

Subject: Applicability of the Geneva Conventions to “Ghost Detainees” in Iraq

Purpose. To provide information about the law applicable to “Ghost Detainees.”

Key Points.

- (U) The Geneva Conventions apply to Security Internee (SI) held in Iraq.
- (U) Normally, the ICRC has the right to go to all places where protected persons are detained.
 - However, in certain circumstances, the Geneva Civilian Conventions (GCC, art. 143) allows a Detaining Power to prohibit the ICRC to visit a SI.
 - The reason to deny a visit must be “for reasons of imperative military necessity.”
 - The Detaining Power must determine it to be an exceptional measure and it must only be of a temporary nature.
- (U) The GCC also permits holding a SI who participated in activities hostile to the security of the occupying power if required by “absolute military security.”
 - Specific examples are spies and saboteurs
 - Persons who have committed such acts are considered to have forfeited the rights of communication.
 - This does not release the Detaining Power from its obligation to notify the ICRC of the detention.

(b)(1)

