

**CLEAR CHRONOLOGY OF THE ACTUAL EVENTS AS THEY HAD HAPPENED.**

(b)(1),1.4  
(c)

(b)(2)

(b)(2),(b)(3):1  
0 USC 424

~~NOFORN~~  
~~SECRET~~

page 5

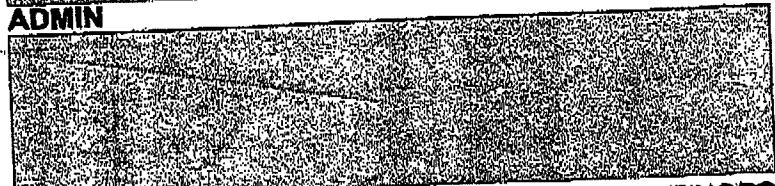
PHR- DIA Docs 4

~~SECRET~~  
~~NOFORN~~

(b)(2),(b)(3):10  
USC 424

**ADMIN**

(b)(2)



**WARNING: (U) REPORT CLASSIFIED SECRET NOFORN.**

(b)(2)

DEC 2008

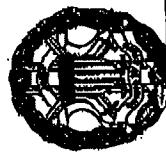
BT

#2402

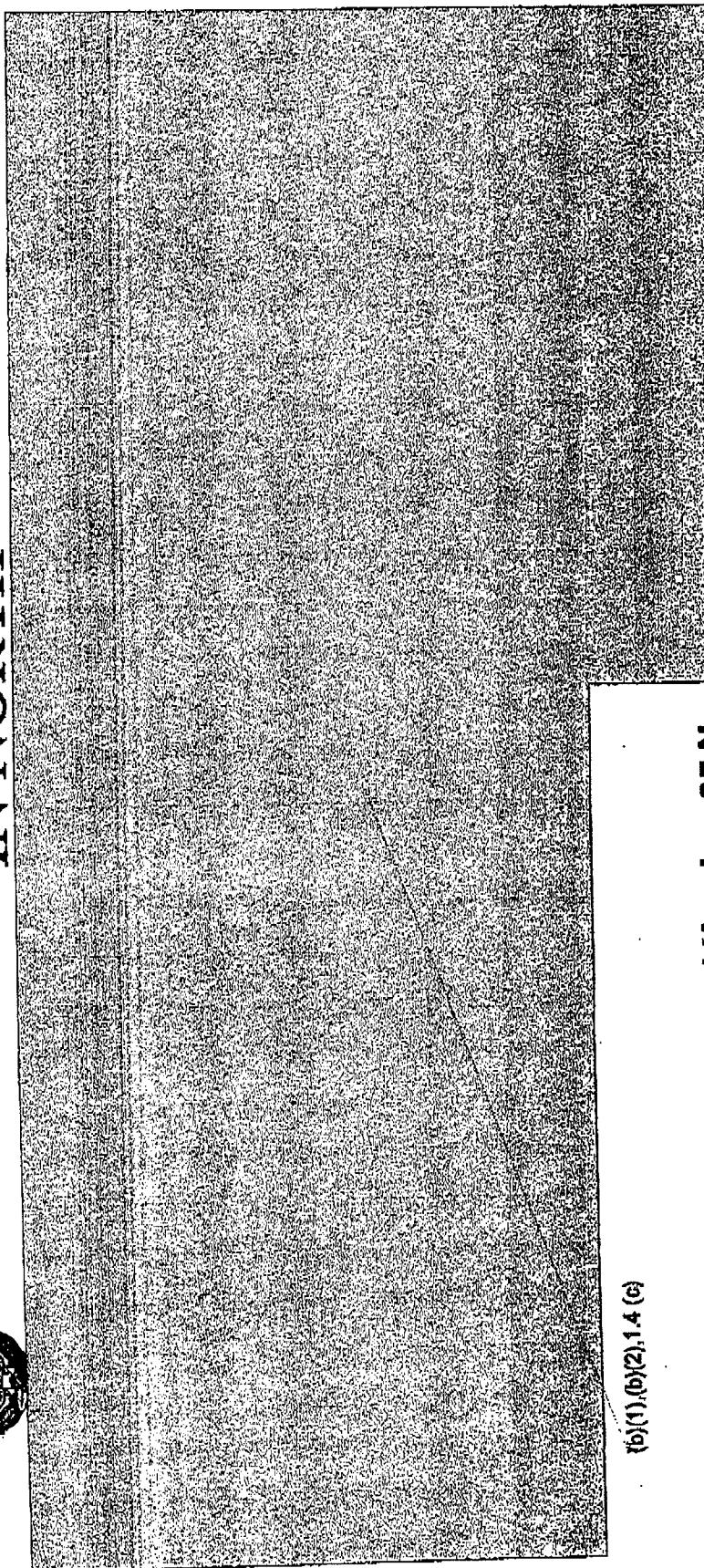
NNNN

~~NOFORN~~  
~~SECRET~~

page 6



# AFGHANISTAN: SITUATION IN NORTH



(b)(1),(b)(2),14 (c)

## •Northern Alliance forces entered Konduz, 25 Nov

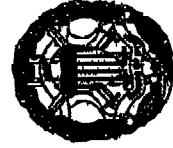
(AFP, 251708Z Nov 01, U)

- Additional surrenders expected, 26 Nov (BBC U)

- Safety of foreign fighters guaranteed by Rabbani (AFP, 251707Z Nov 01)

26 Nov 01  
(b)(2)

TOP SECRET//  
REF ID: A [REDACTED]



## AFGHANISTAN: SITUATION IN NORTH

(b)(1),(b)(2),1,4  
(c)

- No change in military situation

(u)  
- Some shelling, more Taliban  
have surrendered (AFP 240140Z Nov  
01, U)

(b)(1),(b)(2),1,4,(c)

24 Nov 01

TOP SECRET GREENWICH

(b)(2)

PHR-DIA-D063

PHR-DIA-D063



**LEONARD S. RUBENSTEIN'S FOIA REQUEST VAUGHN INDEX**

Document Number 1

Bates Number(s): N/A

Document Type: Intelligence Report

Classification: TOP SECRET

Date of Document: 30 Nov 2001 is the latest date on the document

Author: DIA

Addressee: None

Subject: Afghanistan: Situation in North

Pages: 4

Document Released in Part

Exemption: 552 (b)(1) The document contains information which, if publicly released, would reveal intelligence sources and methods and compromise the intelligence information collection mission effectiveness of the intelligence community.

Accordingly, the information is to be accorded protection from mandatory release under Executive Order 12958, as amended, sections 1.4 (c).

Exemption: 552 (b)(2) DIA asserted this exemption for intelligence code words and caveats, the release of which could potentially disclose the method or program in which the information was collected. DIA also withheld the countries and international organizations which DIA shared intelligence with. The release of these countries could compromise intelligence sharing agreements we have with these governments and may hinder our relations with other nations which we did not share the intelligence with.

