

Sumu -

do you have
any early versions
of the "Trenching evidence"
memo - I had copy
or on your PC?

Rud

if so, pls give to me.

Hague, David, CIV, WSO-BRAC

From: Sarkar, Rumu, CIV, WSO-BRAC
Sent: Tuesday, July 26, 2005 2:09 PM
To: Hague, David, CIV, WSO-BRAC
Subject: Attachments re: evidentiary matters

Attachments: Memo of Instruction on Weighting Evidence.doc



Memo of Instruction
on Weighti...

Rumu Sarkar
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Arlington, VA 22202-3920
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Hague, David, CIV, WSO-BRAC

From: Hague, David, CIV, WSO-BRAC
Sent: Tuesday, July 26, 2005 3:34 PM
To: Sarkar, Rumu, CIV, WSO-BRAC
Subject: RE: Attachments re: evidentiary matters

Rumu -- Pls send the attachment to me again. David

From: Sarkar, Rumu, CIV, WSO-BRAC
Sent: Tuesday, July 26, 2005 2:09 PM
To: Hague, David, CIV, WSO-BRAC
Subject: Attachments re: evidentiary matters

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July 26, 2005

MEMORANDUM FOR CHAIRMAN AND COMMISSIONERS
DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION

From: GENERAL COUNSEL

Subj: WEIGHING EVIDENCE IN PREPARATION FOR FINAL DELIBERATIONS OF
THE 2005 DEFENSE CLOSURE AND REALIGNMENT COMMISSION

This memorandum provides guidance on weighing the various types of evidence that have been submitted to the 2005 Defense Base Closure and Realignment (BRAC) Commission. In light of the upcoming final deliberations to be undertaken by the Commissioners in making recommendations to the President, a quick summary overview of the types of evidence provided to the Commission, and the weight they should be accorded are discussed below. This memorandum provides a suggested approach to weighing the evidence, but does not purport to be binding instructions to the Commissioners.

The following categories of evidentiary submissions (both testimonial and documentary) will be considered:

- A) Certified data submitted by the Department of Defense (DoD),
- B) Sworn testimony and documentary submissions at regional hearings before the BRAC Commission,
- C) Submissions by federal, state and municipal officials and authorities,
- D) Submissions by the general public, both individuals and organizations.

CATEGORY A: CERTIFIED DATA PROVIDED BY THE DOD

Section 2903(c)(5)(A) of the Defense Base Closure and Realignment Act of 1990 (Public Law 101-510), as amended by FY 2002 Department of Defense Authorization Act (Public Law 107-107) (the "BRAC statute), provides that each person:

when submitting information to the Secretary of Defense or the [BRAC] Commission concerning that the closure or realignment of a military installation, shall certify that such information is accurate and complete to the best of that person[']s knowledge and belief.

Those "persons" include: (i) the Secretaries of the military departments; (ii) the heads of the defense agencies; and (iii) each person who is in a position whose duties include personal and substantial involvement in the preparation and submission of information and recommendations concerning the closure or realignment of military installations." (See Section 2903(c)(5)(B)) of the BRAC statute.

Accordingly, DoD personnel have provided certified data to the Secretary in support of making recommendations for closures and realignments. Based on this certified data, the Secretary has made his final recommendations to the Commission. Moreover, pursuant to Section 2912(b) of the BRAC statute, the Secretary has also certified that there is a need for the closure and realignment of military installations, and has additionally certified that such closures and realignment will result in annual net savings for each of the military departments beginning no later than fiscal year 2011.

DoD personnel (in the categories described above), when responding to questions submitted by Commission personnel to the DoD clearinghouse have a duty to provide the Commission with certified data. All data received from the clearinghouse is considered to be certified.

CATEGORY B: SWORN TO TESTIMONY AND DOCUMENTARY SUBMISSIONS

Section 2903 (d)(1) of the BRAC statute provides that after receiving the Secretary's recommendations for closures and realignments of military installations, the Commission shall hold public hearings. Further, this statutory provision directs that "[a]ll testimony before the Commission at a public hearing . . . shall be presented under oath."

The oath administered to witnesses testifying before the Commission states as follows:

Do you swear or affirm that the testimony you are about to give, and any evidence that you may provide, are complete and accurate to the best of your knowledge and belief, so help you God?

