

U.S. Abuse of Iraqi Detainees at Abu Ghraib Prison



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include: (1) “a code outlining flag state responsibilities and obligations”; (2) “a voluntary audit regime, to be followed by adoption of a mandatory external audit regime for evaluating flag state performance”; (3) “measures to ensure that responsible organizations, acting on behalf of flag states, meet established performance standards”; and (4) “increased technical assistance, where appropriate, for flag states that participate in self-assessments and audits.”⁸

INTERNATIONAL HUMAN RIGHTS

U.S. Opposition to Measures Condemning Israel

On March 22, 2004, Israeli helicopter gunships fired three missiles at Hamas leader Sheik Ahmed Yassin while he was being wheeled out of an early-morning prayer session in the northern Gaza Strip. Sheik Yassin died instantly, along with eight others, and more than a dozen people were injured in the attack, including two of the sheik’s sons.¹ Israel stated that its action was self-defense, given the dozens of suicide bombings by Hamas against Israeli civilians.²

Algeria and Libya immediately introduced a resolution before the UN Security Council that would have condemned Israel’s action as an “extrajudicial execution” and further condemned “all terrorist attacks against any civilians as well as all acts of violence and destruction.”³ At a meeting of the Security Council on March 25, the United States voted against the resolution, principally because “it is silent about the terrorist atrocities committed by Hamas; because it does not reflect the realities of the conflict in the Middle East; and because it will not further the goals of peace and security in the region.”⁴ Consequently, the resolution failed owing to the nonconcurrence of a permanent member of the Council.

On March 24, 2004, the fifty-three members of the Commission on Human Rights, meeting in Geneva, passed a resolution that “[s]trongly condemns the continuing grave violations of human rights in the Occupied Palestinian Territory, in particular the tragic assassination of Sheikh Ahmad Yassin on 22 March 2004, in contravention of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949.”⁵ The resolution was adopted by a vote of 31 in favor, 2 against (Australia and the United States), and 18 abstentions. The United States described the resolution as lacking “balance because it made no mention of Palestinian terror attacks.”⁶

INTERNATIONAL CRIMINAL LAW

U.S. Abuse of Iraqi Detainees at Abu Ghraib Prison

The 1949 Geneva Convention Relative to the Treatment of Prisoners of War, to which the United States is a party, provides that prisoners of war “must at all times be humanely treated” and that “[n]o physical or mental torture, nor any other form of coercion, may be inflicted on prisoners of war to secure from them information of any kind whatever. Prisoners of war

⁸ *Id.* at 186 (Recommendation 16-3).

¹ John Ward Anderson & Molly Moore, *Hamas Leader Killed in Gaza; Founder of Militant Palestinian Group Is Targeted in Airstrike*, WASH. POST, Mar. 22, 2004, at A1.

² UN Doc. S/PV.4929, at 5–7 (2004) (statement by Israel).

³ Algeria and Libyan Arab Jamahiriya: Draft Resolution, UN Doc. S/2004/240, paras. 1–2 (Mar. 24, 2004).

⁴ UN Doc. S/PV.4934, at 2 (Mar. 25, 2004) (statement by the United States); *see also* USUN Press Release, Explanation of Position by Ambassador John D. Negroponte, U.S. Representative to the United Nations, on the Situation in the Middle East, Including the Palestinian Question, in the Security Council (Mar. 25, 2004), at <<http://www.un.int/usa>>. Eleven states voted in favor of the resolution. Germany, Romania, and the United Kingdom abstained.

⁵ UN Comm’n on Human Rights Res. 2004/1, para. 1, UN Doc. E/CN.4/2004/L.11, at 3 (Apr. 9).

