

# **Complaint Exhibit D**

# SPARACINO

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June 11, 2019

**By Electronic Mail (foia@usaid.gov)**

U.S. Agency for International Development  
M/MS/IRD, Suite 207C RRB  
1300 Pennsylvania Avenue, NW  
Washington, DC 20523-2701

Re: Freedom of Information Act Request

Dear FOIA Officer:

My firm represents over 1,200 American veterans, civilians, and families (including over 180 Gold Star Families), in connection with deaths and injuries caused by terrorists in Iraq. On behalf of our clients, we filed a lawsuit against pharmaceutical and medical device companies that contracted with the Iraqi Ministry of Health, alleging that they funded terrorists who killed or wounded thousands of Americans in Iraq. As part of our investigation of these allegations, and on behalf of our clients who have made great sacrifices in connection with America's involvement with Iraq, we submit this request under the Freedom of Information Act, 5 U.S.C. §§ 552, et seq. ("FOIA") for copies of the records described below.

### **Background & Description of Records Sought**

On January 17, 2006, The Washington Post published an article by Walter Pincus entitled "*USAID Paper Details Security Crisis in Iraq.*" See Jan. 17, 2006 Washington Post article, attached hereto as Exhibit A. The article described a recent, USAID "**request for contractors** to bid on its \$1.32 billion, 28-month project to help stabilize 10 major Iraqi cities." Id. at 1 (emphasis added). "The USAID program, outlined in a **Jan. 2 paper**, envisions development between 2006 and 2008 of partnerships in" certain Iraqi cities, including "Baghdad, Basra, Mosul, Kirkuk and Najaf." Id. (emphasis added). **The January 2006 "request for contractors" and the January 2, 2006 "paper" described above are subjects of this FOIA request.**

The Washington Post further reported that "[t]o prepare potential bidders for the task, **USAID included an annex with the contractor application.**" Id. (emphasis added). The article suggests, but does not definitively state, that this "**annex**" is the same document that the Washington Post also refers to as the "**Jan. 2 paper.**" Id. (emphasis added). Regardless, **this "annex" is also a subject of this FOIA request.**

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The article includes numerous, verbatim quotes from the “annex” and/or the January 2, 2006 “**USAID paper**,” also referred to as “[t]he **USAID analysis**.” *Id.* at 1-2 (emphasis added). We encourage USAID to review these quotes and all three attachments to this request, as they may facilitate the search for responsive records.

At least two other publicly available documents further describe the subjects of this FOIA request, i.e. the USAID documents referenced in the January 17, 2006 Washington Post article. They are attached and summarized below to aid USAID’s search for responsive records:

- On January 18, 2006, The Guardian published an article entitled “*Official US agency paints dire picture of ‘out-of-control’ Iraq.*” See Jan. 18, 2006 Guardian article by Julian Borger, attached hereto as Exhibit B. The Guardian article describes the relevant records as “[a]n **official assessment** drawn up by” USAID, and reports that the “**‘conflict assessment’ is an attachment to an invitation to contractors to bid** on a project rehabilitating Iraqi cities published earlier” in January 2006 by USAID. *Id.* at 1 (emphasis added). The Guardian article includes numerous, verbatim quotes from the “USAid analysis,” also called “the paper,” “the report,” and “[t]he assessment.” *Id.* at 1-2. The Guardian article states that the “**USAid document was attached to project documents** for the **Focused Stabilisation in Strategic Cities Initiative**, a \$1.3bn (£740m) project to curb violence in” major Iraqi cities. *Id.* at 1 (emphasis added).
- A 2008 decision from the United Kingdom’s Asylum and Immigration Tribunal refers to the records that are the subjects of this FOIA request as a January 2, 2006 USAID document called “**‘Focused stabilisation in strategic cities initiative – request for application’ (annex F, p. 60).**” See Asylum and Immigration Tribunal Appeal Number AA/14353/2006, Appendix II - Item 99, attached as Exhibit C (at p. 3) (emphasis added).<sup>1</sup>

### **Records Requested**

The January 2006 USAID “request for contractors,” and all attachments, appendices, and annexes thereto, including the January 2, 2006 USAID “paper” described above.

The relevant time period for this request is *either*: a) the dates of the above-described records; or b) January 1, 2005 through December 31, 2006.