This statutory language parallels the certification requirement set forth in Section 2903 of the BRAC statute. Moreover, the oath covers not only the sworn to testimony of the witnesses appearing before the Commission but also the documentary evidence (e.g., PowerPoint presentations, hand-outs, memoranda) that may be submitted to the Commission during the course of a regional hearing by a witness. Thus, Categories A and B are equivalent in terms of the credibility and weight that should be accorded to them as a matter of law.

As an additional note in terms of weighing the credibility of the witnesses, each Commissioner must individually determine the believability of each witness. In evaluating this matter, each Commissioner must consider each witness's sincerity, truthfulness, persuasiveness, knowledgeableness on the subject-matter presented, and whether the witness is supported or contradicted by other evidence. The possibility of bias in terms of how the witness may be impacted by the decision-making of the BRAC Commission may also (but not necessarily) factor into the process of according the appropriate weight to such a witness's testimony and presentation of documentary evidence, if relevant. In making this determination, it is important to remain as objective and impartial as possible, realizing that each Commissioner is also moved by his or her own life and professional experiences, biases and judgments.

CATEGORY C: SUBMISSIONS OF DOCUMENTARY EVIDENCE BY
PUBLIC OFFICIALS

The BRAC Commission has also been in close contact with numerous elected and non-elected federal, state and municipal officials. Where such officials have been corresponding or otherwise communicating in person or by telephone without formally testifying before the Commission, such communications should also be given some weight, particularly where letters or documentary evidence are being communicated to the Commission expressing a particular point of view. Commissioners may come in contact, for example, with a number of such officials during the course of hearings, base site visits, meetings, receptions or other informal discussions.

Since the nature of these communications are not sworn to or otherwise certified as truthful and accurate, less weight needs be accorded to them. Nevertheless, there may be circumstances in which a particular Commissioner may feel that a certain non-certified communication is particularly influential or persuasive. This is a matter of, again, weighing the credibility and believability of such a person, and the context of that communication which necessarily includes the nature of the Commissioner's relationship with that person. However, as a matter of law, the weight to be accorded such Category C communications is less than for Categories A and B.

CATEGORY D: COMMUNICATIONS FROM THE GENERAL PUBLIC

Finally, the Commission has received thousands of pieces of correspondence from individuals, civic and community organizations, veterans groups, schools and numerous other types of organizations. These communications (whether posted directly on-line through the BRAC public website) or in letters are *not* sworn statements. Thus, such statements, representations and submission of documentary evidence (unless notarized in some form) should be accorded less weight as a matter of law since the authenticity of such statements has not been certified as such. However, the same caveat mentioned above may apply here where an individual Commissioner may feel that a certain public submission has great persuasive value. This is a judgment call, and each Commissioner has been vested with the public trust and authority to make such a determination.

RUMU SARKAR
Associate General Counsel

Hague, David, CIV, WSO-BRAC

From: Hague, David, CIV, WSO-BRAC
Sent: Thursday, July 28, 2005 7:36 AM
To: Sarkar, Rumu, CIV, WSO-BRAC
Subject: EVIDENCE CORRESPONDENCE

Attachments: Memo of Instruction on Weighting Evidence (2).doc



Memo of Instruction
on Weighti...

Rumu -- latest version that needs expanding. David

Memo for David Hague
From: Charlie Battaglia

Rumu 7/28

Subj: Policy Restrictions on Meeting with DoD Officials and Personnel
Date: July 27, 2005

Commissioner Gehman has raised the question of whether DoD officials and personnel are restricted in conversing with BRAC Commissioners and/or staff. As a corollary, the question arises on what information obtained from DoD officials and personnel as well as other sources Commissioners may consider in their deliberations. Your memo of July 26, 2005 (Weighing Evidence in Preparation for Final Deliberations of the 2005 BRAC Commission) addresses the latter.

We need to provide guidance to Commissioners on the former question. In short, there are no restrictions on Commissioners' meeting with anyone. However, the Department of Defense issued public affairs guidance earlier this year (I gave my copy to Jim Schaefer) restricting such communications. I am not aware if that guidance terminated after the SecDef published his list on May 13, 2005. In addition, DoD officials meeting Commissioners may prefer that their views be off the record or not sourced. In these cases, there are likely no submissions. Consequently, Commissioners should heed the guidance cited as Category C communications. It would be useful to paraphrase and cite the law on weighting of such information.