Document Number 2

Bates Number(s): N/A

Document Type: Intelligence Information Report

Classification: SECRET

Date of Document: 291622Z AUG 02

Author: DIA

Addressee: Various

Subject: European Union Special Envoy Probing Possible U.S. Involvement in Alleged War Crimes in the North

Pages: 5

Document Released in Part

Exemption: 552 (b)(1) The document contains information which, if publicly released, would reveal intelligence sources and methods and compromise the intelligence information collection mission effectiveness of the DIA. Release of this information could potentially reveal the identity of a human source. Accordingly, the information is to be accorded protection from mandatory release under Executive Order 12958, as amended, sections 1.4 (c).

Exemption: 552 (b)(2) was used to protect information that pertains solely to the internal rules and practices of the agency. Information withheld under (b)(2) includes Intelligence Information Report (IIR) numbers, message routing data, administrative handling codes, an administrative number assigned to the preparer of the IIR, the name of an ongoing intelligence operation, internal office symbols and phone numbers, and the

locations of DIA operations. If this information were released, it would identify DIA locations, an intelligence operation, and may reveal the identity of the preparer of the IIR. The geocoordinates from the report were withheld from the report. Release of the geocoordinates mentioned in the report would reveal specific locations of DIA intelligence activities and would hinder DIA's future capabilities to collect intelligence at those locations. The preparer's evaluation of the classified source was also withheld. Even though this line is unclassified, it is descriptive in nature of a classified source. Exemption: 552(b)(3) Title 10 Section 424 was used to withhold DIA office symbols, DIA employee names and phone numbers, unit locations, and similar information, the release of which would reveal DIA's organizational structure.

[Redacted] Non-Responsive

Non-Responsive

No Longer Applicable

No Longer Applicable

Non-Responsive

Non-Responsive

Non-Responsive

**b1 b2 b5 b6** [Redacted] was concerned and upset about the recent media reports showing his troops distinguished TB prisoners and put the bodies in mass graves. [b1 b2 b6] said that the 5,000 TB prisoners were packed into trucks and in some instances caskets containing [b1 b2 b6] claimed this was done because of a lack of proper vehicles to transport the prisoners. Of the 5,000 prisoners [b1 b2 b6] claimed that 200 (not the thousands reported) died from injuries sustained in the fighting, thirst, or hunger. (EDB 192 STREP)  
271809Z AUG 07

b 1-4c  
b 5  
b 6

Non-Responsive

Non-Responsive

No Longer Applicable

No Longer Applicable

DOC 1

No Longer Applicable  
No Longer Applicable

Non-Responsive

Non-Responsive

BON-KHANPONI 177 Non-Responsive TEAM MEMBERS ATTENDED A JOINT  
PRESS CONFERENCE PUT ON BY [REDACTED] 1.c; 5. b1 4.c; 6.a HELD AT  
THE MIN OF FOREIGN AFFAIRS IN MBS. THE PURPOSE OF THE PRESS  
CONFERENCE WAS TO REFUTE THE RECENT MEDIA STORIES,  
PARTICULARLY IN NEWSWEEK, CLAIMING THE NORTHERN ALLIANCE  
KILLED THOUSANDS OF TB AND AQ PRISONERS, AND DUMPED THE BODIES  
IN A MASS GRAVE. CBS AND CNN WERE AMONG THE MEDIA PRESENT.

Non-Responsive

Non-Responsive

No Longer Applicable  
No Longer Applicable

DOC 2

No Longer Applicable  
No Longer Applicable

b7c,d,5,6

b7c,d,6,6

Non-Responsive

Non-Responsive

No Longer Applicable  
No Longer Applicable

Doc 3

No Longer Applicable  
No Longer Applicable

b7d(b)(6) Non-Responsiveness

Non-Responsiveness

b7d(b)(6)

b7d(b)(6)

Non-Responsiveness

Non-Responsiveness

No Longer Applicable  
No Longer Applicable

Doc 4

Non-Responsive

Non-Responsive

Non-Responsive

(b) (7) (E) (F)

(b) (5), (b) (6)

(b) (5), (b) (6)

(b) (5)

(b) (5)

WANTS TO MEET WITH THE [REDACTED] PAGE 16

[REDACTED] AND VISIT [REDACTED] L-LETI, SITE OF A POSSIBLE  
CASH DRAWER OUTSIDE OF MICHIGAN.

Non-Responsive

Non-Responsive

Page 16

DOC 5

Non-Responsive

No Longer Applicable, Non-Responsive

Page 19 of 20

When over 3,500 Taliban troops surrendered in the Gonduz area they were transported to the Sheberghan Prison in the northwest province of Jawzjan. Continuing to advise GEN Dostum and traveling to Sheberghan, "Alpha" Team advised him in prison security, medical aid and humanitarian assistance to ensure the best humanitarian treatment possible for the prisoners. The ODA, through local contacts, became aware of the presence of a possible American-Taliban prisoner. Upon investigating, the ODA discovered Mr. John Walker Lindh. After notifying higher, Walker was secured and transported to MBS. Detachment members conducted numerous surveys in order to ascertain humanitarian needs, visiting numerous hospitals and clinics to determine medical needs for local doctors. The ODA continued to work with Dostum, training his bodyguards and advising him in his personal security.

Non-Responsive

No Longer Applicable, Non-Responsive

Non-Responsive

4/11/2008

DOC 6

LEONARD S. RUBENSTEIN'S FOIA APPEAL VAUGHN INDEX

Document Number 1

Bates Number(s): N/A

Document Type: Intelligence Summary

Classification: SECRET REL AUS/CAN/GER/DNK/NZL/GBR/NOR

Date of Document: 280200Z AUG 02

Author: CJSOTF Afghanistan

Addressee: None

Subject: CJSOTF Afghanistan INSTSUM #151

Pages: 7 (1 responsive)

Document Released in Part

Exemption: 552 (b)(1) The document contains information which, if publicly released would reveal intelligence activities, sources or methods. Accordingly, the information is to be accorded protection from mandatory release under Executive Order 12958, as amended, section 1.4 (c).

Exemption: 552 (b)(5) was used to protect information that would be considered deliberative or inter-intra agency memoranda. Information withheld under (b)(5) includes lessons learned containing evaluations, opinions and/or suggestions.

Exemption 552 (b)(6) was used to withhold names and references to key personnel who may have been involved in this operation, and other personal information, which, if released would constitute a clearly unwarranted invasion of the personal privacy of the individuals involved.

Document Number 2

Bates Number(s): N/A

Document Type: Situation Reports

Classification: SECRET REL AUS/CAN/GER/DNK/NZL/GBR/NOR

Date of Document: 271800Z Aug 02

Author: FOB 192

Addressee: None

Subject: FOB 192 SITREP #165 AS OF 271800ZAUG 02

Pages: 152 (1 responsive)

Document Released in Part

Exemption: 552 (b)(1) The document contains information which, if publicly released would reveal intelligence activities, sources or methods. Accordingly, the information is to be accorded protection from mandatory release under Executive Order 12958, as amended, section 1.4 (c).

Exemption: 552 (b)(5) was used to protect information that would be considered deliberative or inter-intra agency memoranda. Information withheld under (b)(5) includes lessons learned containing evaluations, opinions and/or suggestions.

