



U.S. Department of Justice  
Office of Information Policy  
Suite 11050  
1425 New York Avenue, NW  
Washington, DC 20530-0001

Telephone: (202) 514-3642

MAR 29 2012

Ms. Melissa Goodman  
American Civil Liberties Union Foundation  
125 Broad Street, 18th Floor  
New York, NY 10004

Re: AG/11-00013 (F)  
DAG/11-00014 (F)  
PAO/11-00015 (F)  
VRB:DRH:VAV

Dear Ms. Goodman:

While processing your Freedom of Information Act (FOIA) request dated April 23, 2009 for records pertaining to the detention and treatment of prisoners held at the Bagram Theater Internment Facility at Bagram Airfield in Afghanistan, the National Security Division (NSD) referred material to this Office for processing and direct response to you on behalf of the Offices of the Attorney General, Deputy Attorney General and Public Affairs. The NSD administrative tracking number for this request is NSD FOIA #09-133. For your information, the documents were received by this Office on October 6, 2010.

Please be advised that, upon review by this Office, I have determined that nineteen pages of material referred by NSD are responsive to your request. I have determined that ten pages are appropriate for release without excision and copies are enclosed. I have also determined that nine pages are appropriate for release with excisions, some on behalf of NSD and the Office of Legal Counsel, made pursuant to Exemptions 5 and 6 of the FOIA, 5 U.S.C. § 552(b)(5), (b)(6). Exemption 5 pertains to certain inter- and intra-agency communications protected by the deliberative process and attorney work-product privileges. Exemption 6 pertains to information the release of which would constitute a clearly unwarranted invasion of the personal privacy of a third party. Finally, portions of the enclosed documents are not responsive to your request and have not been processed; those portions are marked accordingly.

Although additional portions of this material could be withheld pursuant to Exemption 5 of the FOIA, 5 U.S.C. § 552(b)(5), I have determined in this instance that such material may be disclosed as a matter of agency discretion.

I apologize for the delay of this response, which was caused by the need to consult with other Department components.

Although I am aware that your request is the subject of ongoing litigation and that appeals are not ordinarily acted on in such situations, I am required by statute and regulation to inform you of your right to file an administrative appeal.

Sincerely,

Vanessa R. Brinkmann  
Counsel, Initial Request Staff

Enclosures

Wiegmann, Brad (SMO) Document 12

**From:** Jeffress, Amy (OAG)  
**Sent:** Thursday, April 02, 2009 1:43 PM  
**To:** Boyd, Dean  
**Cc:** Wiegmann, Brad; Olsen, Matthew (OAG)  
**Subject:** RE: court ruling on afghan prisoners

FOIA Exemption 5

Dean -- I think this looks fine, [REDACTED] Copying Brad and Matt to make sure they concur (though don't necessarily wait for Matt as he's in a different time zone).

**From:** Boyd, Dean Document 13  
**Sent:** Thursday, April 02, 2009 1:25 PM  
**To:** Jeffress, Amy (OAG)  
**Subject:** FW: court ruling on afghan prisoners  
**Importance:** High

**From:** Boyd, Dean  
**Sent:** Thursday, April 02, 2009 1:24 PM  
**To:** Monaco, Lisa (ODAG); Miller, Matthew A; Schmalzer, Tracy; Katyal, Neal; Lin, Jean (CIV); Henry, Terry (CIV)  
**Cc:** Jeffress, Amy (USADC); Boyd, Dean  
**Subject:** RE: court ruling on afghan prisoners  
**Importance:** High

Folks:

Obviously we are getting many calls on Bagram ruling and its potential scope and implications. Thus far we have only said that we are reviewing the ruling. Media has also begun asking how many individuals held at Bagram were not captured in Afghanistan.

FOIA Exemption 5

Dean Boyd  
Spokesman  
National Security Division  
U.S. Department of Justice  
(202) 514-2007 main  
(202) 514-1153 direct  
dean.boyd@usdoj.gov

8/25/2010

**From:** Monaco, Lisa (ODAG)  
**Sent:** Thursday, April 02, 2009 12:59 PM  
**To:** Miller, Matthew A; Schmaier, Tracy; Boyd, Dean  
**Cc:** Jeffress, Amy (USADC)  
**Subject:** RE: court ruling on afghan prisoners

Document 14

FOIA Exemption 5

Matt, Tracy, Dean -- for your background only --



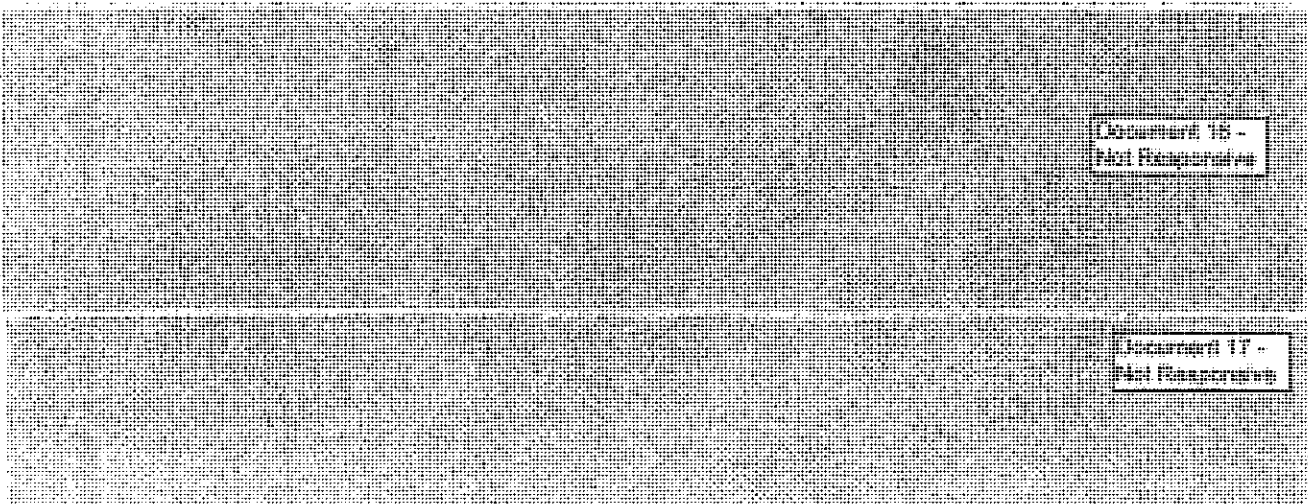
*Lisa Monaco*  
Associate Deputy Attorney General  
Office of the Deputy Attorney General  
U.S. Department of Justice  
Washington, D.C. 20530  
(o) 202-514-3712  
(c) [redacted] FOIA Exemption 6  
Lisa.Monaco@usdoj.gov  
Lisa.Monaco@usdoj.sgov.gov (classified)