I would appreciate it if Rumu would work with Jim Schaefer on the DoD guidance and then prep a covering memo from me to Commissioners that addresses Commissioner Gehman's question and provides your July 26 as an attachment.

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cited in 2902(m) - would appear to overrule any real or imagined non-disclosure

TITLE 10 > Subtitle A > PART II > CHAPTER 53 > § 1034

Prev | Next

§ 1034. Protected communications; prohibition of retaliatory personnel actions

Release date: 2004-03-18

(a) Restricting Communications With Members of Congress and Inspector General Prohibited.—

- (1) No person may restrict a member of the armed forces in communicating with a Member of Congress or an Inspector General.
- (2) Paragraph (1) does not apply to a communication that is unlawful.

(b) Prohibition of Retaliatory Personnel Actions.—

- (1) No person may take (or threaten to take) an unfavorable personnel action, or withhold (or threaten to withhold) a favorable personnel action, as a reprisal against a member of the armed forces for making or preparing—

- (A) a communication to a Member of Congress or an Inspector General that (under subsection (a)) may not be restricted; or
- (B) a communication that is described in subsection (c)(2) and that is made (or prepared to be made) to—
 - (i) a Member of Congress;
 - (ii) an Inspector General (as defined in subsection (i)) or any other Inspector General appointed under the Inspector General Act of 1978;
 - (iii) a member of a Department of Defense audit, inspection, investigation, or law enforcement organization; or
 - (iv) any other person or organization (including any person or organization in the chain of command) designated pursuant to regulations or other established administrative procedures for such communications.

- (2) Any action prohibited by paragraph (1) (including the threat to take any action and the withholding or threat to withhold any favorable action) shall be considered for the purposes of this section to be a personnel action prohibited by this subsection.

(c) Inspector General Investigation of Allegations of Prohibited Personnel Actions.—

- (1) If a member of the armed forces submits to an Inspector General an allegation that a personnel action prohibited by subsection (b) has been taken (or threatened) against the member with respect to a communication described in paragraph (2), the Inspector General shall take the action required under paragraph (3).
- (2) A communication described in this paragraph is a communication

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in which a member of the armed forces complains of, or discloses information that the member reasonably believes constitutes evidence of, any of the following:

(A) A violation of law or regulation, including a law or regulation prohibiting sexual harassment or unlawful discrimination.

(B) Gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

(3)

(A) An Inspector General receiving an allegation as described in paragraph (1) shall expeditiously determine, in accordance with regulations prescribed under subsection (h), whether there is sufficient evidence to warrant an investigation of the allegation.

(B) If the Inspector General receiving such an allegation is an Inspector General within a military department, that Inspector General shall promptly notify the Inspector General of the Department of Defense of the allegation. Such notification shall be made in accordance with regulations prescribed under subsection (h).

(C) If an allegation under paragraph (1) is submitted to an Inspector General within a military department and if the determination of that Inspector General under subparagraph (A) is that there is not sufficient evidence to warrant an investigation of the allegation, that Inspector General shall forward the matter to the Inspector General of the Department of Defense for review.

(D) Upon determining that an investigation of an allegation under paragraph (1) is warranted, the Inspector General making the determination shall expeditiously investigate the allegation. In the case of a determination made by the Inspector General of the Department of Defense, that Inspector General may delegate responsibility for the investigation to an appropriate Inspector General within a military department.

(E) In the case of an investigation under subparagraph (D) within the Department of Defense, the results of the investigation shall be determined by, or approved by, the Inspector General of the Department of Defense (regardless of whether the investigation itself is conducted by the Inspector General of the Department of Defense or by an Inspector General within a military department).

(4) Neither an initial determination under paragraph (3)(A) nor an investigation under paragraph (3)(D) is required in the case of an allegation made more than 60 days after the date on which the member becomes aware of the personnel action that is the subject of the allegation. (5) The Inspector General of the Department of Defense, or the Inspector General of the Department of Homeland Security (in the case of a member of the Coast Guard when the Coast Guard is not operating as a service in the Navy), shall ensure that the Inspector General conducting the investigation of an allegation under this subsection is outside the immediate chain of command of both the member submitting the allegation and the individual or individuals alleged to have taken the retaliatory action.