⁶ Warren Hoge, *U.N. Rights Panel Condemns Israel’s Killing of Hamas Leader*, N.Y. TIMES, Mar. 25, 2004, at A11.

who refuse to answer may not be threatened, insulted, or exposed to unpleasant or disadvantageous treatment of any kind.”¹

The Convention Against Torture, to which the United States is also a party, prohibits governments from engaging in acts of torture, which are defined as any act—when done by a person acting in an official capacity—by which “severe pain or suffering, whether physical or mental,” is intentionally inflicted on a person for such purposes as obtaining information from him. The Convention also prohibits cruel, inhuman, and degrading treatment or punishment.² In 1994 the United States enacted a statute criminalizing the commission of torture by a U.S. national outside the United States.³ The U.S. Department of the Army’s Field Manual 34-52 on “intelligence interrogation” provides that the “use of force, mental torture, threats, insults, or exposure to unpleasant and inhumane treatment of any kind is prohibited by law and is neither authorized nor condoned by the US Government.”⁴

On April 14, 2003, a working group of executive branch lawyers appointed by the general counsel of the U.S. Department of Defense completed a confidential report for Secretary of Defense Donald H. Rumsfeld addressing legal constraints on the interrogation of persons detained by the United States in the “war on terrorism,” including those held at Guantánamo Bay, Cuba, in relation to the conflict in Afghanistan.⁵ The report concluded that the Convention Against Torture applied to the interrogation of the detainees but noted that, at the time the Convention was ratified, the “U.S. Government believed existing state and federal

¹ Geneva Convention [III] Relative to the Treatment of Prisoners of War, Aug. 12, 1949, Arts. 13, 17, 6 UST 3316, 3328, 75 UNTS 135, 150. The Convention entered into force in October 1950. Similarly, the Fourth Geneva Convention provides that civilians detained by an occupying power

are entitled, in all circumstances, to respect for their persons, their honour, their family rights, their religious convictions and practices, and their manners and customs. They shall at all times be humanely treated, and shall be protected especially against all acts of violence or threats thereof and against insults and public curiosity.

Geneva Convention [IV] Relative to the Protection of Civilian Persons in Time of War, Aug. 12, 1949, Art. 27, 6 UST 3516, 3536, 75 UNTS 287, 306; *see also id.*, Art. 31, 6 UST at 3538, 75 UNTS at 308 (“No physical or moral coercion shall be exercised against protected persons, in particular to obtain information from them or from third parties.”). Further, torture and inhumane treatment of prisoners of war or protected civilians are considered war crimes under the 1949 Geneva Conventions.

² Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Dec. 10, 1984, pmbl., Art. 1, 1465 UNTS 85, 23 ILM 1027.

³ 18 U.S.C. §2340A (2000). Further, it is a criminal offense for U.S. nationals to commit war crimes. 18 U.S.C. §2441 (2000).

⁴ U.S. DEP’T OF ARMY, INTELLIGENCE INTERROGATION, ch. 1 (Field Manual 34–52, May 8, 1987).

⁵ *See* Working Group Report on Detainee Interrogations in the Global War on Terrorism: Assessment of Legal, Historical, Policy, and Operational Considerations (Apr. 4, 2003), at <<http://www.washingtonpost.com/wp-srv/nation/documents/040403.pdf>> [hereinafter Report].

This report refers to a fifty-page memorandum by the Department of Justice’s Office of the Legal Counsel of August 2002, advising the White House that—in the context of interrogations conducted outside the United States against enemy combatants—the Convention Against Torture prohibits only the most extreme acts; that physical pain amounting to “torture” under 18 U.S.C. §2340A “must be equivalent in intensity to the pain accompanying serious physical injury, such as organ failure, impairment of bodily function, or even death”; that the statute “may be unconstitutional if applied to interrogations” conducted by the United States in the course of the “war against al Qaeda and its allies”; and that “necessity or self-defense may justify interrogation methods that might” violate the statute. U.S. Dep’t of Justice Office of the Legal Counsel, Memorandum for Alberto R. Gonzales, Counsel to the President, at 1–2 (Aug. 1, 2002), at <<http://news.findlaw.com/wp/docs/doj/bybee80102.pdf>>; *see* Dana Priest & R. Jeffrey Smith, *Memo Offered Justification for Use of Torture*, WASH. POST, June 8, 2004, at A1; *see also* Mike Allen & Dana Priest, *Memo on Torture Draws Focus to Bush*, WASH. POST, June 9, 2004, at A3; Susan Schmidt, *Ashcroft Refuses to Release ‘02 Memo*, WASH. POST, June 9, 2004, at A1.