Please search for responsive records regardless of format, medium, or physical characteristics. Where possible, **please produce records electronically in PDF format**. We

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<sup>1</sup> The decision and appendices thereto total seventy-seven (77) pages. Exhibit C is an abridged, three-page version. A comprehensive version is available at: <https://www.refworld.org/pdfid/47ea3e822.pdf>.

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seek records of any kind, including electronic records, audiotapes, videotapes, and photographs. Our request includes any letters, emails, facsimiles, telephone messages, voice mail messages, and transcripts, notes, or minutes of any meetings, telephone conversations, discussions, and any attachments to such records. If any of this information is currently classified or restricted distribution, we ask that you submit the records for declassification in accordance with Executive Order 13526, and all other relevant regulations, policies and orders governing declassification.

5 U.S.C. § 552(b) prescribes the process for any responsive records, or portions of records, you deem covered by a FOIA exemption: “[a]ny reasonably segregable portion of a record shall be provided...after deletion of the portions which are exempt under this subsection. The amount of information deleted, and the exemption under which the deletion is made, shall be indicated on the released portion of the record, unless including that indication would harm an interest protected by the exemption in this subsection under which the deletion is made. If technically feasible, the amount of the information deleted, and the exemption under which the deletion is made, shall be indicated at the place in the record where such deletion is made.”

I am willing to pay fees for this request up to a maximum of **\$200**. If the fees for this request exceed that amount, please inform me first. Do not hesitate to contact me with any questions or concerns, and please mail responsive materials to the address in the letterhead above.

Sincerely,



Dustin M. Lee  
dustin.lee@sparacinopllc.com

Enclosures

# **Exhibit A**

## NewsRoom

1/17/06 Wash. Post (Wash., D.C.) A13  
2006 WLNR 26033843

Washington Post, The (Washington, D.C.)  
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January 17, 2006

Section: A Section

### **USAID Paper Details Security Crisis** in Iraq

Walter Pincus

The U.S. Agency for International Development paints a dire and detailed picture of the Iraq security situation in its request for contractors to bid on its \$1.32 billion, 28-month project to help stabilize 10 major Iraqi cities.

The USAID program, outlined in a Jan. 2 paper, envisions development between 2006 and 2008 of partnerships in cities that make up more than half of Iraq's population. Those cities would include Baghdad, Basra, Mosul, Kirkuk and Najaf. The project, which to date has only \$30 million of the proposed funds, will try to reduce violence by creating jobs, revitalizing community infrastructure, and mitigating ethnic and religious conflicts.

To prepare potential bidders for the task, USAID included an annex with the contractor application. It describes Iraq as being in the midst of an insurgency whose tactics "include creating chaos in Iraq society as a whole and fomenting civil war." Many of the attacks are against coalition and Iraqi security forces, the annex says, and they "significantly damage the country's infrastructure and cause a tide of adverse economic and social effects that ripple across Iraq."

Although President Bush and senior administration officials tend to see the enemy primarily as Saddam Hussein loyalists and foreign terrorists, the USAID analysis also places emphasis on "internecine conflict," which includes "religious-sectarian, ethnic, tribal, criminal and politically based" violence.

The Sunni-vs.-Shiite violence goes back centuries. Today, the differences are being exploited on both sides as Sunni bombings of Shiite sites along with kidnappings and killings have been matched by Shiite retaliation and revenge killings of Sunnis.

"It is increasingly common for tribesmen to 'turn in' to the authorities enemies as insurgents, this as a form of tribal revenge," the paper says.

The activities of religious extremists against secular Iraqis were also noted by USAID. The paper describes how in the southern part of Iraq, which is dominated by Shiites, "social liberties have been curtailed dramatically by roving bands of self-appointed religious-moral police." In cities, women's dress codes are enforced and barbers who remove facial hair have been killed, and liquor stores and clubs have been bombed.

The USAID paper describes some findings that in the past were carried only in classified briefings, congressional sources said. For example, the paper states that external fighters and groups such as al Qaeda "are gaining in number and

notoriety as significant actors," and that most suicide bombers are coming from "Saudi Arabia and other countries in the region."

The breakdown of Iraqi society and "the absence of state control and an effective police force" have let "criminal elements within Iraqi society have almost free rein," the paper states. Iraqi criminals in some cases "have aligned themselves with most of the combating groups and factions to further their aims" and Baghdad "is reportedly divided into zones controlled by organized criminal groups-clans," it states.