(d) Inspector General Investigation of Underlying Allegations.—

Upon receiving an allegation under subsection (c), the Inspector General

receiving the allegation shall conduct a separate investigation of the information that the member making the allegation believes constitutes evidence of wrongdoing (as described in subparagraph (A) or (B) of subsection (c)(2)) if there previously has not been such an investigation or if the Inspector General determines that the original investigation was biased or otherwise inadequate. In the case of an allegation received by the Inspector General of the Department of Defense, the Inspector General may delegate that responsibility to the Inspector General of the armed force concerned.

(e) Reports on Investigations.—

(1) After completion of an investigation under subsection (c) or (d) or, in the case of an investigation under subsection (c) by an Inspector General within a military department, after approval of the report of that investigation under subsection (c)(3)(E), the Inspector General conducting the investigation shall submit a report on the results of the investigation to the Secretary of Defense (or to the Secretary of Homeland Security in the case of a member of the Coast Guard when the Coast Guard is not operating as a service in the Navy) and shall transmit a copy of the report on the results of the investigation to the member of the armed forces who made the allegation investigated. The report shall be transmitted to the Secretary, and the copy of the report shall be transmitted to the member, not later than 30 days after the completion of the investigation or, in the case of an investigation under subsection (c) by an Inspector General within a military department, after approval of the report of that investigation under subsection (c)(3)(E).

(2) In the copy of the report transmitted to the member, the Inspector General shall ensure the maximum disclosure of information possible, with the exception of information that is not required to be disclosed under section 552 of title 5. However, the copy need not include summaries of interviews conducted, nor any document acquired, during the course of the investigation. Such items shall be transmitted to the member, if the member requests the items, with the copy of the report or after the transmittal to the member of the copy of the report, regardless of whether the request for those items is made before or after the copy of the report is transmitted to the member.

(3) If, in the course of an investigation of an allegation under this section, the Inspector General determines that it is not possible to submit the report required by paragraph (1) within 180 days after the date of receipt of the allegation being investigated, the Inspector General shall provide to the Secretary of Defense (or to the Secretary of Homeland Security in the case of a member of the Coast Guard when the Coast Guard is not operating as a service in the Navy) and to the member making the allegation a notice—

(A) of that determination (including the reasons why the report may not be submitted within that time); and

(B) of the time when the report will be submitted.

(4) The report on the results of the investigation shall contain a thorough review of the facts and circumstances relevant to the allegation and the complaint or disclosure and shall include documents acquired during the course of the investigation, including summaries of interviews conducted. The report may include a recommendation as to the disposition of the complaint.

(f) Correction of Records When Prohibited Action Taken.—

(1) A board for the correction of military records acting under section 1552 of this title, in resolving an application for the correction of

records made by a member or former member of the armed forces who has alleged a personnel action prohibited by subsection (b), on the request of the member or former member or otherwise, may review the matter.

(2) In resolving an application described in paragraph (1), a correction board—

(A) shall review the report of the Inspector General submitted under subsection (e)(1);

(B) may request the Inspector General to gather further evidence; and

(C) may receive oral argument, examine and cross-examine witnesses, take depositions, and, if appropriate, conduct an evidentiary hearing.

(3) If the board elects to hold an administrative hearing, the member or former member who filed the application described in paragraph (1)—

(A) may be provided with representation by a judge advocate if—

(i) the Inspector General, in the report under subsection (e)(1), finds that there is probable cause to believe that a personnel action prohibited by subsection (b) has been taken (or threatened) against the member with respect to a communication described in subsection (c)(2);

(ii) the Judge Advocate General concerned determines that the case is unusually complex or otherwise requires judge advocate assistance to ensure proper presentation of the legal issues in the case; and

(iii) the member is not represented by outside counsel chosen by the member; and

(B) may examine witnesses through deposition, serve interrogatories, and request the production of evidence, including evidence contained in the investigatory record of the Inspector General but not included in the report submitted under subsection (e)(1).

(4) The Secretary concerned shall issue a final decision with respect to an application described in paragraph (1) within 180 days after the application is filed. If the Secretary fails to issue such a final decision within that time, the member or former member shall be deemed to have exhausted the member's or former member's administrative remedies under section 1552 of this title.

(5) The Secretary concerned shall order such action, consistent with the limitations contained in sections 1552 and 1553 of this title, as is necessary to correct the record of a personnel action prohibited by subsection (b).

(6) If the Board determines that a personnel action prohibited by subsection (b) has occurred, the Board may recommend to the Secretary concerned that the Secretary take appropriate disciplinary action against the individual who committed such personnel action.