**From:** Miller, Matthew A  
**Sent:** Thursday, April 02, 2009 12:51 PM  
**To:** Schmaier, Tracy; Boyd, Dean  
**Cc:** Jeffress, Amy (USADC); Monaco, Lisa (ODAG)  
**Subject:** Re: court ruling on afghan prisoners

Document 15

Looping in lisa monaco and amy jeffress to see if they have thoughts.

FOIA Exemption 5



Document 15 -  
FOIA Exemption 5

Document 17 -  
FOIA Exemption 5

8/25/2010

**Wiegmann, Brad (SMO)**

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**From:** Jeffress, Amy (OAG)  
**Sent:** Thursday, April 02, 2009 1:49 PM  
**To:** Wiegmann, Brad  
**Subject:** RE: court ruling on afghan prisoners

Document 18

Thanks. This is better.

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**From:** Wiegmann, Brad  
**Sent:** Thursday, April 02, 2009 1:47 PM  
**To:** Jeffress, Amy (OAG)  
**Cc:** Boyd, Dean  
**Subject:** FW: court ruling on afghan prisoners  
**Importance:** High

Document 19

I think this went to your USADC address earlier based on the original e-mail below.

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**From:** Boyd, Dean  
**Sent:** Thursday, April 02, 2009 1:44 PM  
**To:** Wiegmann, Brad; Monaco, Lisa (ODAG); Miller, Matthew A; Schmalzer, Tracy; Katyal, Neal; Lin, Jean (CIV); Henry, Terry (CIV)  
**Cc:** Jeffress, Amy (USADC)  
**Subject:** RE: court ruling on afghan prisoners  
**Importance:** High

Document 20

Thanks, any other suggestions?

Also just to clarify the ruling: Judge Bates has ruled that the constitutional right to habeas review extends to some, but not all detainees at Bagram. He said habeas extends to three non-Afghan detainees captured outside Afghanistan who are being held at Bagram.

Dean Boyd  
Spokesman  
National Security Division  
U.S. Department of Justice  
(202) 514-2007 main  
(202) 514-1463 direct  
dean.boyd@usdoj.gov

---

**From:** Wiegmann, Brad  
**Sent:** Thursday, April 02, 2009 1:42 PM  
**To:** Monaco, Lisa (ODAG); Boyd, Dean; Miller, Matthew A; Schmalzer, Tracy; Katyal, Neal; Lin, Jean (CIV); Henry, Terry (CIV)  
**Cc:** Jeffress, Amy (USADC)  
**Subject:** RE: court ruling on afghan prisoners

Document 21

8/25/2010

A few more minor changes suggested below. Thanks.

**From:** Monaco, Lisa (ODAG)

Document 22

**Sent:** Thursday, April 02, 2009 1:29 PM

**To:** Boyd, Dean; Miller, Matthew A; Schmalzer, Tracy; Katyal, Neal; Lin, Jean (CIV); Henry, Terry (CIV)

**Cc:** Jeffress, Amy (USADC); Wiegmann, Brad

**Subject:** RE: court ruling on afghan prisoners

adding brad wiegmann and see suggestions below -- to track EO language

*Lisa Monaco*

Associate Deputy Attorney General

Office of the Deputy Attorney General

U.S. Department of Justice

Washington, D.C. 20530

(o) 202-514-3712

(c) [REDACTED] FOIA Exemption 6

Lisa.Monaco@usdoj.gov

Lisa.Monaco@usdoj.sgov.gov (classified)

Document 23- Not  
Responsive

8/25/2010

NSD-OIP4

-----Original Message-----

From: Miller, Matthew A [mailto:Matthew.A.Miller@usdoj.gov]

Document 28

Sent: Tuesday, April 14, 2009 4:21 PM

To: Angha, Negah; Berina, Alexandra H; Grunder, Alyson L (DRL); Friedrich, Mary K; Weigold, Eva A; West, Thomas; Prosser, Sarah E; Stamilio, Mark A CIV  
OSD POLICY; Liotta, Alan, CIV, OSD-POLICY

Cc: Boyd, Dean

Subject: RE: Pls Clear TODAY: Red Border response to Amnesty Intl re detainees

Sorry for the delay. We have edits below in green. Otherwise, good with DOJ.

Dear Ms. Lee:

[REDACTED]

[REDACTED]

[REDACTED]

FOIA Exemption 5  
on behalf of NSD

[REDACTED]

**Wiegmann, Brad (SMO)**

**From:** Wiegmann, Brad  
**Sent:** Friday, April 03, 2009 1:53 PM Document 29  
**To:** Lederman, Marty; Monaco, Lisa (ODAG)  
**Cc:** Jeffress, Amy (OAG); Kris, David (NSD); Barron, David; Hertz, Michael (CIV); Anderson, David J. (CIV); Guerra, Joseph R.; Katyal, Neal  
**Subject:** RE:

OK. We will keep that in mind.