Exemption 552 (b)(6) was used to withhold names and references to key personnel who may have been involved in this operation, and other personal information, which, if released would constitute a clearly unwarranted invasion of the personal privacy of the individuals involved.

**Document Number 3****Bates Number(s): N/A****Document Type: Intelligence Summary****Classification: SECRET REL AUS/CAN/DEU/DNK/NZL/UK/NOR****Date of Document: 31 Aug 02****Author: FOB 192****Addressee: None****Subject: FOB 192 INTSUM #166****Pages: 6 (1 responsive)****Document Denied in full**

**Exemption:** 552 (b)(1) The document contains information which, if publicly released would reveal foreign relations, foreign activities of the United States, to include confidential sources. Accordingly, the information is to be accorded protection from mandatory release under Executive Order 12958, as amended, section 1.4 (d).

**Exemption:** 552 (b)(5) was used to protect information that would be considered deliberative or inter-intra agency memoranda. Information withheld under (b)(5) includes lessons learned containing evaluations, opinions and/or suggestions.

**Exemption** 552 (b)(6) was used to withhold names and references to key personnel who may have been involved in this operation, and other personal information, which, if released would constitute a clearly unwarranted invasion of the personal privacy of the individuals involved.

**Document Number 4****Bates Number(s): N/A****Document Typc: Intelligence Summary****Classification: SECRET REL GCTF****Date of Document: 260100Z Oct 02****Author: CJSOTF Afghanistan****Addressee: None****Subject: CJSOTF Afghanistan INSTSUM #205****Pages: 10 (1 responsive)****Document Denied in full**

**Exemption:** 552 (b)(1) The document contains information which, if publicly released would reveal foreign relations or foreign activities of the United States, including confidential sources. Accordingly, the information is to be accorded protection from mandatory release under Executive Order 12958, as amended, section 1.4 (d).

**Exemption:** 552 (b)(5) was used to protect information that would be considered deliberative or inter-intra agency memoranda. Information withheld under (b)(5) includes lessons learned containing evaluations, opinions and/or suggestions.

**Exemption** 552 (b)(6) was used to withhold names and references to key personnel who may have been involved in this operation, and other personal information, which, if released would constitute a clearly unwarranted invasion of the personal privacy of the individuals involved.

Document Number 5

Bates Number(s): N/A

Document Type: Situation Report

Classification: SECRET// REL AUS/CAN/GER/DNK/NZL/GBR/NOR

Date of Document: 04 Nov 02

Author: CJSOTF Afghanistan

Addressee: CDR20THSFGA FWD; COMSOCCENT MACDILL AFB, FL,

COMSOFCFWD QATAR

Subject: CJSOTF-AFG SITREP 04 NOV 02

Pages: 16 (1 responsive)

Document Denied in part

Exemption: 552 (b)(1) The document contains information which, if publicly released would reveal foreign relations or foreign activities of the United States, including confidential sources. Accordingly, the information is to be accorded protection from mandatory release under Executive Order 12958, as amended, section 1.4 (d).

Exemption: 552 (b)(5) was used to protect information that would be considered deliberative or inter-intra agency memoranda. Information withheld under (b)(5) includes lessons learned containing evaluations, opinions and/or suggestions.

Exemption 552 (b)(6) was used to withhold names and references to key personnel who may have been involved in this operation, and other personal information, which, if released would constitute a clearly unwarranted invasion of the personal privacy of the individuals involved.

Document 6

Bates Number(s): N/A

Document Type: Lessons Learned

Classification: SECRET/NOFORN

Date of Document: 20011221

Author: Operational Detachment Alpha (ODA) 595

Addressee: None

Subject: Lessons Learned Operation Enduring Freedom

Pages: 41 (1 responsive)

Document Released in Full

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

---

PHYSICIANS FOR HUMAN RIGHTS, ) Case No.  
1156 15th Street NW, Suite 1001 )  
Washington, DC 20005, )  
Plaintiff, )  
v. )  
U.S. DEPARTMENT OF DEFENSE, )  
1600 Defense Pentagon  
Washington, DC 20301-1155

and its components  
Defense Intelligence Agency,  
Building 6000  
Washington, DC 20340-5100

United States Special Operations  
Command,  
7701 Tampa Point Boulevard  
MacDill AFB, FL 33621-5323

and United States Central Command,  
7115 South Boundary Boulevard  
MacDill AFB, FL 33621-5101

Defendants.

---

**COMPLAINT FOR INJUNCTIVE RELIEF**

1. This is an action under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, for injunctive and other appropriate relief and to obtain the disclosure and release of agency records improperly withheld from plaintiff by defendant Department of Defense ("DOD") and its components Defense Intelligence Agency ("DIA"), United States Special Operations Command ("USSOC"), and United States Central Command ("CENTCOM").

**Jurisdiction and Venue**

2. This Court has both subject matter jurisdiction over this action and personal jurisdiction over the parties pursuant to 5 U.S.C. § 552(a)(4)(B). This court also has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331. Venue lies in this district under 5 U.S.C. § 552(a)(4)(B).

**Parties**

3. Plaintiff Physicians for Human Rights (“PHR”) is a not-for-profit organization with its principal place of business in Cambridge, Massachusetts. Its mission is to promote health by protecting human rights. It uses scientific methods and clinical medical skills to investigate allegations of human rights violations. PHR has conducted investigations of health and human rights in Iraq and Afghanistan and has worked around the world to expose war crimes. The goals of PHR’s investigations include revealing the truth about human rights abuses, holding perpetrators accountable, demonstrating the scope of rights violations, and advocating an end to abuses. PHR publishes newsletters, reports, and informational materials for the public, many of which are available on its website, [www.physiciansforhumanrights.org](http://www.physiciansforhumanrights.org).

4. DOD is a Department of the Executive Branch of the United States Government and includes component entities DIA, USSOC, and CENTCOM. DOD is an agency within the meaning of 5 U.S.C. § 552(f).

**Discovery and Investigation of a Mass Grave in Afghanistan**

5. International news stories and investigations from January 2002 to February 2004 reported that the bodies of as many as 2,000 Taliban fighters may lie in a mass grave at Dasht-e-

Leili, Afghanistan. This reported gravesite is approximately 78 miles west of Mazar-I-Sharif near Sheberghan. According to reports, hundreds of Taliban fighters died of asphyxiation at the end of November 2001 when transported in flatbed truck shipping containers from the site of their surrender in Konduz to the prison in Sheberghan. Their bodies were allegedly buried in December 2001.

6. According to reports, U.S. forces were providing security at the Sheberghan prison when some of the container trucks arrived.

7. PHR personnel visited the gravesite in January and February 2002 and documented skeletal remains (some with human tissue still attached, indicating recent burial), shoes, prayer beads, and prayer caps in the graves.

8. The mass graves were first reported in the American media in the *New York Times* in May 2002. A cover story in *Newsweek* magazine in July 2002 described the deaths, the gravesite, and surrounding events. The *Newsweek* article is appended to this complaint as Exhibit A.