(g) Review by Secretary of Defense.— Upon the completion of all administrative review under subsection (f), the member or former member of the armed forces (except for a member or former member of the Coast

Guard when the Coast Guard is not operating as a service in the Navy) who made the allegation referred to in subsection (c)(1), if not satisfied with the disposition of the matter, may submit the matter to the Secretary of Defense. The Secretary shall make a decision to reverse or uphold the decision of the Secretary of the military department concerned in the matter within 90 days after receipt of such a submittal.

(h) Regulations.— The Secretary of Defense, and the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, shall prescribe regulations to carry out this section.

(i) Definitions.— In this section:

- (1)** The term “Member of Congress” includes any Delegate or Resident Commissioner to Congress.
- (2)** The term “Inspector General” means any of the following:
 - (A)** The Inspector General of the Department of Defense.
 - (B)** The Inspector General of the Department of Homeland Security, in the case of a member of the Coast Guard when the Coast Guard is not operating as a service in the Navy.
 - (C)** Any officer of the armed forces or employee of the Department of Defense who is assigned or detailed to serve as an Inspector General at any level in the Department of Defense.
- (3)** The term “unlawful discrimination” means discrimination on the basis of race, color, religion, sex, or national origin.

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GAO has played a long-standing role in the BRAC process. As requested by congressional committees (1988 BRAC round) or mandated by law since 1990, we have served as an independent and objective observer of the BRAC process and have assessed and reported on DOD's decision-making processes leading up to proposed realignment and closure recommendations in each of the four prior rounds. To make informed and timely assessments, we have consistently operated in a real-time setting since the 1991 BRAC round and have had access to portions of the process as it has evolved, thus affording the department an opportunity to address any concerns we raised on a timely basis. We have been observing the 2005 BRAC process since DOD's initial work began on the 2005 round. Because of our ongoing monitoring of DOD's BRAC 2005 process, and some access to the internal workings of that process, any comments by me today regarding specifics of the 2005 round must of necessity be somewhat limited because of nondisclosure requirements that remain in place until DOD releases its list of recommended closures and realignments later this month.

Very interesting question. The BRAC process is designed to eliminate politics -- as much as possible. The Pentagon has forced all employees involved in the BRAC process to sign nondisclosure forms so their deliberations are kept secret and Congress and lobbyists don't get too involved. The nine-member, BRAC panel that will make final recommendations to Congress and President Bush has both Democrats and Republicans on it. Nonetheless, politics always seeps into BRAC. In past rounds, Sen. Sam Nunn, a Georgia Democrat, headed the Senate Armed Services Committee and his state did not lose a base, whereas five bases were closed in the district of former Rep. Ronald Dellums, an outspoken Pentagon critic. David Sorenson, an Air War College professor who has written extensively on BRAC believes, "People critical of the Defense Department tend to lose bases." I agree.

July 26, 2005

INFORMATION MEMORANDUM

TO: BRAC Commissioners

SUBJECT: Weighting Evidence in Preparation for Final Deliberations of the BRAC Commission

FROM: Office of the General Counsel

This information memorandum provides guidance on weighting the various types of evidence that has been submitted to the 2005 Defense Base Closure and Realignment (BRAC) Commission. In light of the upcoming final deliberations to be undertaken by the Commissioners in making the Commission's recommendations to the President on the BRAC closure and realignment process, a quick summary overview of the types of evidence provided to the Commission, and the weight that should be accorded thereto is discussed below. This memorandum provides a suggested approach to weighing the evidence, but does not purport to be binding instructions to the Commissioners. Questions regarding the guidance contained in this information memorandum may be brought to the attention of the General Counsel, David C. Hague.

The following categories of evidentiary submissions (both testimonial and documentary) will be considered:

- Certified data submitted by the Department of Defense;
- Sworn to testimony and documentary submissions at regional hearings before the BRAC Commission;
- Submissions by federal, state and municipal officials and authorities;
- Submissions by the general public, both individuals and organizations.

CATEGORY A: CERTIFIED DATA PROVIDED BY THE DEPARTMENT OF DEFENSE (DOD)

Section 2903(c)(5)(A) of the Defense Base Closure and Realignment Act of 1990 (Public Law 101-510), as amended by FY 2002 Department of Defense Authorization Act (Public Law 107-107) (the "BRAC statute), provides that each person:

when submitting information to the Secretary of Defense or the [BRAC] Commission concerning that the closure or realignment of a military installation, shall certify that such information is accurate and complete to the best of that person['s] knowledge and belief.