-----Original Message----- Document 30  
**From:** Lederman, Marty  
**Sent:** Friday, April 03, 2009 1:52 PM  
**To:** Monaco, Lisa (ODAG); Wiegmann, Brad  
**Cc:** Jeffress, Amy (OAG); Kris, David (NSD); Barron, David; Hertz, Michael (CIV); Anderson, David J. (CIV); Guerra, Joseph R.; Katyal, Neal  
**Subject:** RE: FOIA Exemption 5 on behalf of OLC

Brad: [REDACTED]

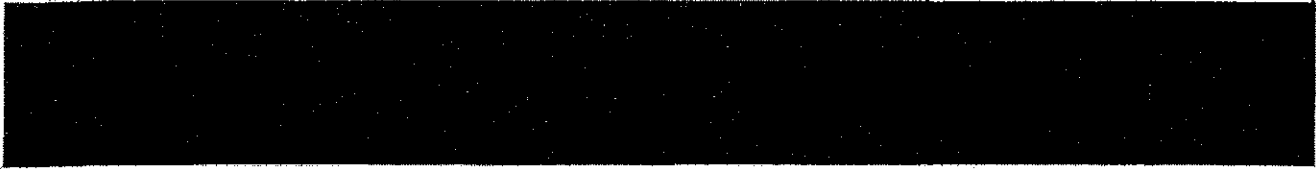
-----Original Message----- Document 31  
**From:** Monaco, Lisa (ODAG)  
**Sent:** Friday, April 03, 2009 1:37 PM  
**To:** Wiegmann, Brad  
**Cc:** Jeffress, Amy (OAG); Kris, David (NSD); Barron, David; Lederman, Marty; Hertz, Michael (CIV); Anderson, David J. (CIV); Guerra, Joseph R.; Katyal, Neal  
**Subject:** RE: FOIA Exemption 5

Thanks, Brad. [REDACTED]

thanks

Lisa Monaco  
Associate Deputy Attorney General  
Office of the Deputy Attorney General  
U.S. Department of Justice  
Washington, D.C. 20530  
(o) 202-514-3712  
(c) [REDACTED] FOIA Exemption 6  
Lisa.Monaco@usdoj.gov  
Lisa.Monaco@usdoj.sgov.gov (classified)

-----Original Message-----  
**From:** Wiegmann, Brad  
**Sent:** Friday, April 03, 2009 12:57 PM Document 32  
**To:** Monaco, Lisa (ODAG)  
**Cc:** Jeffress, Amy (OAG); Kris, David (NSD)  
**Subject:** RE: FOIA Exemption 5 on behalf of NSD



-----Original Message-----

Document 33

From: Monaco, Lisa (ODAG)  
Sent: Friday, April 03, 2009 12:14 PM  
To: Wiegmann, Brad  
Cc: Jeffress, Amy (OAG)  
Subject: Re:

FOIA Exemption 5

Brad, thanks. Amy and I need to talk to you about the Bates decision, [redacted]. Are you available at any point today? I am jammed after 3 but clear before then.

Lisa Monaco  
Associate Deputy Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530  
(o) 202.514.3712  
(c) [redacted] FOIA Exemption 6  
Lisa.Monaco@usdoj.gov  
SIPR: Lisa.Monaco@usdoj.gov(classified email)

----- Original Message -----

Document 34

From: Wiegmann, Brad  
To: Monaco, Lisa (ODAG)  
Cc: Jeffress, Amy (OAG)  
Sent: Fri Apr 03 11:52:02 2009  
Subject: RE:

I am back now. Just left you a message.

-----Original Message-----

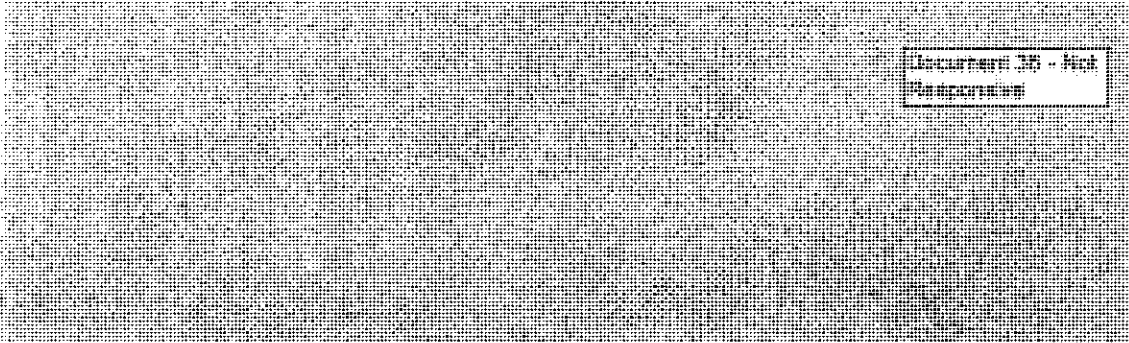
Document 35

From: Monaco, Lisa (ODAG)  
Sent: Friday, April 03, 2009 11:37 AM  
To: Wiegmann, Brad  
Subject:

Brad - amy and I need to talk to you about an issue arising from the bagram decision yesterday. You available ?

Lisa Monaco  
Associate Deputy Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530  
(o) 202.514.3712  
(c) [redacted] FOIA Exemption 6  
Lisa.Monaco@usdoj.gov  
SIPR: Lisa.Monaco@usdoj.gov(classified email)





Document 36 - Not Responsive

**From:** Wiegmann, Brad  
**Sent:** Thursday, April 09, 2009 4:24 PM  
**To:** Jeffress, Amy (OAG)  
**Subject:** RE: GTMO update

Document 37

OK. How is this for my agenda items, similar to the issues we discussed today:

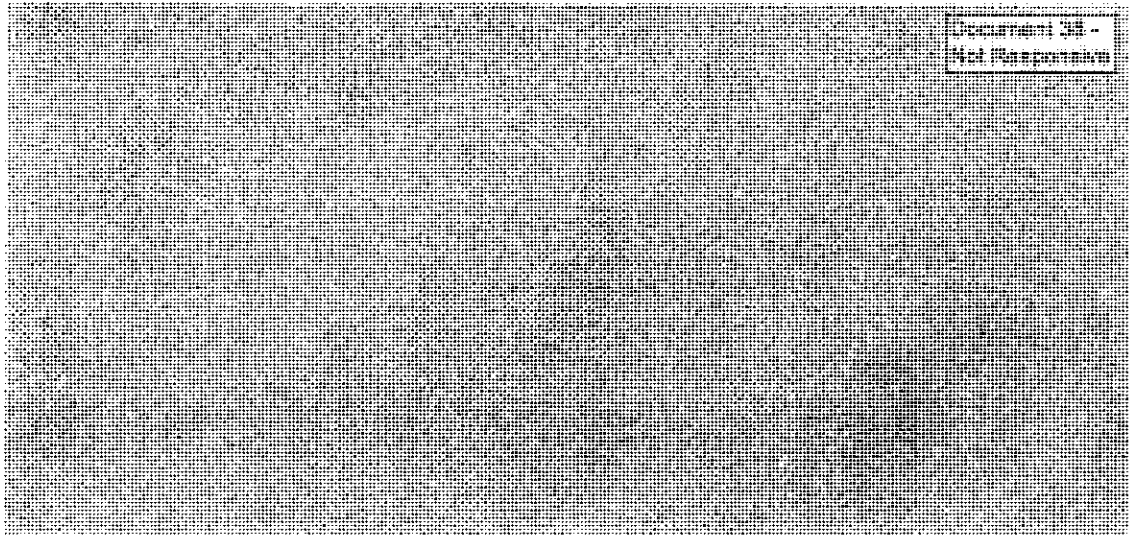
FOIA  
Exemption 5



6. Developing new procedures at Bagram

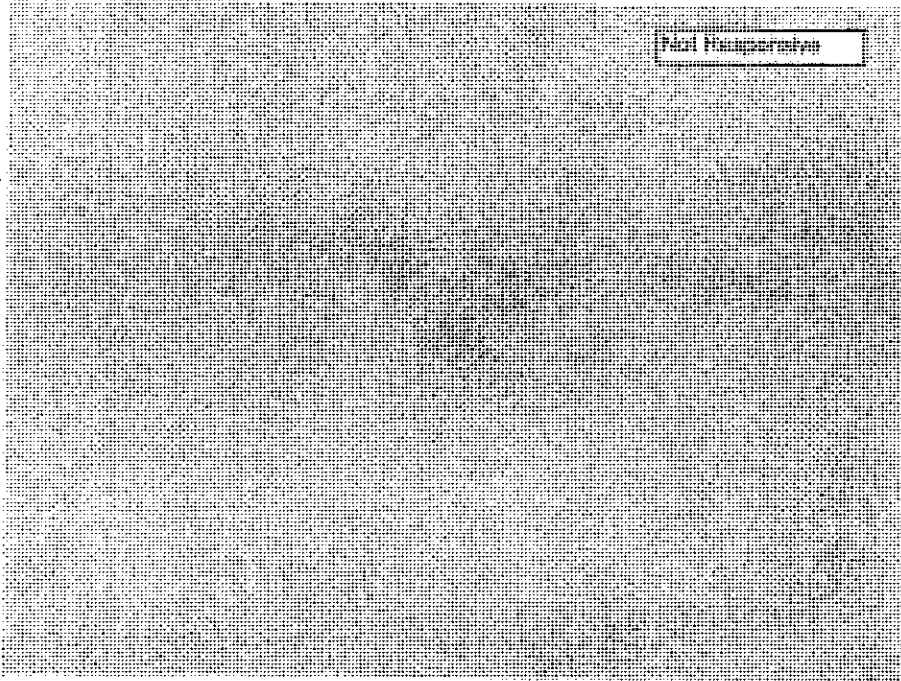


FOIA Exemption 5



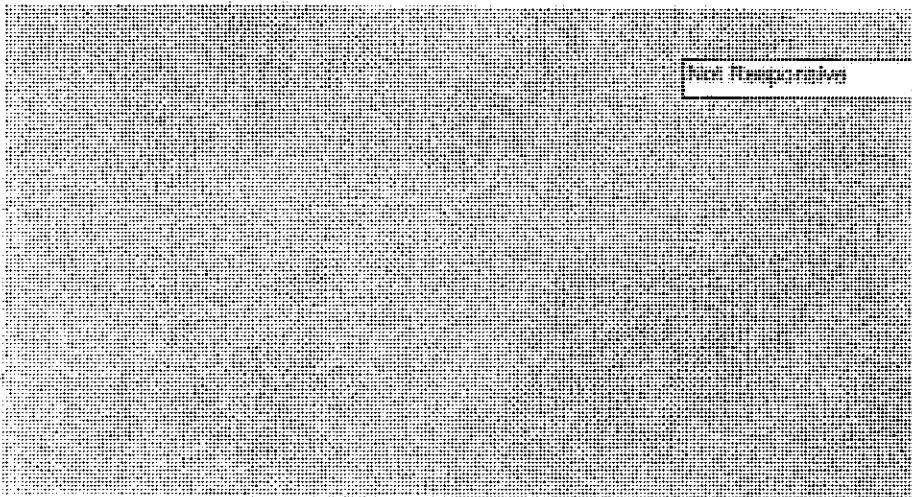
Document 38 - Not Responsive

Briefing for the Attorney General and Deputy Attorney General  
on Guantanamo and Related Executive Orders  
April 10, 2009