The USAID analysis also raises the potential for political parties to come into armed conflict, as the two main Kurdish parties did in the mid-1990s. "As political parties regain importance in the emerging democracy, there is an increased risk they may devolve into conflict groups," the paper warns.

Paul Pillar, the CIA's former national intelligence officer for the Middle East and now a visiting professor at Georgetown University, said the analysis conveyed "the reality that the violence in Iraq is complex and multi-faceted."

One weakness of the paper, Pillar said, is the underplaying of the "resentment of the foreign occupation." He said there are Iraqi "nationalists" beyond just the Sunnis who resent the presence of U.S. and other foreign troops. "There is a valid basis for some of the pro-withdrawal arguments," he said, referring to recent statements by Rep. John P. Murtha (D-Pa.).

In a news conference Friday with Pentagon reporters, Lt. Gen. John R. Vines, the soon-to-be-retired commander of the coalition forces in Iraq, gave a mixed assessment of the USAID findings.

He said the insurgency is being carried out primarily by different Iraqi groups, some that feel they are disadvantaged under the new system and others that oppose the presence of the coalition. "Some Iraqis do view the coalition presence as a reason to conduct violence against them. That is without question," he said, but he would not characterize the size of that group.

He said he expects jihadists to keep trying to impose their views on those, such as the Sunni nationalists, who believe they are "not adequately represented" in the new government.

Differing with the USAID analysis, Vine said that Abu Musab Zarqawi's al Qaeda in Iraq group may be in "disarray," and that "indicators are that many of the events that we see are not related to al Qaeda in Iraq." He said some were done by former regime elements but that "in some cases they're related to people who conduct violent acts for pay."

Pillar, on the other hand, warns that the group, though foreign-led, "is largely Iraqi in membership" and represents a commingling of foreign and Iraqi religious extremists.

---- **Index References** ----

Company: PENTAGON LTD; GEORGETOWN UNIVERSITY (THE); PENTAGON CAPITAL MANAGEMENT PLC; PENTAGON WATER LTD; INFORMATICA APLICATA SA; US AGENCY FOR INTERNATIONAL DEVELOPMENT; DE RADIOCOMUNICACIONES MOVILES SA; IMMOBILIARE AZIONARIA SPA; PENTAGON PERSONNEL LTD

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**NewsRoom**



# **Exhibit B**

# The Guardian

## Official US agency paints dire picture of 'out-of-control' Iraq

• **Analysis issued by USAid in reconstruction effort** • **Account belies picture painted by White House**

**Julian Borger** *in Washington*

Wed 18 Jan 2006 02.49 GMT

An official assessment drawn up by the US foreign aid agency depicts the security situation in Iraq as dire, amounting to a "social breakdown" in which criminals have "almost free rein". The "conflict assessment" is an attachment to an invitation to contractors to bid on a project rehabilitating Iraqi cities published earlier this month by the US Agency for International Development (USAid).

The picture it paints is not only darker than the optimistic accounts from the White House and the Pentagon, it also gives a more complex profile of the insurgency than the straightforward "rejectionists, Saddamists and terrorists" described by George Bush.

The USAid analysis talks of an "internecine conflict" involving religious, ethnic, criminal and tribal groups. "It is increasingly common for tribesmen to 'turn in' to the authorities enemies as insurgents - this as a form of tribal revenge," the paper says, casting doubt on the efficacy of counter-insurgent sweeps by coalition and Iraqi forces.

Meanwhile, foreign jihadist groups are growing in strength, the report said.

"External fighters and organisations such as al-Qaida and the Iraqi offshoot led by Abu Musab al-Zarqawi are gaining in number and notoriety as significant actors," USAid's assessment said. "Recruitment into the ranks of these organisations takes place throughout the Sunni Muslim world, with most suicide bombers coming from Saudi Arabia and other countries in the region."

The assessment conflicted sharply with recent Pentagon claims that Zarqawi's group was in "disarray".

The USAid document was attached to project documents for the Focused Stabilisation in Strategic Cities Initiative, a \$1.3bn (£740m) project to curb violence in cities such as Baghdad, Basra, Mosul, Kirkuk and Najaf, through job creation and investment in local communities.

The paper, whose existence was first reported by the Washington Post, argues that insurgent attacks "significantly damage the country's infrastructure and cause a tide of adverse economic and social effects that ripple across Iraq".

