

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

AMERICAN CIVIL LIBERTIES UNION,
CENTER FOR CONSTITUTIONAL RIGHTS,
PHYSICIANS FOR HUMAN RIGHTS,
VETERANS FOR COMMON SENSE AND
VETERANS FOR PEACE,

Plaintiffs,

v.

DEPARTMENT OF DEFENSE, AND ITS
COMPONENTS DEPARTMENT OF ARMY,
DEPARTMENT OF NAVY, DEPARTMENT
OF AIR FORCE, DEFENSE INTELLIGENCE
AGENCY; DEPARTMENT OF HOMELAND
SECURITY; DEPARTMENT OF JUSTICE,
AND ITS COMPONENTS CIVIL RIGHTS
DIVISION, CRIMINAL DIVISION, OFFICE OF
INFORMATION AND PRIVACY, OFFICE OF
INTELLIGENCE POLICY AND REVIEW,
FEDERAL BUREAU OF INVESTIGATION;
DEPARTMENT OF STATE; AND CENTRAL
INTELLIGENCE AGENCY,

Defendants.

ECF CASE

04 Civ. 4151 (AKH)

DECLARATION OF
DIANE E. BEAVER

DIANE E. BEAVER, pursuant to 28 U.S.C. § 1746, declares as follows:

1. I am associate Deputy General Counsel (International Affairs) in the Office of the General Counsel ("OGC") of the Department of Defense ("DoD"). I have served in this office since June 2004. I was the Staff Judge Advocate ("SJA") for Joint Task Force Guantanamo ("JTF") during the period from June 17, 2002 to June 27, 2003. My areas of responsibility as SJA included serving as a liaison with the International Committee of the Red Cross (the "ICRC") on behalf of the JTF Commander. My present areas of responsibility in the OGC

include providing legal advice to policy officials in the Office of the Secretary of Defense ("OSD") concerning ICRC matters related to Guantanamo and Iraq.

2. I am familiar with plaintiffs' FOIA requests for ICRC documents, including Request 58 which seeks "[a] complete set of documents reflecting discussions between the ICRC and military officers at Guantanamo Bay." The statements in this declaration are based upon my personal knowledge and my review of information available to me in my official capacity.

3. When ICRC representatives have visited detainees at Guantanamo, they have met with the JTF Commander and certain members of his staff at the beginning and end of each visit. As the SJA and liaison with the ICRC, I attended such meetings, prepared minutes of the meetings (with input from the ICRC delegates), and received written reports and correspondence from the ICRC regarding its observations and findings. After Major General Miller took command of JTF on November 4, 2002, minutes of meetings at Guantanamo were shared with the ICRC representatives who attended them in order to ensure the accuracy of the minutes. These minutes reflect the substance of conversations between the representatives of DoD and the ICRC at the meetings, setting forth the observations, findings and concerns raised by the ICRC during its visits. These documents were stored and handled by the SJA office as classified documents, with distribution within the JTF limited to senior officials in the command (the Commander, the SJA, the JTF Surgeon, and the Commander, Joint Detention Operations Group).

4. The JTF Commander reviewed such documents, as well as internal memoranda that I prepared. The Commander directed me to take any required actions, and he determined which JTF personnel needed a copy of the minutes of the meetings in order to respond to matters presented by ICRC officials.

5. During these meetings and at other times, the ICRC delegates reminded us that the ICRC's standard operating procedures at detention sites require that the ICRC's observations and findings be treated as strictly confidential, and that under no circumstances does the ICRC comment publicly on the treatment of detainees or conditions of detention. Their written communications describing their procedures also made this point. JTF procedures for the ICRC's visits to Guantanamo were consistent with this ICRC procedure. All of the ICRC procedures and statements about their practices were consistent with descriptions the ICRC has published emphasizing the importance of confidentiality.

6. The ICRC frequently marked its documents with the following statement at the bottom of each page: "This report is strictly confidential and intended only for the authorities to whom it is presented. It may not be published, in full or in part, without the consent of the International Committee of the Red Cross." It was understood by the JTF Commander that conversations and communications between DoD officials and ICRC officials regarding the ICRC's observations and findings were strictly confidential.

7. To my knowledge, no ICRC documents were released to the public during my assignment as SJA.

8. Portions of the minutes of meetings held at Guantanamo Bay have been produced to Plaintiffs. The redacted material is exempt information regarding the substance of the ICRC's observations and findings with respect to detainees or is non-exempt information that is not reasonably segregable from the exempt information.

I declare under penalty of perjury that the foregoing is true and correct.

Date: Washington, DC
March 21, 2005


DIANE E. BEAVER