Final Memorandum

E. Developing new procedures at Bagram



Final Memorandum

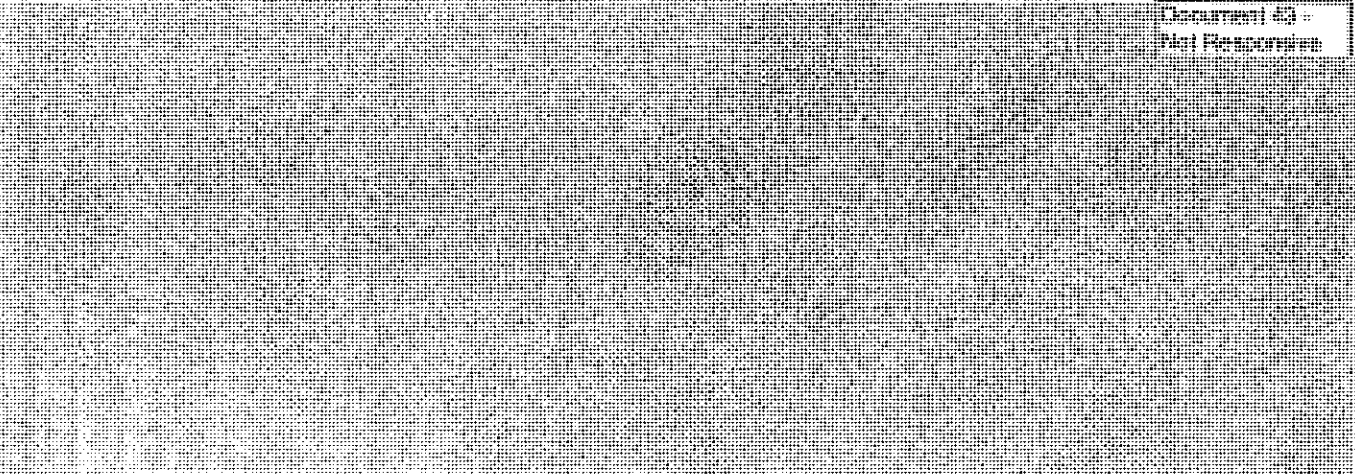
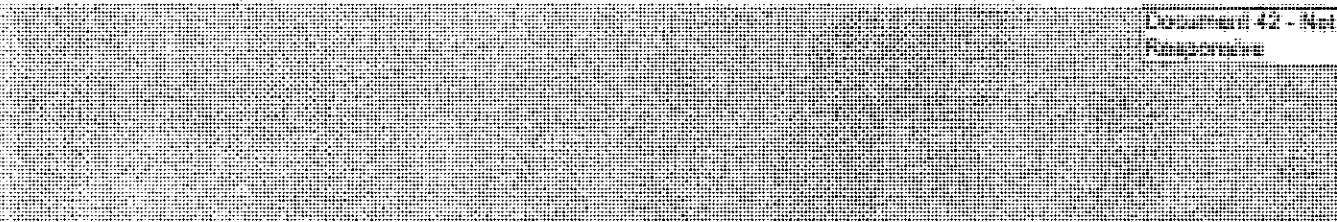
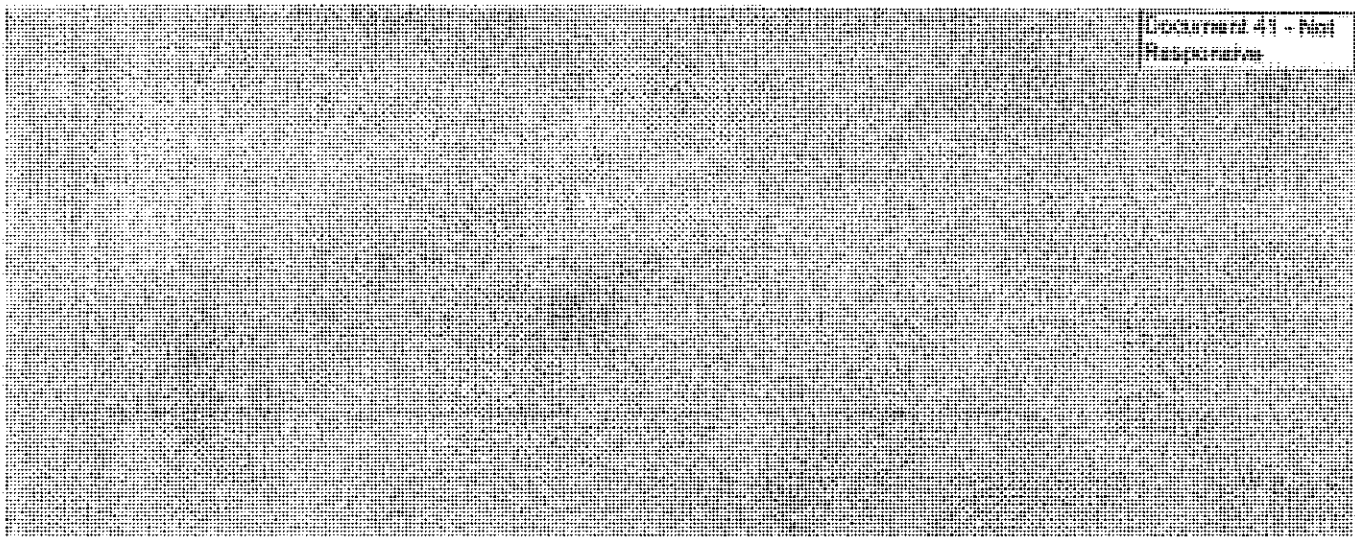
**Wiegmann, Brad (SMO)**

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**From:** Jeffress, Amy (OAG)  
**Sent:** Friday, April 03, 2009 12:29 PM  
**To:** Monaco, Lisa (ODAG); Wiegmann, Brad  
**Cc:** Lewis, Aaron (OAG)  
**Subject:** RE:

Document 40

We spoke and Brad is going to set up a meeting for Monday -- this is on the agenda of one of the subgroups but will now be prioritized.



Wiegmann, Brad (SMD)

Document 44 - Not Responsive

-----Original Message-----

Document 45

From: Jeffress, Amy (OAG)

Sent: Thursday, March 05, 2009 3:30 PM

To: Wiegmann, Brad; Swartz, Bruce (CRM); Monaco, Lisa (ODAG); Olsen, Matthew

Subject: RE: Meeting w/Geoff Loane/ICRC

The ICRC has been very engaged with our operations at Guantanamo and Bagram and will have ideas for our review process going forward. Bruce distributed some helpful materials from ICRC which I will ask my assistant to copy for you unless you have them already.

Document 46 - Not Responsive

Document 47 - Not Responsive

Document 48 - Not Responsive

Document 49 - Not Responsive

Document 50 - Not Responsive

Wiegmann, Brad (SMO)  
From: PAO  
Sent: Tuesday, April 07, 2009 7:51 PM  
To: PAO  
Subject: DOJ DAILY NEWS WRAP