"In the social breakdown that has accompanied the defeat of Saddam Hussein's regime criminal elements within Iraqi society have had almost free rein," the document says. "In the absence of an

effective police force capable of ensuring public safety, criminal elements flourish ... Baghdad is reportedly divided into zones controlled by organised criminal groups-clans."

The lawlessness has had an impact on basic freedoms, USAid argues, particularly in the south, where "social liberties have been curtailed dramatically by roving bands of self-appointed religious-moral police". USAid officials did not respond to calls seeking comment yesterday.

Judith Yaphe, a former CIA expert on Iraq now teaching at the National Defence University in Washington, said while the administration's pronouncements on security were rosy, the USAid version was pessimistic. "It's a very difficult environment, but if I read this right, they are saying there is violence everywhere and I don't think it's true," Ms Yaphe said. She said USAid could have published the document to pressure the White House to increase its funding. The administration does not intend to request more reconstruction funds after the end of this year.

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- Iraq
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- USAid

# **Exhibit C**

**Asylum and Immigration Tribunal**

KH (Article 15(c) Qualification Directive) Iraq CG [2008] UKAIT 00023

**THE IMMIGRATION ACTS**

**Heard at Field House**

**On 28 January- 1 February 2008**

**Before**

**MR C M G OCKELTON, DEPUTY PRESIDENT, ASYLUM AND IMMIGRATION TRIBUNAL  
SENIOR IMMIGRATION JUDGE STOREY  
SENIOR IMMIGRATION JUDGE GRUBB**

**Between**

**and**

**Appellant**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

**Respondent**

**Representation:**

For the Appellant: Mr R Husain and Ms S Knights instructed by the Refugee Legal Centre  
For the Respondent: Mr P Saini QC, Mr S Wordsworth and Mr A Palmer instructed by the Treasury Solicitor

- (1) Key terms found in Article 15(c) of the Qualification Directive are to be given an international humanitarian law (IHL) meaning. Subject to (3) below, the approach of the Tribunal in HH & others (Mogadishu: armed conflict: risk) Somalia CG [2008] UKAIT 00022 to this provision is confirmed.*
- (2) Article 15(c) does add to the scope of Article 15(a) and (b), but only in a limited way. It is limited so as to make eligible for subsidiary protection (humanitarian protection) only a subset of civilians: those who can show that as civilians they face on return a real risk of suffering certain types of serious violations of IHL caused by indiscriminate violence.*
- (3) Article 15(c) is not intended to cover threats that are by reason of all kinds of violence. It does not cover purely criminal violence or indeed any other type of non-military violence. Nor does it cover violence used by combatants which targets adversaries in a legitimate way.*

**APPENDIX II: LIST OF BACKGROUND MATERIALS BEFORE THE TRIBUNAL APPEAL NUMBER:  
AA/14353/2006**

1. Ancestry.com: *'Hamed' Name Meaning and Origin*
2. Committee to Protect Journalists (CPJ): *Middle East and North Africa News Alerts, Letters, Reports, Country Summaries, Archives.*
3. Correlates of war
4. Extract AIT Practice Directions
5. Foreign and Commonwealth Office: *Departmental Report 2006/07 – SP3 Preventing and resolving conflict through a strong international neighbourhood*
6. Foreign and Commonwealth Office: *Overview of Human Rights in Iraq, see FCO Human Rights Annual Report 2006 (pp. 66-77*
7. Foreign and Commonwealth Office: *Statement in response to ICRC report on Civilians without Protection*
8. Foreign and Commonwealth Office: *Iraq neighbours Conference.*
9. Herring and Rangwala: *Iraq in Fragments (p.53)*
10. House of Commons Foreign Affairs Committee: *Third Report Session 2006-07: Annual Report on Human Rights 2006*
11. House of Commons Foreign Affairs Committee: *Eighth Report 2006 – 07: Iraq*
12. Home Office: *'Homicide' – Long-term National Recorded Crime Trend'.*
13. Iraq Body Count (IBC): *Civilian Deaths. On maxima and minima*
14. Iraq Body Count: *'Documented civilian deaths from violence'*
15. Iraq Coalition Casualties: *Coalition Casualty Count*
16. Middle East Transference: *Iraq's Governing Council*
17. Oxford Dictionary: *Extracts – "War" and "Zone"*
18. Terrorism Knowledge Base (TKB): *Memorial Institute for the Prevention of Terrorism (MIPT) – 'Group Profile – Mujahideen Shura Council*
19. UK Border and Immigration Agency: *Immigration Rules Paragraph 339C*
20. UNHCR: *Iraq Situation Supplementary Appeal*
21. Wikipedia: *Extract – Baron King (Secretary of State of Defence)*
22. Wikipedia: *Extract – Bombing of Dresden in World War II*
23. Circa 2003 Middle East Journal: *'The United States and Shi'ite religious factions in post Ba'thist Iraq'*
24. 7 April 2003 Human Rights Watch: *'The war in Iraq and international humanitarian law: frequently asked questions'*
25. 25 August 2003 International Crisis Group (ICG): *Governing Iraq (pp.10-12)*
26. 11 December 2003 Official Journal of the European Communities: *Opinion of the European Parliament OJ C 300 E/25*
27. 13 December 2003 Daily Star: *'Baghdad blast brings sectarian divide to surface'*