9. In its article, *Newsweek* reported that DOD spokesman Lt. Col. Dave Lapan said that CENTCOM had questioned the U.S. forces in Afghanistan concerning the gravesite and the transfer of Taliban prisoners to Sheberghan prison. The article further reported that a senior DOD official said the commander of the U.S. forces had looked into the reports of the deaths.

10. After *Newsweek* released its lengthy report on the graves, State Department spokesman Phillip Reeker said that the U.S. would investigate the circumstances surrounding the gravesite.

11. In August 2002, General Tommy Franks was quoted in an article on cnn.com as calling for an investigation into allegations that hundreds of Taliban prisoners suffocated and were dumped into mass graves after surrendering to US-based forces in November 2001.

12. An August 2002 *New York Times* article reported that at a Pentagon briefing on August 26, 2002, Marine General Peter Pace told reporters that the U.S. military conducted an internal review into what happened at Sheberghan.

#### **Plaintiff's FOIA Requests**

13. By letter dated June 21, 2006 to DOD, the U.S. Army, and CENTCOM, among others, plaintiff submitted Freedom of Information Act (“FOIA”) requests for all records relating to the existence of a grave in or around Dasht-e-Leili in Afghanistan and records relating to any investigation of or correspondence about this grave or to U.S. military presence at or near the grave.

#### **Defendant DOD’s Failure to Respond to Plaintiff’s Request**

14. By letter dated August 1, 2006, DOD provided an interim response regarding plaintiff’s request for a fee waiver. This letter also notified plaintiff of DOD’s additional referral of the request to the DIA for review and direct response.

15. By letter dated April 26, 2007, plaintiff sent an appeal to DOD under 5 U.S.C. § 552 because it had received no further information from DOD.

16. By letter dated August 6, 2007, DOD sent another an interim response to plaintiff’s FOIA request. This letter noted that the DOD was conducting a search for additional documents and enclosed six documents deemed responsive to the FOIA request. These

documents included a draft of a letter from the Office of the Deputy Secretary of Defense to PHR, articles and letters from PHR's website, a *Washington Post* article written by the executive director of PHR, and various constituent letters to Members of Congress regarding the Afghanistan gravesite. None of these documents relates to any DOD investigation into the reports of a mass gravesite in Afghanistan.

17. To date, DOD has not provided the records requested by plaintiff in its FOIA request nor has DOD informed plaintiff of the outcome of the appeal, notwithstanding the FOIA's requirement of an agency response within twenty (20) working days of the appeal sent on April 26, 2007.

18. PHR has exhausted the applicable administrative remedies with respect to its FOIA request to DOD.

19. Defendant DOD has improperly withheld the requested records from PHR.

**DIA's Failure to Respond to Plaintiff's Request**

20. On or before August 1, 2006, DOD referred plaintiff's FOIA request to DIA.

21. Plaintiff did not receive acknowledgment or communication from DIA, and plaintiff sent an appeal under 5 U.S.C. § 552 to DIA by letter on May 30, 2007.

22. On November 15, 2007, plaintiff, through counsel, checked the status of the appeal by phone, and DIA stated that plaintiff would have a response by the end of the month. No response followed.

23. To date, DIA has not provided the records requested by plaintiff in its FOIA request nor has DIA informed plaintiff of the outcome of the appeal, notwithstanding the FOIA's

requirement of an agency response within twenty (20) working days of the appeal sent on May 30, 2007.

24. PHR has exhausted the applicable administrative remedies with respect to its FOIA request to DIA.

25. Defendant DIA has improperly withheld the requested records from PHR.

**USSOC's Failure to Respond to Plaintiff's Request**

26. By letter dated March 15, 2007, USSOC stated that the Department of Army referred plaintiff's request to U.S. Army Special Operations Command (USASOC), that USASOC referred the request to USSOC, and that USSOC did not find any responsive records.

27. By letter dated April 26, 2007, plaintiff appealed this decision under 5 U.S.C. § 552.

28. On November 30, 2007, plaintiff, through counsel, checked the status of the appeal by phone, and USSOC confirmed that the appeal was being processed.

29. To date, USSOC has not provided the records requested by plaintiff in its FOIA request nor has USSOC informed plaintiff of the outcome of the appeal, notwithstanding the FOIA's requirement of an agency response within twenty (20) working days of the appeal sent on April 26, 2007.

30. PHR has exhausted the applicable administrative remedies with respect to its FOIA request to USSOC.

31. Defendant USSOC has improperly withheld the requested records from PHR.

**CENTCOM's Failure to Respond to Plaintiff's Request**

32. By letter dated August 1, 2006, CENTCOM confirmed receipt of plaintiff's FOIA request.

33. Because plaintiff received no further response to its FOIA request, plaintiff sent an appeal under 5 U.S.C. § 552 to CENTCOM by letter dated April 26, 2007.

34. On November 30, 2007, plaintiff, through counsel, checked the status of the appeal by phone, and CENTCOM confirmed that it was processing the appeal.

35. To date, CENTCOM has not provided the records requested by plaintiff in its FOIA request nor has CENTCOM informed plaintiff of the outcome of the appeal, notwithstanding the FOIA's requirement of an agency response within twenty (20) working days of the appeal sent on April 26, 2007.

36. PHR has exhausted the applicable administrative remedies with respect to its FOIA request to CENTCOM.

37. Defendant CENTCOM has improperly withheld the requested records from PHR.

**Count I: Against Defendants DOD, DIA, USSOC, and CENTCOM  
For Injunctive and Other Relief Under the Freedom of Information Act**

38. PHR hereby incorporates by reference paragraphs 1 – 37 above.

39. 5 U.S.C. § 552(a)(3)(A) requires an agency to make records promptly available to any person upon request for reasonably identified records. 5 U.S.C. § 552(a)(4)(B) precludes the improper withholding of requested agency records.

40. 32 C.F.R. § 286.24 (2008) states that final determinations on appeals should be made within twenty (20) working days after receipt and allows ten (10) additional days if unusual circumstances are present.

41. As alleged in paragraphs 1 – 37 above, defendants DOD, DIA, USSOC, and CENTCOM have improperly withheld records from PHR relating to the mass grave in Dasht-e-Leili and have failed to timely respond to PHR's FOIA request appeals.

42. PHR has been harmed by defendants' actions as, among other things, it cannot, without the requested records, complete its investigation of, and report to the public concerning, possible human rights violations at Dasht-e-Leili.

**Requested Relief**

WHEREFORE, plaintiff prays that this Court:

- A. order defendant DOD (including DIA, USSOC, and CENTCOM) to disclose the requested records in their entireties and make copies available to plaintiff;
- B. provide for expeditious proceedings in this action;
- C. award plaintiff its costs and reasonable attorneys fees incurred in this action; and
- D. grant such other relief as the Court may deem just and proper.

