Guantanamo Detention:

Transfer / Release Progress

November 29, 2006

Detainee PCC

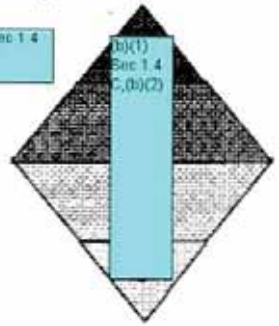
~~SECRET//NOFORN~~

JS AMNESTY/CCR 1083

Status of Transfers from GTMO

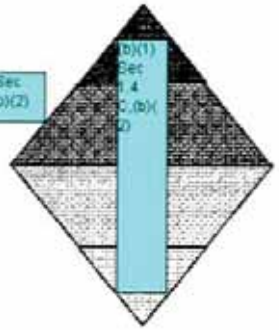
- There are currently **430** detainees at Guantanamo.
  - We have transferred or released **77** detainees in the past nine months.
- Largest populations: (and assessed threat/intelligence value)

Yemeni - (b)(1) Sec 1.4 A,(b)(2)



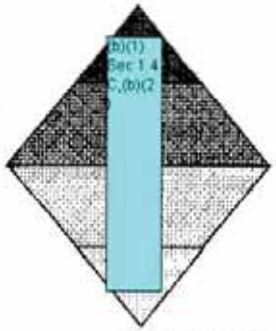
89+ 16 for transfer

Saudi - (b)(1) Sec 1.4 A,(b)(2)



80 + 18 for transfer

Afghani - (b)(1) Sec 1.4 A,(b)(2)



47 + 28 for transfer

Future Transfers

- (b)(1),(b)(5)
-

(b)(1),(b)(5)

Obstacles to Future Transfers

- (b)(1),(b)(5)
-
-

Elements of Afghan Detainee Transfer Plan

- Status:
- ✓ Transfers from GTMO to GOA (Reconciliation Program)
  - 21 transferred since August 06; (b)(1)
  -
- ✓ (b)(1)
- ✓
- ➢

Legal Framework Options

- (b)(1),(b)(5)
-
-

(b)(1)

Visit to GTMO

- (b)(1)
-
-

Back-Up Slides

(b)(1), (b)(5)

(b)(1),(b)(5)

(b)(1),(b)(5)

Iraq Policy Update
J2/3/5 Update

J5

31 March 03

Classified by: RADM Jewett
Declassify on: 24 Mar 2013

Agenda

- **Coalition Update**
- **UNSCRs**
- **Policy on Prisons & Prisoners**
- **Office of Reconstruction and Humanitarian Assistance (ORHA) C^2**
- **Iraqi Interim Authority (IIA)**

Current Coalition Status

(b)(1)

~~SECRET~~

Phase IV Coalition Offers

As of: 28 Mar 03

Significant Contributions (battalion equivalent or larger)

(b)(1)

Status of UNSCRs

- **Additional UNSCRS required to help flow HA, end sanctions, provide framework for post-war support**
- **USG focused on UNSCRs in two areas:**
  - (b)(5)
  -

Policy Guidance

Background:

- **U.S. / Coalition forces will assume interim administration of Iraqi prisons. (IAW the Law of Occupation)**
- **Over 600 prisons:**

(b)(1),(b)(5)

Policy Guidance

Specific Guidance

(b)(1),(b)(5)

-
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-
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-
-