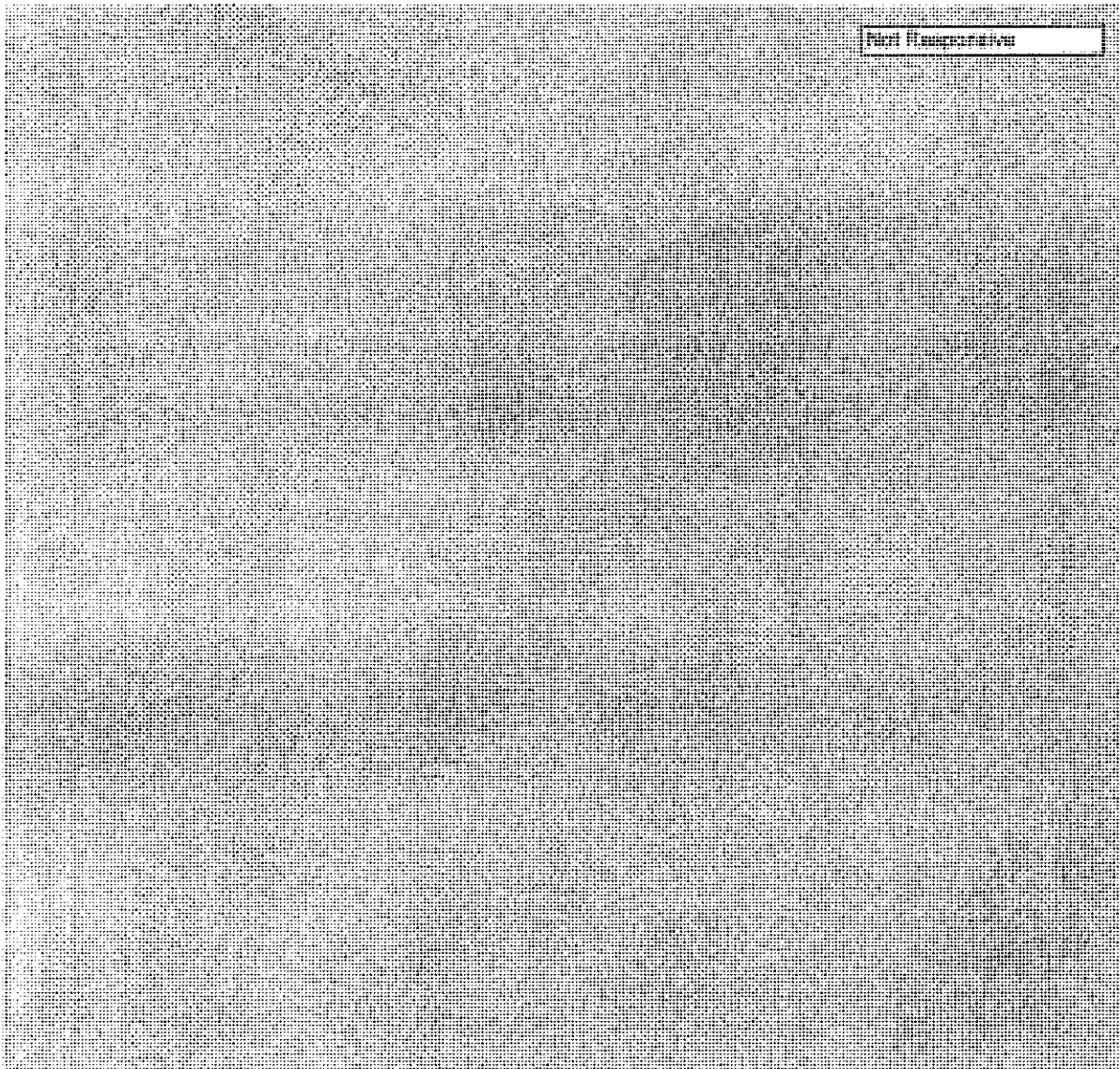
Document 57

**PUBLIC AFFAIRS DAILY NEWS WRAP**  
**TUESDAY, APRIL 7, 2009**

**\*\*\*FOR INTERNAL USE ONLY\*\*\***

Contact: Tracy Schmalzer, Deputy Director, Office of Public Affairs (202) 514-2007

**WEDNESDAY'S EXPECTED NEWS STORIES:**



Fact Page 1 of 1

**Columnist on Habeas for Bagram Detainees (Civil Division / National Security Division)**

Syndicated columnist Marie Cocco of *The Washington Post* Writers Group is expected to have a column urging that the administration extend habeas rights to detainees held in Bagram, Afghanistan and not appeal the recent ruling by U.S. District Court Judge D. John Bates. Judge Bates held that the constitutional right to habeas review extends to three non-Afghan detainees captured outside Afghanistan who were brought to Bagram.