In June 2004, officials at the White House and the Justice Department distanced themselves from this and other memoranda of the Office of Legal Counsel, stating that they would be reviewed and may be rewritten. Press Briefing by White House Counsel Judge Alberto Gonzales, DOD General Counsel William Haynes, DOD Deputy General Counsel Daniel Dell’Orto, and Army Deputy Chief of Staff for Intelligence General Keith Alexander (June 22, 2004), at <<http://www.whitehouse.gov/news/releases/2004/06/20040622-14.html>> (statement by White House counsel that “[u]nnecessary, over-broad discussions in some of these memos that address abstract legal theories, or discussions subject to misinterpretation, but not relied upon by decision-makers are under review, and may be replaced, if appropriate, with more concrete guidance addressing only those issues necessary for the legal analysis of actual practices”); *see also* Mike Allen & Susan Schmidt, *Memo on Interrogation Tactics Is Disavowed*, WASH. POST, June 23, 2004, at A1.

criminal law was adequate to fulfill this obligation [not to torture], and did not enact implementing legislation.”⁶ Further, the report indicated that the United States had filed an express reservation that it considered itself bound to the prohibition on cruel, inhuman, and degrading treatment or punishment only to the extent that such treatment or punishment is prohibited by the Fifth, Eighth, and Fourteenth Amendments to the U.S. Constitution.⁷ As for the application of U.S. statutes to the interrogation of the detainees, the report found that the 1994 statute did not apply to interrogations at Guantánamo Bay because the U.S. naval station there was “within the definition of the special maritime and territorial jurisdiction of the United States,” and thus was outside the scope of the statute.⁸ In any event, the report asserted that since “the President enjoys complete discretion in the exercise of his Commander-in-Chief authority including in conducting operations against hostile forces,” any relevant U.S. criminal statutes “must be construed as inapplicable to interrogations undertaken pursuant to his Commander-in-Chief authority.”⁹ In considering the possibility of prosecutions of U.S. personnel for interrogations, the report argued that the 1994 statute is only violated if the defendant’s precise objective is to inflict severe pain; by contrast, “[i]f the defendant acted knowing that severe pain or suffering was reasonably likely to result from his actions, but no more, he would have acted only with general intent.”¹⁰ Further, “the defense of superior orders will generally be available for U.S. Armed Forces personnel engaged in exceptional interrogations except where the conduct goes so far as to be patently unlawful.”¹¹ In light of this legal analysis, Secretary Rumsfeld, on April 16, 2003, approved twenty-four interrogation techniques (out of thirty-five examined by the working group) for use at Guantánamo Bay, including “[s]ignificantly increasing the fear level in a detainee” and “[a]ttacking or insulting the ego of a detainee, not beyond the limits that would apply to a POW.”¹²

Some observers and critics linked the permissiveness of the legal interpretation with respect to the Guantánamo Bay detainees to abuses that unfolded late in 2003 with respect to Iraqi detainees,¹³ but such a link was denied by the administration.¹⁴ After the U.S.-led invasion of Iraq in March 2003, U.S. military forces established and operated a series of detention facilities there, the largest of which was at the Abu Ghraib prison outside Baghdad. The U.S. army unit responsible for running the Abu Ghraib prison was the 800th Military Police Brigade, an army reserve unit based in Uniondale, New York. On October 12, Lt. Gen. Ricardo S. Sanchez—the U.S. commander of the combined joint task force in Iraq—reportedly signed a classified memorandum calling for interrogators at Abu Ghraib to work with military

⁶ Report, *supra* note 5, at 5. The administration had previously determined that the persons detained at Guantánamo Bay were not entitled to the protections accorded under the Third Geneva Convention. See Sean D. Murphy, *Contemporary Practice of the United States*, 96 AJIL 475 (2002).

