



# CHAIRMAN OF THE JOINT CHIEFS OF STAFF NOTICE

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CJCS Notice 5784  
22 July 2014

## PRESERVATION AND PRODUCTION OF RECORDS RELATED TO SERGEANT BOWE BERGDAHL, THE RECENT TRANSFER OF FIVE DETAINEES, AND THE POSSIBLE TRANSFER OF OTHER DETAINEES

1. Purpose. This notice provides guidance on searching for and preserving all documents and recorded information regarding the subject matter for 13 categories relating to Sergeant Bowe Bergdahl; the recent transfer of five detainees from U.S. Naval Station, Guantanamo Bay, Cuba, to Qatar; and the transfer, or potential transfer, of other detainees at Guantanamo as requested by the Chairman of the House Armed Services Committee (HASC).

2. Superseded/Cancellation. None.

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

4. Background. On 31 May 2014, the Department of Defense (DoD) informed the HASC that a transfer of five detainees from Guantanamo to Qatar was imminent. The transfer of these detainees, as well as the timing and manner in which the Department of Defense informed the HASC of the transfer, raised numerous questions relating to national security, the Department of Defense's relationship with its oversight committee, and compliance with the requirements of the National Defense Authorization Act for Fiscal Year 2014 and the DoD Appropriations Act of 2014.

a. In support of the HASC's oversight of this matter, it requests copies of the following materials in the possession of the Department of Defense:

(1) All documents and communications relating to the transfer or release of the five Guantanamo detainees from 1 January 2012 to the present.

(2) All documents and communications relating to the transfer or release, or potential transfer or release, of any Guantanamo detainees to the Government of Qatar, including any memoranda of understanding, from 1 January 2012 to the present.

(3) All documents and communications relating to the transfer or release, or potential transfer or release, of any Guantanamo detainees to the Government of Afghanistan from 1 January 2012 to the present.

(4) All documents and communications relating to communications with representatives of the Taliban or associated groups regarding the transfer or release, or potential transfer or release, of any Guantanamo detainees from 1 January 2012 to the present.

(5) All final recommendations, reports, and memoranda of any interagency task force established pursuant to Executive Order 13492 relating to the five Guantanamo detainees.

(6) All documents and communications relating to the notification of the appropriate congressional committees of the transfer, or potential transfer, of the five Guantanamo detainees from 1 September 2013 to the present.

(7) All documents and communications relating to Qatar's capacity, willingness, and past practices regarding security assurances associated with the transfer or release of any Guantanamo detainees, including all intelligence reports and assessments.

(8) All documents and communications relating to the transfer of former Guantanamo detainee Jaralla Saleh Mohammed Kahla al-Marri to Qatar in 2008, the security arrangements of such transfer, and Qatar's compliance with such security arrangements, including all intelligence reports and assessments.

(9) All documents and communications relating to the response of the Government of Afghanistan to the transfer of the five Guantanamo detainees, including all intelligence reports and assessments.

(10) All documents and communications relating to the response of the Taliban and associated groups to the transfer of the five Guantanamo detainees, including all intelligence reports and assessments.

(11) All intelligence reports and assessments relating to Sergeant Bowe Bergdahl from 1 June 2009 to the present.

(12) All final recommendations or reports relating to any internal investigations, including the results of any 15-6 investigation, of Sergeant Bowe Bergdahl from 1 June 2009 to the present.

(13) All nondisclosure or similar agreements signed by members of the U.S. Armed Forces or other employees of the Department of Defense relating to Sergeant Bowe Bergdahl.

b. Electronically stored information (ESI) 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 the e-mails in their native format. However, 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 for the key employees who are 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 of the 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 ESI, 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 HASC. 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.

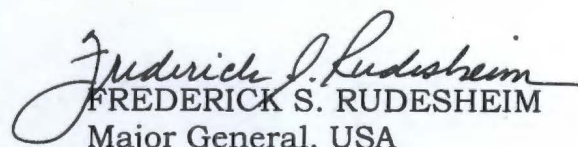
7. Releasability. UNRESTRICTED. This notice is approved for public release; distribution is unlimited on NIPRNET. DoD Components (including the Combatant Commands), other Federal Agencies, and the public may obtain copies of this directive through the Internet from the CJCS Directives Electronic Library at <[http://www.dtic.mil/cjcs\\_directives](http://www.dtic.mil/cjcs_directives)>. Joint Staff activities may also obtain access via the SIPRNET directives Electronic Library Web sites.

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](mailto:teresa.l.black6.civ@mail.smil.mil), 703-697-8862.

b. Please disseminate this notice immediately throughout your organization. This notice 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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