Fact Page 1 of 1

**Wiegmann, Brad (SMO)**  
From: PAO  
Sent: Thursday, April 02, 2009 7:46 PM  
To: PAO  
Subject: DOJ DAILY NEWS WRAP

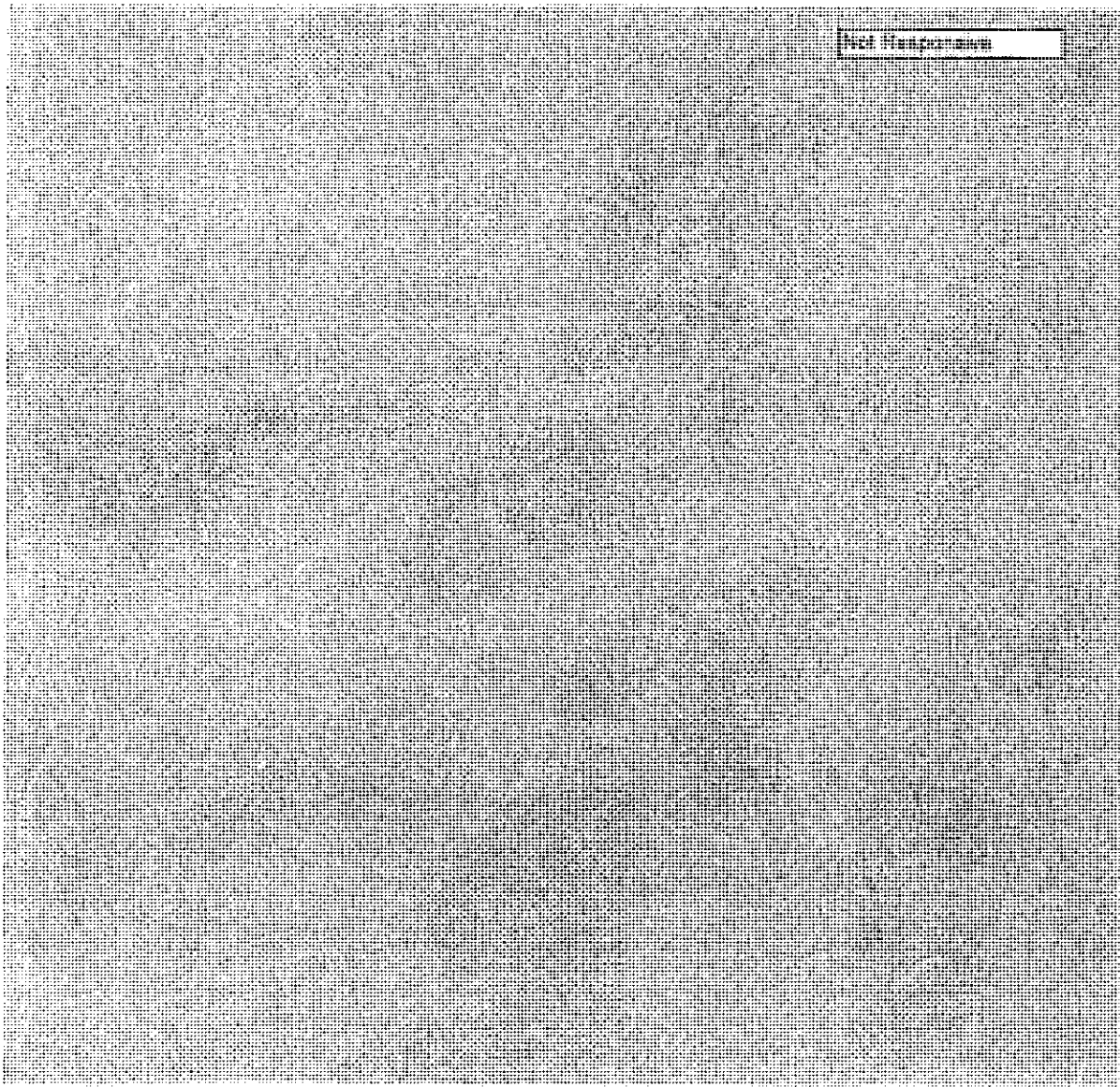
Document 58

**PUBLIC AFFAIRS DAILY NEWS WRAP**  
**THURSDAY, APRIL 2, 2009**

**\*\*\*FOR INTERNAL USE ONLY\*\*\***

Contact: Gina Talamona, Deputy Director, Office of Public Affairs (202) 514-2007

**FRIDAY'S EXPECTED NEWS STORIES:**



**Habeas Review Extended to Three Detainees at Bagram (National Security Division)**

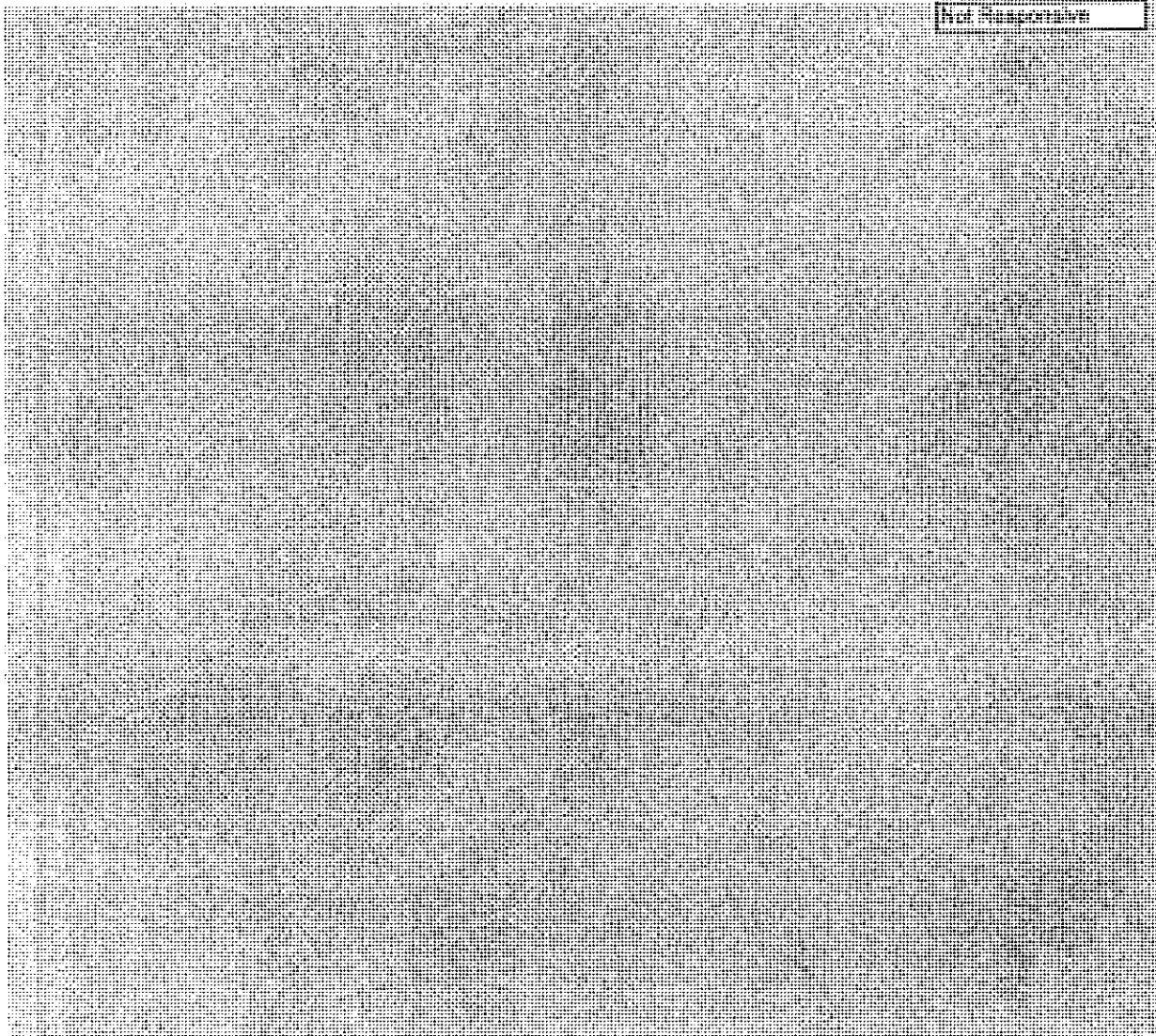
Multiple media outlets will have stories on a ruling by U.S. District Court Judge John D. Bates, which held that the constitutional right to habeas review extends to some, but not all detainees at the U.S. military base at Bagram, Afghanistan. Judge Bates ruled that habeas extends to three non-Afghan detainees captured outside Afghanistan who were brought to Bagram. The petitioners are Fadi al-Maqaleh, Amin al-Bakri, and Redha al-



Najar. Judge Bates deferred judgment on Haji Wazir, another petitioner/detainee at Bagram who is an Afghan citizen.