ROPEs & GRAY LLP

By: \_\_\_\_\_

Dated: February 19, 2008

Thomas M. Susman  
D.C. Bar Number 151712  
One Metro Center  
Suite 900  
700 12th Street, NW  
Washington, DC 20005  
(202) 508-4600

Attorney for Plaintiff,  
PHYSICIANS FOR HUMAN RIGHTS

BETTY McCOLLUM  
4TH DISTRICT, MINNESOTA

1029 LONGWORTH HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515  
(202) 225-6631  
FAX: (202) 225-1968

165 WESTERN AVENUE NORTH  
SUITE 17  
ST. PAUL, MN 55102  
(651) 224-9191  
FAX: (651) 224-3056



②  
COMMITTEE ON  
EDUCATION AND THE WORKFORCE

COMMITTEE ON  
INTERNATIONAL RELATIONS

COMMITTEE ON RESOURCES

[www.house.gov/mccollum](http://www.house.gov/mccollum)

UNITED STATES  
HOUSE OF REPRESENTATIVES

June 25, 2004

Secretary Donald H. Rumsfeld  
U.S. Department of Defense  
The Pentagon  
Washington, DC 20301

Dear Secretary Rumsfeld:

A constituent of mine [REDACTED] has contacted me about reported human rights violations of prisoners of war in Afghanistan. A copy of his email is enclosed.

On May 23rd, 2003, the public radio and television show Democracy Now! premiered *Afghan Massacre: The Convoy of Death*. This report alleges U.S. military involvement in a massacre of Taliban prisoners in Afghanistan, including the forced containment and starvation of over 3,000 people. I found this report to be extremely troubling and I believe this issue warrants a full investigation.

I respectfully request that you explain what actions the United States military has taken to verify the accuracy of these reports, what steps the United States has taken to investigate this issue and what actions the United States military has taken to prevent such actions from occurring in the future. I ask that you respond to both [REDACTED] and me directly.

Thank you for your consideration of my request and your expedited response to this important issue.

Sincerely,

A handwritten signature in black ink, appearing to read "B. McCollum".

Betty McCollum  
Member of Congress

Enclosures

BM:jb

OSD 10143-04

**View f:\asp\qng\email\_objects\200405\1\520165155.txt**

From: [REDACTED]  
Date: 5/20/2004 4:42:17 PM  
To: imamn04@mail.house.gov  
Subject: IMA ON DEF

Dear Congresswoman McCollum,

I recently watched a documentary entitled "Afghan Massacre: The Convoy of Death." It is produced and directed by award-winning Irish filmmaker Jamie Doran. Doran has worked at the highest levels of television film production for more than two decades. The film provides eyewitness testimony that U.S. troops were complicit in the massacre of thousands of Taliban prisoners during the Afghan War.

According to eyewitnesses, after the seige of Kunduz, some three thousand prisoners were forced into sealed containers and loaded onto trucks for transport to Sheberghan prison. Eyewitnesses say when the prisoners began shouting for air, U.S.-allied Afghan soldiers fired directly into the truck, killing many of them. The rest suffered through an appalling road trip lasting up to four days, so thirsty they clawed at the skin of their fellow prisoners as they licked perspiration and even drank blood from open wounds.

Witnesses say that when the trucks arrived and soldiers opened the containers, most of the people inside were dead. They also say US Special Forces re-directed the containers carrying the living and dead into the desert and stood by as survivors were shot and buried. Now, up to three thousand bodies lie buried in a mass grave.

This film has been broadcast on national television in Britain, Germany, Italy and Australia. It has been screened by the European parliament. It has outraged human rights groups and international human rights lawyers. They are calling for investigation into whether U.S. Special Forces are guilty of war crimes.

After viewing this documentary I am deeply troubled by the lack of investigation by the U.S. government into what role American soldiers and commanders played in this massacre.

I hope that you strongly consider looking into this issue. With the current news of prisoner abuse in Iraq I feel that it is crucial to U.S. international credibility that all U.S. military personnel that have participated in human rights abuse over sees be brought to justice and held accountable for thier actions.

Here is a link to the documentary if you would like to view it: <http://www.acftv.net/more.asp?id=271&catid=5>

Thank you for your time.

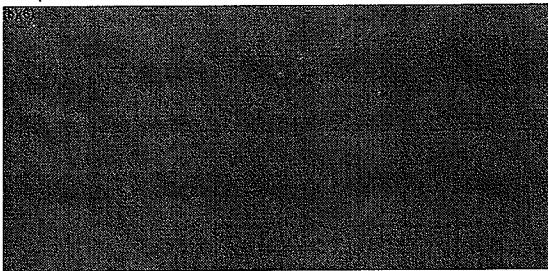
Thanks,  
[REDACTED]

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Date and Time: 5/20/2004 4:51:02 PM

==== Original Formatted Message Starts Here ====

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<PREFIX>Mr.</PREFIX>

[http://mn04:800/tc\\_asp/view\\_webmail.asp?object\\_id=f%3A%5Casp%5Cqng%5C...](http://mn04:800/tc_asp/view_webmail.asp?object_id=f%3A%5Casp%5Cqng%5C...) 6/24/2004



<ISSUE>DEF</ISSUE>

<MSG>

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Thank you for your time.

Thanks,

Remote Address: 140.209.93.82  
Date and Time: 5/20/2004 4:51:02 PM  
</MSG>  
</APP>



OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE  
1400 DEFENSE PENTAGON  
WASHINGTON, DC 20301-1400

PUBLIC AFFAIRS

(3)

17 July 2003

Honorable Lindsey O. Graham  
United States Senate  
Washington, DC 20510

Dear Senator Graham:

Thank you for your letter of June 6, 2003, to Mr. Powell A. Moore, Assistant Secretary of Defense for Legislative Affairs, on behalf of your constituent, [REDACTED] [REDACTED] who expressed concern about allegations of U.S. military involvement in the killings of Taliban prisoners in western Afghanistan. [REDACTED] heard these allegations in a documentary produced by Mr. Jamie Doran.

U.S. Central Command personnel investigated this matter following the discovery of unmarked graves west of Shibarghan prison. The investigation found no evidence of participation by U.S. service personnel in any of the alleged activities. There is no evidence that U.S. service personnel were present, which is not surprising, as U.S. forces were not operating in the vicinity. Contrary to Mr. Doran's understanding, there were no U.S. military personnel assigned to the Shibarghan prison.

Our Special Operations Forces and U.S. Army Special Forces personnel are well briefed on human rights and were so informed prior to their insertion into Afghanistan. All of our forces are thoroughly trained in the Laws of Armed Conflict. They are disciplined professionals. In the debriefings that followed their activities in that country none of the U.S. forces indicated having seen any atrocities committed.

An unfortunately common misassumption is that U.S. Special Operations teams, though able and effective contributors to what is a reasonably secure environment for that country through their counsel of restraint and by facilitating and encouraging communication, act in the capacity of a conquering force with authoritative powers.

Special Operations Forces serve to a significant degree as advisers to foreign military personnel, helping to educate those troops in professional military procedure, which includes strongly encouraging an understanding of and compliance with human rights norms and objectives, enabling us the capability and the credibility to prevent human rights abuses, a key to societal development and stability. If human rights abuses occur in their presence, and doing so would not unduly jeopardize their own safety and security, U.S. Special Operations personnel are instructed to put a halt to those activities.