Those “persons” include: (i) the Secretaries of the military departments; (ii) the heads of the defense agencies; and (iii) each person who is in a position whose duties include personal and substantial involvement in the preparation and submission of information and recommendations concerning the closure or realignment of military installations.” (See Section 2903(c)(5)(B)) of the BRAC statute.

Accordingly, DOD personnel have provided certified data to the Secretary in support of making recommendations for closures and realignments. Based on this certified data, the Secretary has made his final recommendations to the Commission. Moreover, pursuant to Section 2912(b) of the BRAC statute, the Secretary has also certified that there is a need for the closure and realignment of military installations, and has additionally certified that such closures and realignment will result in annual net savings for each of the military departments beginning no later than fiscal year 2011.

Further, DOD personnel (in the categories described above) have a duty to provide the Commission with certified data, and in response to questions submitted to the BRAC clearinghouse, this certified data has been provided in compliance with the above-described statutory requirement.

CATEGORY B: SWORN TO TESTIMONY AND DOCUMENTARY SUBMISSIONS

Section 2903 (d)(1) of the BRAC statute provides that after receiving the Secretary’s recommendations for closures and realignments of U.S. military installations, the Commission shall hold public hearings. Further, this statutory provision directs that “[a]ll testimony before the Commission at a public hearing . . . shall be presented under oath.”

The oath administered by the Designated Federal Officer (i.e., a member of the BRAC’s Office of the General Counsel) states as follows:

Do you swear or affirm that the testimony you are about to give, and any evidence that you may provide, are complete and accurate to the best of your knowledge and belief, so help you God?

Thus, this statutory language parallels the certification requirement set forth in Section 2903 of the BRAC statute. Moreover, the oath covers not only the sworn to testimony of the witnesses appearing before the Commission but also the documentary evidence (e.g., PowerPoint presentations, hand-outs, memoranda) that may be submitted to the Commission during the course of a regional hearing by a witness. Thus, Categories A and B are equivalent in terms of the credibility and weight that should be accorded to them as a matter of law.

As an additional note in terms of weighing the credibility of the witnesses, each individual Commissioner must determine for him or herself the believability of each witness. In evaluating this matter, each Commissioner must consider each witness’s

sincerity, truthfulness, persuasiveness, knowledgeableness on the subject-matter presented, and whether the witness is supported or contradicted by other evidence. The possibility of bias in terms of how the witness may be impacted by the decision-making of the BRAC Commission may also (but not necessarily) factor into the process of according the appropriate weight to such a witness's testimony and presentation of documentary evidence, if relevant. In making this determination, it is important to remain as objective and impartial as possible, realizing that each Commissioner is also moved by his or her own life and professional experiences, biases and judgments.

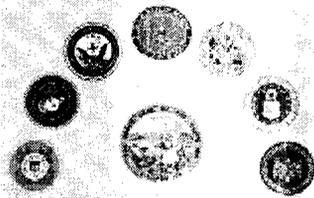
CATEGORY C: SUBMISSIONS OF DOCUMENTARY EVIDENCE BY PUBLIC OFFICIALS

The BRAC Commission has also been in close contact with any number of elected and non-elected federal, state and municipal officials. Where such officials have been corresponding or otherwise communicating in person or by telephone to the Commission without formally testifying before the Commission, such communications should also be given some weight, particularly where letters or documentary evidence are being communicated to the Commission expressing a particular point of view. Commissioners may come in contact, for example, with a number of such officials during the course of hearings, base site visits, meetings, receptions or other informal discussions.

Since the nature of these communications are not sworn to or otherwise certified as truthful and accurate, less weight need be accorded to them. Nevertheless, there may be circumstances in which a particular Commissioner may feel that a certain non-certified communication is ^{particularly} profoundly influential or persuasive. This is a matter of, again, weighing the credibility and believability of such a person, and the context of that communication which necessarily includes the nature of the Commissioner's relationship with that person. However, as a matter of law, the weight to be accorded such communications is lesser than for Categories A and B.