88. 2 October 2005 Al Jazeera: *Associated Press* – ‘Cracks in Iraqi Shia-Kurd coalition’
89. 12 October 2005 Washington Post: *Constitution of Iraq October 2005 – Articles 109, 110 and 149*
90. 30 October 2005 The New York Times: *U.S. Quietly Issues Estimate of Iraqi Civilian Casualties*
91. 5 November 2005 Christians of Iraq: ‘Assyrian Killed in Kirkuk’s Car Bombing’
92. 16 November 2005 The Independent: ‘Raid on Torture Dungeon Exposes Iraq’s Secret War’
93. 27 December 2005 Knight Ridder Newspapers: ‘Kurds in Iraqi army proclaim loyalty to militia’
94. Circa 2006 Ahmad Hashim: *Insurgency and Counter-Insurgency in Iraq (London: Hurst, pp. 170-76)*
95. Circa 2006 Eric Herring and Glen Rangwala, *Iraq in Fragments: The Occupation and its Legacy (Cornell University Press and Hurst) (Chapters 1 and 4)*
96. Circa 2006 Foreign and Commonwealth Office: *Human Rights Annual Report 2006: Iraq*
97. Circa 2006 Herring and Rangwala, *Iraq in Fragments: The Occupation and its Legacy (Cornell University Press and Hurst) (Chapters 1 and 3)*
98. Circa 2006 IISS: *Flashpoint newsletter of the IISS armed conflict database*
99. 2 January 2006 USAID: ‘*Focused stabilisation in strategic cities initiative – request for application*’ (annex F, p. 60)
100. 12 January 2006 Radio Free Europe/Radio Liberty: ‘Kurds to Agree to Unify Administrations’
101. 21 January 2006 Kurdistan Regional Government (KRG): *Kurdish Regional Government Unification Agreement*
102. 15 February 2006 International Crisis Group: ‘*In their own words: reading the Iraqi insurgency*’, *Middle East Report Number 50*
103. 16 February 2006 BBC News: ‘*Iraq Death Squad “Caught in Act”*’
104. 6 March 2006 International Herald Tribune: ‘*U.S. faces latest trouble with Iraqi forces: loyalty*’
105. 12 March 2006 San Francisco Chronicle: *Civil war a reality, experts say, Anna Badkhen*
106. 28 March 2006 Terrorism Focus: ‘*Mujahideen Shura Council in Iraq*’
107. 20 March 2006 Middle East Online: ‘*Iraq in low-intensity civil war*’
108. 1 May 2006 Time Online: ‘*Militias Steal New Recruits With Better Pay and Perks*’
109. 24 May 2006 Ministry of Defence: *Speech by Des Browne PM to Royal United Services Institute*
110. 31 May 2006 Citizenship and Immigration Canada: *Temporary Suspension of Removals*
111. 15 June 2006 Congressional Research Service: *Iraq: Elections, Government and Constitution, Congressional Research Service Report for Congress*
112. 21 June 2006 House of Commons Foreign Affairs Committee: ‘*Foreign Policy Aspects of the War against terrorism*’, *Fourth Report of Session 2005-2006*,
113. July 2006 House of Commons Defence Committee: ‘*Operations in Iraq*’, *Evidence given by experts*.
114. 11 July 2006 International Crisis Group (ICG): ‘*Iraq’s Muqtada al-Sadr: Spoiler or Stabiliser?*’