[REDACTED] /OASD(PA)PIA/17Ju12003/428-0711/U10010-2003

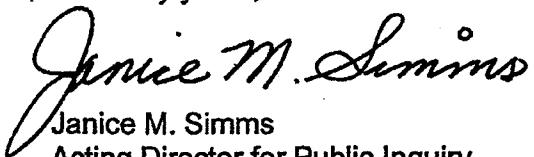


R

U10010-03

Thank you for sharing with the Department of Defense the concerns of  
[REDACTED] We are grateful for her and your support for the men and women of the U.S.  
Armed Forces fighting the global war on terrorism.

Sincerely yours,



Janice M. Simms  
Acting Director for Public Inquiry  
And Analysis

LINDSEY O. GRAHAM  
SOUTH CAROLINA  
(202) 224-5972

United States Senate

WASHINGTON, DC 20510

June 6, 2003

The Honorable Powell A. Moore  
Assistant Secretary of Defense for Legislative Affairs  
1300 Defense Pentagon  
Washington, DC 20330

Dear Secretary Moore::

In response to an inquiry from my constituent, I am requesting the assistance of your office in facilitating the information for [REDACTED]. Please read the enclosed correspondence and direct your response to my office in Washington. If you have questions, please do not hesitate to contact Troy McCurry of my staff at 202-224-5972.

As always, I appreciate your assistance.

Sincerely,



Lindsey O. Graham  
United States Senator

LOG/tm

U10010 03

Hickman, Wes (L. Graham)

TM 2021584

From: nobody@www.senate.gov  
Sent: Friday, May 23, 2003 5:27 PM  
To: Hickman, Wes (L. Graham)  
Subject: Senator Lindsey Graham

<APP>SCCMAIL



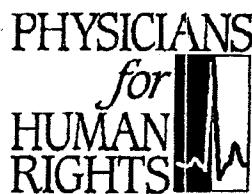
<HPHONE></HPHONE>  
<WPHONE></WPHONE>  
<EMAIL>[REDACTED]</EMAIL>

<MSG>I just viewed on Pacificia Radio, the film "Afghan Massacre: Convoy of Death". It is a documentary film alleging U.S. military involvement in a massacre of Taliban prisoners in Afghanistan. It has been broadcast in on national television in Britain, Germany, Italy and Australia and has been screened by the European parliament. It was produced and directed by Irish filmmaker and former BBC producer Jamie Doran and tells the story of thousands of prisoners who surrendered to the US military's Afghan allies after the siege of Kunduz. According to the film, some three thousand of the prisoners were forced into sealed containers and loaded onto trucks for transport to Sheberghan prison. When the prisoners began shouting for air, U.S.-allied Afghan soldiers fired directly into the truck, killing many of them. The rest suffered through an appalling road trip lasting up to four days, clawing at the skin of their fellow prisoners as they licked perspiration and even drank blood!

from open wounds.

Witnesses say that when the trucks arrived and soldiers opened the containers, most of the people inside were dead. They also say US Special Forces re-directed the containers carrying the living and dead into the desert and stood by as survivors were shot and buried. Now, up to three thousand bodies lie buried in a mass grave.

I have never been so sickened and shamed that this could have happened with the knowledge of our government. Please, please push for an investigation into this. [REDACTED]/MSG><TOPIC>National Defense/Military</TOPIC> <TR\_NUMPARTY>Yes, I would like a written response.</TR\_NUMPARTY> </APP>



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SECRETARY RUMSFELD  
2002 AUG 26 PM 11:27

August 26, 2002

2002 AUG 26 PM 11:27

The Hon. Donald Rumsfeld  
Secretary of Defense  
1000 Defense Pentagon  
Washington, DC 20301-1000

FOUNDING MEMBER,  
INTERNATIONAL CAMPAIGN  
TO BAN LANDMINES  
CO-RECIPIENT OF THE  
1997 NOBEL PLACE PRIZE

Mobilizing the health professions and enlisting public support to protect and promote the human rights of all people

VIA FACSIMILE: 703-695-1219

Dear Secretary Rumsfeld:

We applaud yesterday's statement of support by General Tommy Franks for an investigation into the Dasht-e-Leili mass gravesite in Northern Afghanistan, where many hundreds of Taliban prisoners are allegedly buried. In light of his announcement, we urge you to take two critical steps. First, we ask you to reconsider the position of the Defense Department and assure security at the gravesite at Dasht-e Leili. Security for this site and witnesses is urgently required for the investigation General Franks supports to move forward. Secondly, we urge you to review the Department's own responsibilities regarding compliance with the Geneva Conventions by an ally in the field.

The position of the Department to date raises serious concerns about the role of internationally accepted humanitarian law standards in cases of joint operations. Our concerns extend beyond questions about whether the Northern Alliance deliberately killed prisoners. Other concerns arise regarding the accounting for and treatment of prisoners still in Afghan custody, including the need to conduct a census of the missing and captured and inform their families of their fate. In addition, the United States has failed to assure that prisons, such as the appalling facility at Shebarghan, conform to international standards.

In the short term, the Defense Department, either through its own personnel on the ground or in cooperation with the multinational force and the Afghan government, should take immediate steps to secure the mass grave site near Shebarghan, protecting the premises so that a complete, impartial investigation can be made.

On the issue of prisoner treatment, in our letter dated February 26 we state that there are strong legal grounds to believe that the United States has some responsibility for the deplorable conditions under which Taliban and other combatants are held in the Shebarghan prison. Beyond that, we believe that the United States should assure that all allied forces adhere to the principles of humanitarian law, including bedrock requirements of the Geneva Conventions.

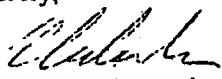
U13969 /02

Toward that end, two steps are essential. First, the Pentagon should, in consultation with the International Committee of the Red Cross, develop appropriate strategies for assuring that the future capture, release, transfer, and/or imprisonment of enemy combatants by either US forces or our allies is done in compliance with the Geneva Conventions. This step, when followed by policies to implement it, can prevent a recurrence of incidents like the killings after the fall of Kunduz or the abuse of those in the prison that survived the alleged massacre.

Second, it should engage in its own internal review of American actions within Afghanistan regarding the deaths of Taliban prisoners, including identifying what was known and by whom of the events that led to the death of captured combatants. Those findings should be made publicly available. Thereafter, whenever possible, the Defense Department should give full support to the process whereby the remains of bodies disposed there and elsewhere can be identified and given to family members for proper burial.

Physicians for Human Rights is an independent international human rights organization with extensive experience in collecting information, particularly forensic evidence, of war crimes, genocide, and crimes against humanity. Accountability for gross violations of human rights, as the US learned firsthand in Bosnia and Rwanda, is essential to attaining stability during post-war reconstruction. We stand ready to assist in any independent fact-finding process that is established for Afghanistan.