CATEGORY D: COMMUNICATIONS FROM THE GENERAL PUBLIC

Finally, the Commission has received literally millions of pieces of correspondence from individuals, civic and community organizations, veterans groups, schools and numerous other types of organizations. These communications (whether posted directly on-line through the BRAC public website) or in letters are *not* sworn to statements. Thus, such statements, representations and submission of documentary evidence (unless notarized in some form) should be accorded less weight as a matter of law since the authenticity of such statements have not been certified as such. However, the same caveat mentioned above may apply here where an individual Commissioner may feel that a certain public submission has great persuasive value. This is a judgment call, and each Commissioner has been vested with the public trust and authority to make such a determination.



OFFICE OF MILITARY AND AEROSPACE SUPPORT

Base Realignment

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BRAC Public Affairs Guidance (PAG)

From: SECDEF (Washington DC//PA-P)

Date: 01 Aug 2005

SUBJ: Public Affairs Guidance (PAG) - Transformation through Base Realignment And Closure (BRAC)

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- **REFERENCES:** Ref. A: SECDEF MSG, DTG: 161700Z FEB 03, SUBJ: Public Affairs Guidance (Transformation through Base Realignment And Closure (BRAC 2005)) Ref. B: P.L. 101-510, as amended by the Department of Defense (SECDEF) Transformation through BRAC, 15 Nov 02. Ref. A, B, C, D, E, F, G, H, I, J, K, L, M, N, O, P, Q, R, S, T, U, V, W, X, Y, Z, AA, AB, AC, AD, AE, AF, AG, AH, AI, AJ, AK, AL, AM, AN, AO, AP, AQ, AR, AS, AT, AU, AV, AW, AX, AY, AZ, BA, BB, BC, BD, BE, BF, BG, BH, BI, BJ, BK, BL, BM, BN, BO, BP, BQ, BR, BS, BT, BU, BV, BW, BX, BY, BZ, CA, CB, CC, CD, CE, CF, CG, CH, CI, CJ, CK, CL, CM, CN, CO, CP, CQ, CR, CS, CT, CU, CV, CW, CX, CY, CZ, DA, DB, DC, DD, DE, DF, DG, DH, DI, DJ, DK, DL, DM, DN, DO, DP, DQ, DR, DS, DT, DU, DV, DW, DX, DY, DZ, EA, EB, EC, ED, EE, EF, EG, EH, EI, EJ, EK, EL, EM, EN, EO, EP, EQ, ER, ES, ET, EU, EV, EW, EX, EY, EZ, FA, FB, FC, FD, FE, FF, FG, FH, FI, FJ, FK, FL, FM, FN, FO, FP, FQ, FR, FS, FT, FU, FV, FW, FX, FY, FZ, GA, GB, GC, GD, GE, GF, GG, GH, GI, GJ, GK, GL, GM, GN, GO, GP, GQ, GR, GS, GT, GU, GV, GW, GX, GY, GZ, HA, HB, HC, HD, HE, HF, HG, HH, HI, HJ, HK, HL, HM, HN, HO, HP, HQ, HR, HS, HT, HU, HV, HW, HX, HY, HZ, IA, IB, IC, ID, IE, IF, IG, IH, II, IJ, IK, IL, IM, IN, IO, IP, IQ, IR, IS, IT, IU, IV, IW, IX, IY, IZ, JA, JB, JC, JD, JE, JF, JG, JH, JI, JJ, JK, JL, JM, JN, JO, JP, JQ, JR, JS, JT, JU, JV, JW, JX, JY, JZ, KA, KB, KC, KD, KE, KF, KG, KH, KI, KJ, KK, KL, KM, KN, KO, KP, KQ, KR, KS, KT, KU, KV, KW, KX, KY, KZ, LA, LB, LC, LD, LE, LF, LG, LH, LI, LJ, LK, LL, LM, LN, LO, LP, LQ, LR, LS, LT, LU, LV, LW, LX, LY, LZ, MA, MB, MC, MD, ME, MF, MG, MH, MI, MJ, MK, ML, MM, MN, MO, MP, MQ, MR, MS, MT, MU, MV, MW, MX, MY, MZ, NA, NB, NC, ND, NE, NF, NG, NH, NI, NJ, NK, NL, NM, NN, NO, NP, NQ, NR, NS, NT, NU, NV, NW, NX, NY, NZ, OA, OB, OC, OD, OE, OF, OG, OH, OI, OJ, OK, OL, OM, ON, OO, OP, OQ, OR, OS, OT, OU, OV, OW, OX, OY, OZ, PA, PB, PC, PD, PE, PF, PG, PH, PI, PJ, PK, PL, PM, PN, PO, PP, PQ, PR, PS, PT, PU, PV, PW, PX, PY, PZ, QA, QB, QC, QD, QE, QF, QG, QH, QI, QJ, QK, QL, QM, QN, QO, QP, QQ, QR, QS, QT, QU, QV, QW, QX, QY, QZ, RA, RB, RC, RD, RE, RF, RG, RH, RI, RJ, RK, RL, RM, RN, RO, RP, RQ, RR, RS, RT, RU, RV, RW, RX, RY, RZ, SA, SB, SC, SD, SE, SF, SG, SH, SI, SJ, SK, SL, SM, SN, SO, SP, SQ, SR, SS, ST, SU, SV, SW, SX, SY, SZ, TA, TB, TC, TD, TE, TF, TG, TH, TI, TJ, TK, TL, TM, TN, TO, TP, TQ, TR, TS, TT, TU, TV, TW, TX, TY, TZ, UA, UB, UC, UD, UE, UF, UG, UH, UI, UJ, UK, UL, UM, UN, UO, UP, UQ, UR, US, UT, UU, UV, UW, UX, UY, UZ, VA, VB, VC, VD, VE, VF, VG, VH, VI, VJ, VK, VL, VM, VN, VO, VP, VQ, VR, VS, VT, VU, VV, VW, VX, VY, VZ, WA, WB, WC, WD, WE, WF, WG, WH, WI, WJ, WK, WL, WM, WN, WO, WP, WQ, WR, WS, WT, WU, WV, WW, WX, WY, WZ, XA, XB, XC, XD, XE, XF, XG, XH, XI, XJ, XK, XL, XM, XN, XO, XP, XQ, XR, XS, XT, XU, XV, XW, XX, XY, XZ, YA, YB, YC, YD, YE, YF, YG, YH, YI, YJ, YK, YL, YM, YN, YO, YP, YQ, YR, YS, YT, YU, YV, YW, YX, YY, YZ, ZA, ZB, ZC, ZD, ZE, ZF, ZG, ZH, ZI, ZJ, ZK, ZL, ZM, ZN, ZO, ZP, ZQ, ZR, ZS, ZT, ZU, ZV, ZW, ZX, ZY, ZZ.