⁷ Report, *supra* note 5, at 6.

⁸ *Id.* at 7–8. This position may be contrasted with the administration’s position that federal habeas corpus relief in U.S. courts was not available to the detainees because the naval station was outside U.S. territory. See Sean D. Murphy, *Contemporary Practice of the United States*, 98 AJIL 188 (2004).

⁹ Report, *supra* note 5, at 20–21.

¹⁰ *Id.* at 8–9.

¹¹ *Id.* at 33.

¹² Secretary of Defense Donald H. Rumsfeld, Memorandum for the Commander, US Southern Command, on Counter-Resistance Techniques in the War on Terrorism, Tab A, at 1–2 (Apr. 16, 2003), at <<http://www.washingtonpost.com/wp-srv/nation/documents/041603rumsfeld.pdf>>; see also Dana Priest & Bradley Graham, *Guantanamo List Details Approved Interrogation Methods*, WASH. POST, June 10, 2004, at A13; Neil A. Lewis & Eric Schmitt, *Lawyers Decided Bans on Torture Didn’t Bind Bush*, N.Y. TIMES, June 8, 2004, at A1; Priest & Smith, *supra* note 5.

¹³ E.g., Mark Bowden, *Lessons of Abu Ghraib*, ATLANTIC MONTHLY, July/Aug. 2004, at 37, 40 (“There are reports that Administration lawyers quietly drafted a series of secret legal opinions last year that codified the ‘aggressive’ methods of interrogation permitted at U.S. detention facilities—which, if true, effectively authorized in advance the use of coercion.”)

¹⁴ E.g., U.S. Dep’t of Defense News Transcript, Secretary Rumsfeld Media Availability Enroute to Baghdad (May 13, 2004), at <<http://www.defenselink.mil>> (containing transcript of remarks by Secretary Rumsfeld, including that “the United States government announced with respect to Iraq that the Geneva Conventions apply. [Conventions] III and IV apply for the Iraqi prisoners of war and apply to the civilian non-military detainees. That has been the case from the beginning.”).

police guards to “manipulate an internee’s emotions and weaknesses” and to assume control over the “lighting, heating . . . food, clothing, and shelter” of those being questioned.¹⁵

From the start of the occupation of Iraq, representatives of the International Committee of the Red Cross (ICRC) were allowed access to Iraqi detainees, which included not just Iraqi prisoners of war but also Iraqi civilians detained on suspicion of terrorist activities and common criminal offenses. The ICRC made such visits from March to November 2003, and during that time regularly submitted observations and recommendations to the coalition forces regarding the treatment of such detainees. In response to ICRC concerns, Brig. Gen. Janis L. Karpinski (U.S.A. Res.), commander of the 800th Military Police Brigade, in late November reportedly wrote to the ICRC that “military necessity” required the isolation of prisoners of “significant intelligence value” and that they were not entitled to “obtain full [Geneva Convention] protection.”¹⁶ In February 2004, the ICRC submitted a twenty-four-page written report to the United States.¹⁷ Among other things, the report concluded that abuse of Iraqi detainees by U.S. military intelligence personnel as part of the interrogation process was widespread, harsh, and brutal, and, in some cases, “tantamount to torture.”¹⁸

Such reports of abuse of the Iraqi detainees, as well as reports of escapes and lapses in accountability of U.S. personnel, prompted General Sanchez to request that the U.S. Central Command appoint an officer to investigate the conduct of the 800th Military Police Brigade, principally at Abu Ghraib prison. Maj. Gen. Antonio Taguba was so appointed on January 31. Over the course of a month, General Taguba headed a team that reviewed reports of prior military investigations, reviewed numerous photos and videos taken by U.S. personnel at Abu Ghraib prison, and analyzed approximately fifty witness statements by military police and military intelligence personnel, potential suspects, and detainees. Moreover, the Taguba investigation conducted its own interviews and collected additional evidence.¹⁹