Sincerely,



Leonard S. Rubenstein  
Executive Director



**DEPARTMENT OF DEFENSE  
OFFICE OF FREEDOM OF INFORMATION  
1155 DEFENSE PENTAGON  
WASHINGTON, DC 20301-1155**

07 APR 2008

Ref: 06-F-2045

Mr. Leonard S. Rubenstein  
Physicians for Human Rights  
1156 15<sup>th</sup> Street, NW  
Washington, DC 20005

Dear Mr. Rubenstein:

This is the final response to your June 21, 2006, Freedom of Information Act appeal. Information responsive to your request was previously provided to you by this office on August 6, 2007.

In addition to our previous response, two documents were located as responsive to your request. A one page document is released in its entirety. A second classified document, consisting of ten pages, contains only one paragraph of information responsive to your request. That one page with the releasable responsive paragraph is also enclosed. Because the remainder of that page and the other nine pages are non-responsive, they are withheld without an exemption.

Concerning your request for a waiver of all assessable fees, I am denying your request. The information released to you does not contribute significantly to the public's understanding of the operations and activities of the government.

The Office of the Secretary of Defense and the Joint Staff incurred seven hours of search for your request; however, since you are considered an "other" requester for the purposes of fee assessment you receive two hours of search at no cost. Therefore the total assessable fees are \$220.00, (5 hours of search at the professional rate of \$44.00 per hour). Please submit a check or money order to the Office of Freedom of Information,

1155 Defense Pentagon, Washington, DC 20301-1155, made payable to the U.S. Treasury, citing FOIA case number 06-F-2045, in the amount of \$220.00 within 30 days of the date of this letter. Because this request is currently in litigation, all appeal rights are considered moot.

Sincerely,

*Will Kammer*

Will Kammer  
Chief

Enclosures:

As stated

(7)

## **UPDATE ON HUMAN RIGHTS IN AFGHANISTAN: ABUSES OF GENERAL DOSTAM**

- Abdur Rashid Dostam, a major warlord in northern Afghanistan, has a long history of human rights abuses that continues to the present day.
- During the Soviet occupation, Dostam was the head of the Jowzjan militia, a particularly brutal but effective military proxy of Moscow. It was involved in many massacres and other abuses.
- In the aftermath of the collapse of the Soviet puppet regime, Dostam eventually sided with Hekmatyar in trying to topple the Rabbani regime. Dostam/Hekmatyar forces fired thousands of rockets into southern and eastern Kabul, killing thousands of civilians.
- Dostam is accused of human rights violations committed in Mazar-e Sharif during Operation Enduring Freedom.
  - Western media sources detailed the death of at least 200 Taliban prisoners while being transported to the Dostam-controlled prison at Shiberghan after their capture in Kunduz in November 2001.
  - The reports maintained that prisoners were allowed to suffocate in 40 ft. shipping containers and/or were shot and buried near Dasht-e Leili.
  - Dostam and other commanders implicated in the reports responded thereafter in writing, vehemently denying the allegations.
  - Dostam, in the event that the charges are carried further and fearful of a Milosevic-like trial at The Hague, has retained US legal counsel.
  - The Afghan Human Rights Commission, working with UN authorities, has undertaken to investigate the matter.
- In areas controlled by Dostam, ethnic Pushtuns (a minority group in the north) have been threatened, attacked, and in some cases killed, reportedly both by his militias and by ethnic Uzbeks.
- Dostam's inner-circle and his militia have been involved in abuses typical of warlords: theft of property, abductions, extortion, etc.



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(4)

FY 3:12  
Secretary of Defense



SA0015128

The Honorable Donald H Rumsfeld  
Secretary of Defense  
The Pentagon  
Washington, D C 20301

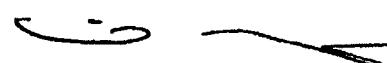
August 26, 2002

Dear Secretary Rumsfeld

Enclosed please find a copy of a letter we sent to Ambassador John Negroponte, the US Representative to the United Nations, concerning the reports of a mass grave in Dasht-e-Alele, Afghanistan

Thank you very much

Sincerely,

  
Michael McClintock  
Director of Program

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The Honorable John D Negroponte  
US Representative to the United Nations  
799 UN Plaza  
New York, NY 10017-3505

August 26, 2002

Dear Ambassador Negroponte

I am writing to express our deep concern over the reports of a mass grave in Dasht-e-leile, Afghanistan. As you are aware, Physicians for Human Rights (PHR) discovered recent human remains at the site in early 2002. Witnesses interviewed by PHR suggested that the graves concealed the bodies of a large number of Taliban prisoners, who had surrendered to the Northern Alliance as recently as November last year. Dasht-e-leile is a fifteen minute drive from the Northern Alliance's prison at Sheberghan.

The UN undertook a preliminary investigation in April/May 2002. On May 7, 2002, a UN spokesperson announced that the inquiry team had conducted autopsies on three bodies removed from the grave. It determined that all three had died of asphyxiation. The conditions of the bodies indicated that the time of death was within the past few months. The UN has not exhumed any more bodies. It suspended its investigation until a witness protection program could be put in place.

*Newsweek* magazine launched its own investigation into the site, however, and published its report last week. Details in the report coincide with the UN's preliminary findings. According to many witnesses, the grave contains the bodies of hundreds of Taliban prisoners, who were suffocated in cramped, sealed container trucks en route to Sheberghan Prison. These prisoners had formally surrendered to General Abdul Rashid Dostum. *Newsweek* interviewed several of the truck drivers, who reported that the prisoners had cried out desperately for fresh air and water, but that the Northern Alliance soldiers had forcibly prevented them from going to the prisoners' aid.

If these accounts are accurate, some elements of the Northern Alliance have committed grievous violations of international law. Given the nature of the allegations, the US must ensure that the circumstances behind the site are fully and urgently investigated in accordance with the US's often articulated commitment to human rights and accountability, wherever violations may occur.

As the principal ally of the Northern Alliance, the US government must do all that it can to help secure an effective investigation. Indeed, Tommy Franks, the US general who led the mission in Afghanistan, said yesterday that he supports an investigation into the

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Executive Director, Michael Posner

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allegations. Earlier this month, Philip Reeker, a State Department spokesperson, announced that the US was looking into the reports. He also said that the US had stressed to the Afghan Transitional Administration the importance of investigating the allegations. While welcoming these measures, the Lawyers Committee urges the US not to shift all responsibility for the investigation onto the Afghan government.

Indeed, we believe that international involvement is essential to the success of any investigation. Sima Samar, the head of the Afghan Human Rights Commission, has made clear that the Commission does not have the resources to carry out a proper investigation. According to Samar, "The Commission, honestly, is not in a position to do what is needed. We are still struggling to get an office and computers and such." The Afghan government has also repeatedly appealed for international assistance and pledged to cooperate with any international investigation.

International assistance could also help dispel the perceptions of partiality that would be almost inevitable in any effort directed solely by the Afghan government, given that many of its officials served with the Northern Alliance. Indeed, Defense Minister Mohammad Fahim has already publicly discounted the possibility of a mass grave at Dasht-e-leile. Minister Fahim was the over-all military leader of the Northern Alliance.

PHR has recommended that international assistance be provided in the form of a UN Commission of Inquiry. We agree that a UN Commission of Inquiry, working in cooperation with the Afghan Human Rights Commission, would be an appropriate means of getting at the truth. We believe that such a UN commission could command the necessary resources, expertise, and independence to launch an effective investigation.