*Talking Points:*

- We're reviewing the court's order at this time and will make a decision in due course on whether to seek further proceedings on this matter.
- As you know, the President issued an Executive Order on Jan. 22, 2009 directing a comprehensive review of detention policy going forward. Pursuant to that order, an interagency task force is conducting a review of the lawful options available to the federal government with respect to the apprehension, detention, trial, transfer, release or other disposition of individuals captured or apprehended in connection with armed conflicts or counterterrorism operations. The Task Force on Detention Policy is charged with providing a report to the President within 180 days of the January 22 Executive Order.



**Wiegmann, Brad (SMO)**  
From: PAO  
Sent: Friday, April 10, 2009 6:37 PM  
To: PAO  
Subject: DOJ DAILY NEWS WRAP

**PUBLIC AFFAIRS DAILY NEWS WRAP**  
**FRIDAY, APRIL 10, 2009**

**\*\*\*FOR INTERNAL USE ONLY\*\*\***

Contact: Tracy Schmalzer, Deputy Director, Office of Public Affairs (202) 514-2007

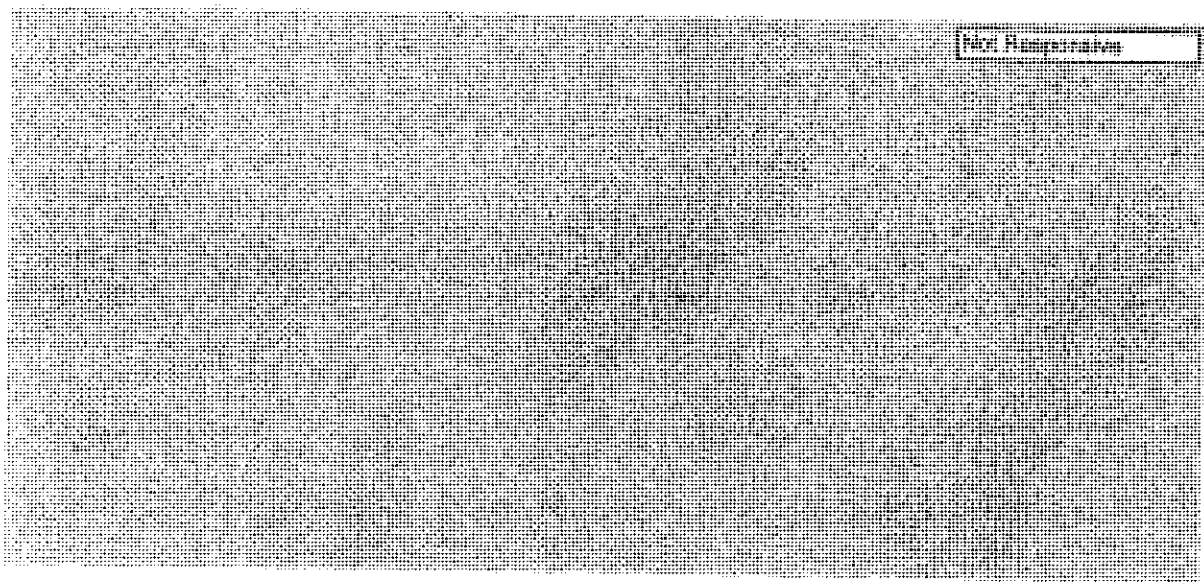
**EXPECTED NEWS STORIES:**

**Appeal of Decision Granting Habeas Review to Certain Bagram Detainees (OPA)**

Late today, the Justice Department filed a motion notifying the District Court for the District of Columbia of its intention to appeal a recent ruling by U.S. District Court Judge John D. Bates. The ruling by Judge Bates held that the constitutional right to habeas review extends to some, but not all detainees at the U.S. military base at Bagram, Afghanistan. Judge Bates ruled that habeas extends to three non-Afghan detainees captured outside Afghanistan who were brought to Bagram. *The New York Times* and *The Washington Post* are expected to have stories.

**Talking Points:**

- The administration is conducting a comprehensive review of policy pertaining to all detainees, including those at Bagram who are the subject of this litigation. While that review is pending, we concluded that it was necessary to appeal this ruling because it would permit access to U.S. courts by detainees at Bagram who claim they are not Afghan citizens and were captured outside Afghanistan, something that is not supported by Supreme Court precedent.



**Wiegmann, Brad (SMO)**

**From:** Monaco, Lisa (ODAG)  
**Sent:** Tuesday, April 21, 2009 9:10 AM Document 60  
**To:** Wiegmann, Brad  
**Subject:** Re: Points for DAG re Bagram Procedures

Sounds reasonable - let me see what I can do

Lisa Monaco  
Associate Deputy Attorney General  
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(o) 202.514.3712  
(c) [REDACTED] FOIA Exemption 6  
Lisa.Monaco@usdoj.gov  
SIPR: Lisa.Monaco@usdoj.gov(classified email)

**From:** Wiegmann, Brad  
**To:** Monaco, Lisa (ODAG) Document 61  
**Sent:** Tue Apr 21 08:24:57 2009  
**Subject:** RE: Points for DAG re Bagram Procedures

FOIA Exemption 5  
on behalf of NSD

**From:** Monaco, Lisa (ODAG)  
**Sent:** Monday, April 20, 2009 7:32 PM Document 62  
**To:** Wiegmann, Brad  
**Subject:** RE: Points for DAG re Bagram Procedures

FOIA Exemption 5

Thanks, Brad, for this --

Lisa Monaco  
Associate Deputy Attorney General  
Office of the Deputy Attorney General  
U.S. Department of Justice  
Washington, D.C. 20530  
(o) 202-514-3712  
(c) [REDACTED] FOIA Exemption 6  
Lisa.Monaco@usdoj.gov

8/25/2010

Lisa.Monaco@usdoj.sgov.gov (classified)

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From: Wiegmann, Brad

Sent: Monday, April 20, 2009 7:24 PM

Document 63

To: Monaco, Lisa (ODAG)

Subject: Points for DAG re Bagram Procedures

This is what I would propose David tell Jeh Johnson. Let me know if this works.