In late February, General Taguba issued his report, in which he found

[t]hat between October and December 2003, at the Abu Ghraib Confinement Facility (BCCF), numerous incidents of sadistic, blatant, and wanton criminal abuses were inflicted on several detainees. This systemic and illegal abuse of detainees was intentionally perpetrated by several members of the military police guard force . . . of the Abu Ghraib Prison (BCCF). The allegations of abuse were substantiated by detailed witness statements . . . and the discovery of extremely graphic photographic evidence.²⁰

General Taguba determined that the intentional abuse of detainees by military police personnel included the following acts: (1) “Punching, slapping, and kicking detainees[, and] jumping on their naked feet”; (2) “Videotaping and photographing naked male and female detainees”; (3) “Forcibly arranging detainees in various sexually explicit positions for photographing”; (4) “Forcing detainees to remove their clothing and keeping them naked for several days at a time”; (5) “Forcing naked male detainees to wear women’s underwear”; (6) “Forcing

¹⁵ R. Jeffrey Smith, *Memo Gave Intelligence Bigger Role: Increased Pressure Sought on Prisoners*, WASH. POST, May 21, 2004, at A17 (quoting memo of Oct. 12, 2003).

¹⁶ Douglas Jehl & Neil A. Lewis, *U.S. Military Disputed Protected Status of Prisoners Held in Iraq*, N.Y. TIMES, May 23, 2004, §1, at 12 (quoting Brigadier General Karpinski).

¹⁷ ICRC Press Release, *Iraq: ICRC Explains Position over Detention Report and Treatment of Prisoners* (May 8, 2004), at <<http://www.icrc.org>>.

¹⁸ The ICRC report was not made public but was leaked to the *Wall Street Journal*, which posted the report on its Internet site. David S. Cloud et al., *Red Cross Found Widespread Abuse of Iraqi Prisoners*, WALL. ST. J., May 7, 2004, at A1.

¹⁹ Article 15-6 Investigation of the 800th Military Police Brigade (n.d.) [hereinafter Taguba Report]. The report was not meant for public release, but—even though portions of it were classified—it was leaked and became widely available by May 2004 on the Internet. See, e.g., <<http://news.findlaw.com/hdocs/docs/iraq/tagubarpt.html>>. In addition, English translations of statements by several of the abused detainees were also leaked to the public. See, e.g., Translation of Sworn Statement Provided by _____, Detainee # _____ (Jan. 21, 2004), at <<http://www.washington.post.com/wp-srv/world/iraq/abughraib/swornstatements042104.html>> (the name of the detainee was withheld for privacy reasons) (describing, among other things, an act of sodomy by military police using a nightstick).

²⁰ Taguba Report, *supra* note 19, pt. 1 (findings of fact), para. 5.

groups of male detainees to masturbate themselves while being photographed and videotaped”; (7) “Arranging naked male detainees in a pile and then jumping on them”; (8) “Positioning a naked detainee on a . . . Box, with a sandbag on his head, and attaching wires to his fingers, toes, and penis to simulate electric torture”; (9) “Writing ‘I am a Rapest’ (sic) on the leg of a detainee alleged to have forcibly raped a 15-year old fellow detainee, and then photographing him naked”; (10) “Placing a dog chain or strap around a naked detainee’s neck and having a female Soldier pose for a picture”; (11) “A male MP [military police] guard having sex with a female detainee”; (12) “Using military working dogs (without muzzles) to intimidate and frighten detainees, and in at least one case biting and severely injuring a detainee”; and (13) “Taking photographs of dead Iraqi detainees.”²¹ In short, General Taguba concluded that “[s]everal US Army Soldiers have committed egregious acts and grave breaches of international law.”²²

According to the report, military intelligence officers, CIA personnel, and private contractors “actively requested that MP guards set physical and mental conditions for favorable interrogation of witnesses.”²³ Further, the report found that “very little instruction or training was provided to MP personnel on the applicable rules of the Geneva Convention Relative to the Treatment of Prisoners of War” and that “few, if any, copies of the Geneva Conventions were ever made available to MP personnel or detainees.”²⁴ The report recommended that steps be taken to provide such training to military police and military intelligence personnel, and to distribute the Geneva Conventions, and that General Karpinski, and several other officers of the 800th Military Police Brigade, be relieved of their command or duties and reprimanded for, among other things, having failed to ensure that soldiers under their command understood the protections afforded to the detainees under the Geneva Conventions.²⁵

