



CHAIRMAN OF THE JOINT CHIEFS OF STAFF NOTICE

DOM/SJS
DISTRIBUTION: JEL, S

CJCS Notice 5785
14 August 2014

PRESERVATION OF DOCUMENTS OR INFORMATION RELATED TO JAWAD V.
HAGEL, ET AL., NO. 1:14-CV-0801 (D.D.C.)

1. Purpose. To provide guidance for preserving and maintaining records related to the subject litigation.

2. Superseded/Cancellation. None.

3. Applicability. This notice applies to U.S. Central Command, U.S. Special Operations Command, U.S. Southern Command (including Joint Task Force-Guantanamo), and the Joint Staff.

4. Background. On 15 May 2014, former detainee Mohammed Jawad (aka Saki Bacha), ISN 900, filed a civil complaint in the U.S. District Court for the District of Columbia. Jawad is seeking money damages for alleged torture, abuse, and mistreatment while in U.S. custody from 17 December 2002 to 24 August 2009.

a. Specifically, and regardless of classification, the Department of Defense is required to locate and preserve all information related to:

(1) The allegations in plaintiff's complaint.

(2) The arrest, interrogation, or detention of plaintiff in Afghanistan and subsequently at Guantanamo Bay from 2002 to 2009.

(3) Plaintiff's treatment while in U.S. custody, including any records of possible mistreatment.

(4) The conditions of plaintiff's confinement.

(5) Any governmental or nongovernmental investigation or inquiry into any aspect of plaintiff's arrest, interrogation, or detention.

(6) Detainee records, including medical and disciplinary records, relating to plaintiff.

(7) Any administrative claims submitted by plaintiff.

(8) All Combatant Status Review Tribunal, Administrative Review Board, and Military Commission records relating to plaintiff.

(9) Plaintiff's release from Guantanamo Bay.

(10) Policy and other documents relating to the treatment of juvenile detainees during the period 2002-2009.

b. Electronically stored information should be preserved in its originally created or native format, along with related metadata, to enable efficient discovery review. The Federal Rules of Civil Procedure require the Department of Defense to preserve or produce the material in whatever form it is generated and maintained.

c. For e-mail, creation of electronic folders into which pertinent e-mails can be easily moved may be one method for preserving them in their native format, but you will need to determine the capabilities of your information technology system.

d. The litigation hold does not apply to inaccessible disaster recovery tapes unless they are the only source of information subject to the hold.

5. Statutory Requirement

a. Upon receipt of this preservation notice, applicable entities are advised of their legal obligation to preserve and retain any material referenced below in their possession, custody, or control.

b. Destruction of documents, information, records, and other material described, including destruction that would otherwise take place in the normal course of the disposition of official information or records, is prohibited and may result in disciplinary action.

c. This preservation requirement applies to documents responsive to the stated requests regardless of any applicable privileges.

d. Additional instructions will be provided under separate cover for the production of records.

6. Action or Procedure. Search for and preserve all information, including electronically stored information, hard-copy materials, and tangible evidence pertaining to this event.

a. The search should be calculated to locate all records, documents, and material in your organization's possession, custody, or control, including any files, holdings, documents, reports, recordings, databases, audio recordings, radio dispatches, cell phone logs, pages, text messages, e-mails, transcripts, or other communications or documents related to the planning and construction of assets mentioned above.

b. Document any search terms/procedures used in electronic and hard-copy searches and steps taken within your organization to preserve relevant material in the event of future inquiry by the House Armed Services Committee. Coordinate with your information technology personnel to ensure relevant material is not destroyed during the pendency of this investigation, including overriding normal document destruction policies.

7. Releasability. UNRESTRICTED. This directive is approved for public release; distribution is unlimited on NIPRNET. DoD Components (including the Combatant Commands), other Federal Agencies, and the public may obtain copies of this directive through the Internet from the CJCS Directives Electronic Library at <http://www.dtic.mil/cjcs_directives>.

8. Effective Date

a. The Joint Staff point of contact is Ms. Teresa Black, Joint Secretariat/ Information Management Division, teresa.l.black6.civ@mail.smil.mil, 703-697-8862.

b. Please disseminate this NOTICE immediately throughout your organization. It will remain in effect until formally canceled.

For the Chairman of the Joint Chiefs of Staff:


FREDERICK S. RUDESHEIM
Major General, USA
Vice Director, Joint Staff

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*The office of primary responsibility for the subject directive has chosen electronic distribution to the above organizations via e-mail. The Joint Staff Information Management Division has responsibility for publishing the subject directive to the SIPRNET and NIPRNET Joint Electronic Library Web sites.

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