#### Possible Steps for the US Government

As the military partner of the Northern Alliance, the US should take the lead in creating the conditions necessary for a proper investigation. In particular, the US can take the following steps:

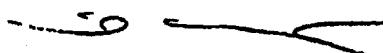
**Commit to Preserving the Gravesite.** Preserving the site, itself, is a matter of the utmost urgency. The remains must be protected from the elements, from scavenging animals, and from the high risk of human tampering. To date, the only form of protection has come from periodic visits from UN monitors. Such visits, by themselves, are clearly inadequate.

**Propose a UN Commission of Inquiry at the Security Council.** A US-sponsored resolution would be an important sign of US commitment to upholding international law and to ending the cycle of violence and impunity in Afghanistan. Indeed, in a speech last month, Pierre-Richard Prosper, the US Ambassador-at-Large for War Crimes, emphasized, "The [US] is prepared to speak out for accountability as a member of the UN Security Council and will not shy away from its responsibilities."

**Commit to Establishing a Witness Protection Program.** The UN has already indicated that it will not pursue the investigation absent effective arrangements for witness protection. Without such protection, witnesses would likely refuse to give evidence due to the fear of reprisal.

We welcome your thorough review of the issues we have raised and would appreciate hearing from you about what steps the US is taking in relation to the investigation. Thank you very much.

Sincerely,

  
Michael McClintock  
Director of Program

cc: The Honorable Colin Powell  
Secretary of State

The Honorable Donald Rumsfeld ✓  
Secretary of Defense

(5)

## SECRETARY OF DEFENSE CORRESPONDENCE ACTION REPORT

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Action Agency

USP

Suspense Date

01/10/2003

### 1. ACTION TAKEN (Check one)



a. ACTION HAS BEEN COMPLETED (Copy attached)



b. REQUEST EXTENSION OF SUSPENSE DATE TO [ ] (Justify below)



c. INTERIM REPLY HAS BEEN SENT (Copy attached) EXTEND SUSPENSE TO [ ] (Justify below)



d. REQUEST CANCELLATION (Justify below)



e. REQUEST TRANSFER TO [ ] (Justify below /include POC Name &amp; Phone Number)



f. REQUEST DOWNGRADE TO [ ] (Justify below)

### 2. JUSTIFICATION

Per [REDACTED] 10 Mar 2003 Notes (attached), action for this case has been completed. DSD office and USP/SOLIC offices unable to provide copy of submitted response.

Per 1555L, 11 Mar 03 telecon w/ [REDACTED] a SOLIC response to U20108-02 (I-02/018363) was submitted to the DSD for signature.

### 3. REPORTING AGENCY

a. ACTION AGENCY

USP

c. APPROVING AUTHORITY

(Service Secretary/Under Secretary/ASD/Military/Executive Assistant Level)

Signature

Date Signed

b. NAME OF ACTION OFFICER

INVALID

03/11/2003

c. TELEPHONE NO.

5. ACTION TAKEN (For EXSEC/ Correspondence Control Division Use Only)

d. DATE

a. EXT [ ] Approved [ ] Disapproved

4. CCD CONTROL #

b. CANX [ ] Approved [ ] Disapproved

[REDACTED]

c. DWNGRD [ ] Approved [ ] Disapproved

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d. TRANSFER [ ] Approved [ ] Disapproved

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e. OTHER (Specify) [REDACTED]

Signature [REDACTED] Date Signed [REDACTED]

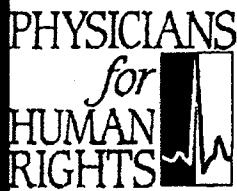
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AFGHANISTAN

(23 Dec 02)



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FOR YOUR MEMBER  
INTERNATIONAL COMMISSION  
ON HUMAN LANDMINES  
CONFERENCES OF THE  
1997 Nobel Peace Prize

December 23, 2002

Hon. Paul Wolfowitz  
Deputy Secretary of Defense  
The Pentagon  
Washington, DC

By fax: 703-614-3200

Dear Ambassador Wolfowitz:

Thank you for meeting with the directors of U.S.-based human rights organizations last week. The productive dialogue we had can go a very long way to advancing human rights.

I also appreciate your interest in reviewing the crucial role the Defense Department can, and we believe must, play in supporting an investigation into the deaths of as many as 1,000 – or more – Taliban prisoners after their surrender to Northern Alliances forces last year. Eyewitnesses have reported that the prisoners died of asphyxiation while being transported in truck containers which were deliberately kept sealed. General Dostum has conceded that 200 prisoners died in transport, but says that they died as a result of battle wounds. The only way to find out how many died and the circumstances of their deaths is through a forensic investigation of a mass grave where victims are buried.

The arrangements for such an investigation are being put into place. The U.N. High Commissioner for Human Rights, Sergio Vieira de Mello, is planning a forensic investigation of the grave (along with other sites where the Taliban were alleged perpetrators) in the spring. Physicians for Human Rights, which is working with the High Commissioner, recently met with Mr. Lakhdar Brahimi, Head of the U.N. Mission in Afghanistan, who is also supporting such an investigation.

There remains one crucial obstacle, however: security. No investigation can take place without protection for the site and the investigative team. For many months, Physicians for Human Rights has urged that the U.S. military provide that security, and we are informed that the

Hon. Paul Wolfowitz  
December 23, 2002  
Page Two

State Department and the U.N. have also made such requests to the Defense Department.

Two forms of security are needed. One is site protection before the investigation commences in the spring, which requires only a small contingent and perhaps satellite surveillance. Once work commences, 24-hour security for the site and for those working on it is required. No other force besides the U.S. military is in a good position to provide security. Last summer General Tommy Franks publicly called for an investigation, but to my knowledge, the Defense Department has not committed to provide either current surveillance or protection during an investigation.

Although the circumstances differ in many respects, the reluctance of the Defense Department to become engaged in site security is similar to the initial refusal of IFOR commanders in Bosnia in 1996 to provide security for scientific investigations of mass graves around Srebrenica. Then, as now, the reasons given were other, higher priorities and a shortage of resources. The reversal of that initial decision led to a process of accountability that is being played out in enormously effective ways.

Here the role of the United States in providing security is even more important. The alleged perpetrators were close military allies of the United States, and in these circumstances were acting as proxies for it. Given that relationship, we believe the Defense Department has a special responsibility to support the search for truth by providing the needed security.

Finally, the role of United States forces in these incidents has not yet been publicly discussed. The Department of Defense has issued statements to the press that no U.S. forces were involved in or witnessed these events, but the results of any investigation conducted have not been released publicly. We believe that, if indeed an adequate internal investigation has been carried out, far greater transparency is required about its results. If there has been no investigation, it should commence.

I would be pleased to work with you and your staff to assure that this crucial investigation moves forward with adequate security from U.S. forces in the region.

Many thanks for your attention to this matter.

Sincerely,

*Leonard S. Rubenstein*  
Leonard S. Rubenstein