- **PURPOSE:** This message provides the details of the BRAC 2005 and supersedes Ref A.

- **BACKGROUND:** The National Defense Authorization Act for Fiscal Year 2002 authorized DoD to BRAC 2005. SECDEF's 15 Nov 02 action initiated the complex analysis and decision process involving all levels of DoD management, from installation through major command and corporate agency headquarters to OSD. All issues will be considered and treated equally. All bases will respond to a comprehensive series of public calls. Ultimately, the SECDEF's realignment recommendations will be reviewed publicly by an independent commission, the President and C

DoD because of the potential impact upon local communities and local economies, BRAC is a process involving all stakeholders. At the same time, the authority, responsibility and decision-making authority of DoD. To provide SECDEF, the commission and the President with the optimal recommendations, the analytical work and subsequent deliberations must occur free from organizational bias based on non-certified data and speculation. Accordingly, DoD personnel may not participate in organizations in which they are not directly involved that has as its purpose, either directly or indirectly, to oppose from realignment or closure. DoD personnel are prohibited from participating in such organizations unless they have received appropriate ethical counseling.

- **PUBLIC AFFAIRS POSTURE:** Active Base Realignment And Closures are contentious and complex matters and their public affairs officers must be prepared to respond to questions and objections and communicate the details of the BRAC process to the public.
- **NO COMMENT OR PUBLIC RELEASE:** (DOD 5160.07) The Department of Defense has received Congressional and public criticism for Base Realignment And Closures in 2005. BRAC is a means to achieve a more efficient, modern infrastructure; reduce the military's footprint; optimize military readiness; and support the Department of Defense's mission.

BRAC 2005 is a means to achieve a more efficient, modern infrastructure, the operation, sustainment and modernization of BRAC, which diverts scarce resources from defense capability. However, BRAC 2005 is a means to achieve a more efficient, modern infrastructure by rationalizing our infrastructure strategy. BRAC 2005 should be the means by which we reconfigure our current infrastructure in order to capacity maximize both our fighting capability and efficiency. By creating joint organizations we will facilitate modernization, reduce waste, save money, and free up resources to modernize equipment and infrastructure, and develop the capabilities needed

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