By May 2004, the U.S. Army had charged seven military police officers—all from one army reserve unit temporarily attached to the 800th Military Police Brigade (the 372nd Military Police Company, based in Cumberland, Maryland)—with the physical and sexual abuse of twenty prisoners at Abu Ghraib.²⁶ The criminal charges against the soldiers included conspiracy, dereliction of duty, cruelty, maltreatment, assault, and indecent acts. On May 19, one of the accused—Specialist Jeremy Sivits—was sentenced by a U.S. military court to one year in prison, demoted to private, and given a “bad conduct” discharge. On May 24, General Karpinski was relieved of her command indefinitely, pending the outcome of various investigations that had been launched into treatment of Abu Ghraib prisoners.²⁷ Moreover, over the course of 2003–2004, the U.S. Army reportedly had opened investigations into more than ninety cases of possible mistreatment of detainees and civilians in Iraq and Afghanistan by U.S. soldiers.²⁸

Photographs of some of the abuses were televised in the United States on April 28, and thereafter worldwide (including repeatedly on Arab satellite television networks), and details of the Taguba report were made public by the *New Yorker* magazine in early May.²⁹ On May 6,

²¹ *Id.*, para. 6.

²² *Id.*, Conclusion, para. 1.

²³ *Id.*, pt. 1 (findings of fact), para. 10.

²⁴ *Id.*, para. 12.

²⁵ *Id.*, pt. 1 (recommendations), paras. 2, 4; pt. 3 (recommendations).

²⁶ U.S. Dep’t of Defense Press Release, Rumsfeld Pledges to Take All Actions Needed at Abu Ghraib (May 4, 2004), at <<http://www.defenselink.mil>>; Scott Higham et al., *Dates on Prison Photos Show Two Phases of Abuse*, WASH. POST, June 1, 2004, at A1.

²⁷ Josh White, *Army Suspends General in Charge of Abu Ghraib*, WASH. POST, May 25, 2004, at A11.

²⁸ Bradley Graham, *Army Investigates Wider Iraq Offenses*, WASH. POST, June 1, 2004, at A1.

²⁹ Sewell Chan & Michael Amon, *Prisoner Abuse Probe Widened*, WASH. POST, May 2, 2004, at A1; Seymour M. Hersh, *Torture at Abu Ghraib*, NEW YORKER, May 10, 2004, at 42. For a three-part series on the Abu Ghraib abuse, see Scott Higham et al., *A Prison on the Brink*, WASH. POST, May 9, 2004, at A1; Scott Wilson & Sewall Chan, *As Insurgency Grew, So Did Prison Abuse*, WASH. POST, May 10, 2004, at A1; Dana Priest & Joe Stephans, *Secret World of U.S. Interrogation*, WASH. POST, May 11, 2004, at A1.

President George W. Bush stated that the “wrongdoers will be brought to justice,” “that the actions of those folks in Iraq do not represent the values of the United States of America,” and that he “was sorry for the humiliation suffered by the Iraqi prisoners and the humiliation suffered by their families.”³⁰ On May 13, UN secretary-general Kofi Annan stated that there was “no doubt that the mistreatment of the prisoners has caused a real and deep damage” to the efforts to restore Iraqi self-government.³¹

Mutual Legal Assistance Treaties with the European Union, Germany, and Japan

Since the 1970s, the United States has concluded numerous bilateral agreements—called “mutual legal assistance in criminal matters treaties” (MLATs)—that seek to regularize and improve the effectiveness of cooperation between the U.S. government and foreign governments on criminal matters.¹ MLATs generally provide for the sharing of information and evidence related to criminal investigations and prosecutions, including for drug trafficking and narcotics-related money laundering. Both parties are obligated to assist in the investigation, prosecution, and suppression of offenses in all forms of proceedings (criminal, civil, or administrative). Among other things, the treaties address the ability of one government to summon witnesses located in the other government’s territory, to compel the production of documents and other real evidence, to issue search warrants, and to serve process. When concluding such an agreement, each country designates a central authority (e.g., for the United States, the Department of Justice) responsible for direct communication between the states on matters within the scope of the treaty.²

During the first session of the 107th Congress (which met during 2001–2002), the Senate consented to new MLATs with Belize, India, Ireland, Liechtenstein, and the Russian Federation.³ On June 25, 2003, the European Union and the United States signed an MLAT, which, once it enters into force, will provide for cooperation between the United States and all twenty-five member states of the European Union.⁴ On August 5, 2003, Japan and the United States signed an MLAT in Washington D.C., and in November 2003, President Bush transmitted the treaty to the U.S. Senate.⁵ On October 15, Germany and the United States signed an MLAT in Washington, D.C.⁶

³⁰ The President’s News Conference with King Abdullah II of Jordan, 46 WEEKLY COMP. PRES. DOC. 800, 801 (May 6, 2004).

³¹ UN Press Release, Secretary-General’s Press Encounter upon Arrival at UNHQ (May 13, 2004), at <<http://www.un.org>> (unofficial transcript).

¹ The United States currently has MLATs in force with respect to Anguilla, Antigua/Barbuda, Argentina, Australia, Austria, the Bahamas, Barbados, Belgium, Brazil, the British Virgin Islands, Canada, the Cayman Islands, Cyprus, the Czech Republic, Dominica, Egypt, Estonia, Greece, Grenada, Hong Kong, Hungary, Israel, Italy, Jamaica, Korea (South), Latvia, Lithuania, Luxembourg, Mexico, Montserrat, Morocco, the Netherlands, Panama, the Philippines, Poland, Romania, St. Kitts-Nevis, St. Lucia, St. Vincent, Spain, Switzerland, Thailand, Trinidad, Turkey, the Turks and Caicos Islands, Ukraine, the United Kingdom, and Uruguay. U.S. Dep’t of State Public Notice, Mutual Legal Assistance in Criminal Matters Treaties (MLATs) and Other Agreements (n.d.), at <<http://travel.state.gov/mlat.html>> (visited June 21, 2004).

² In the absence of such a treaty (or an executive agreement), the customary method of formally requesting such assistance has been through letters rogatory. For an overview of the MLATs, see 3 BRUNO RISTAU & MICHAEL ABBELL, INTERNATIONAL JUDICIAL ASSISTANCE (CRIMINAL) §§12-4-1 to -8 (1995).

³ Treaty on Mutual Legal Assistance in Criminal Matters, Sept. 19, 2000, U.S.-Belize, S. TREATY DOC. NO. 107-13 (2002); Treaty on Mutual Legal Assistance in Criminal Matters, Oct. 17, 2001, U.S.-India, S. TREATY DOC. NO. 107-3 (2002); Treaty on Mutual Legal Assistance in Criminal Matters, Jan. 18, 2001, U.S.-Ir., S. TREATY DOC. NO. 107-9 (2002); Treaty on Mutual Legal Assistance in Criminal Matters, July 8, 2002, U.S.-Liech., S. TREATY DOC. NO. 107-13 (2002) (entered into force Aug. 1, 2003); Treaty on Mutual Legal Assistance in Criminal Matters, June 17, 1999, U.S.-Russ., S. TREATY DOC. NO. 107-13 (2002) (entered into force Jan. 31, 2002).

⁴ Agreement on Mutual Legal Assistance in Criminal Matters, June 25, 2003, U.S.-EU, 2003 O.J. (L 181) 34.

⁵ Treaty on Mutual Legal Assistance in Criminal Matters, Aug. 5, 2003, U.S.-Japan, S. TREATY DOC. NO. 108-12 (2003).

⁶ Mutual Legal Assistance Treaty, Oct. 15, 2004, U.S.-Ger. (on file at GWU).