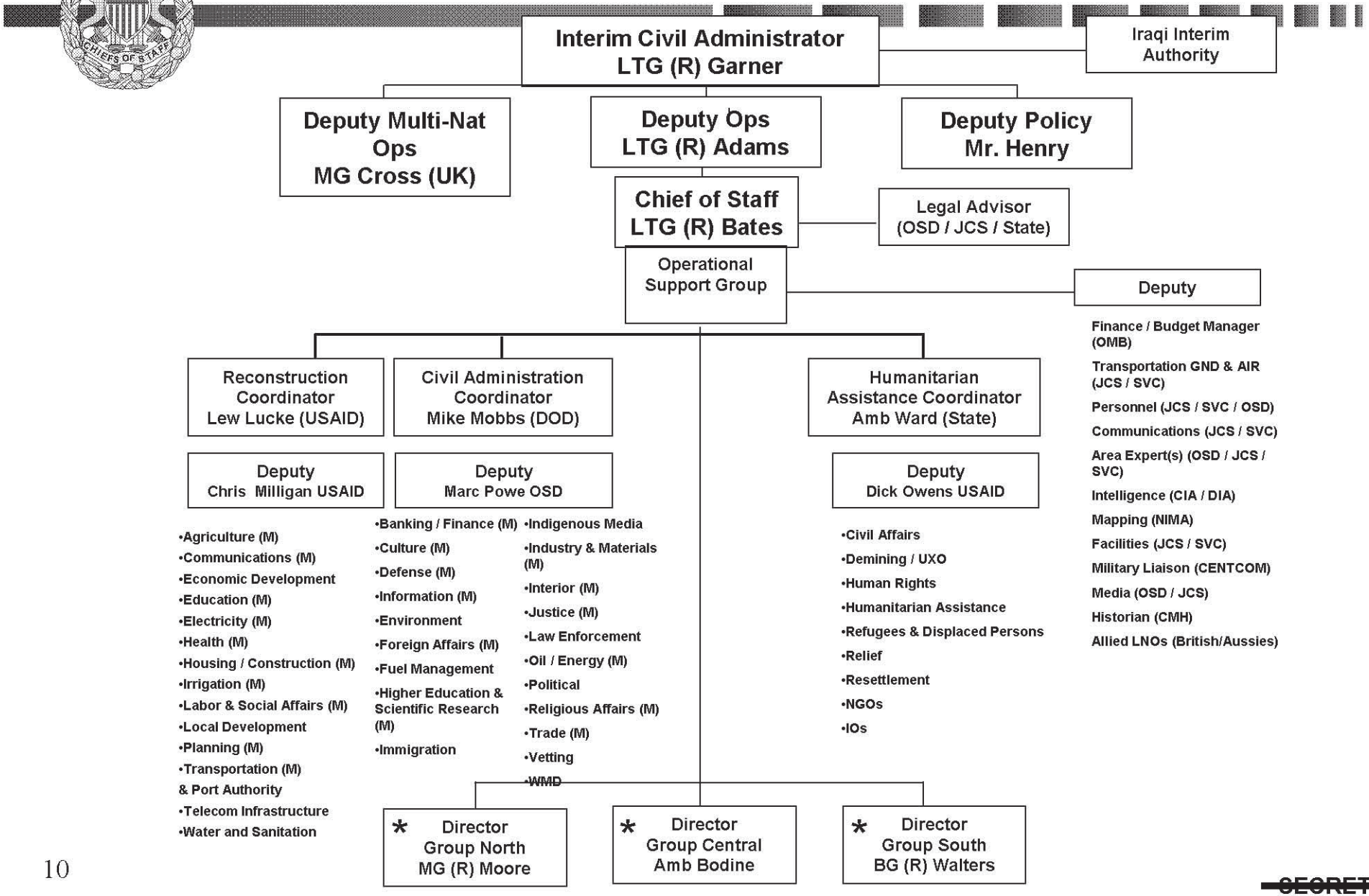
Iraq Survey Group

- (b)(1)

Office of Reconstruction and Humanitarian Assistance

(b)(1)

ORHA Organization



Iraqi Interim Authority

- **Iraqi Interim Authority (IIA) will have two main functions**
  - **To devise the means by which the new Iraqi government will come into being**
  - **To have responsibility over those government functions (such as ministries) that the Coalition Provisional Authority will turn over on a case-by-case basis**
- (b)(5)

Mandate

- **The 35-member Leadership Council will be charged with:**
  - **Establishing a Constitutional Convention**
  - **Establishing a Judicial Commission in coordination with the Coalition**
  - **Issuing an interim Bill of Rights**
  - **Conducting a census**
  - **Organizing municipal, provincial, and national elections**
  - **Assuming responsibility for any government function (I.e. running of selected ministries) as identified by the Coalition**

GTMO BIRD HVD's ALLOWED LAWYERS GITMO DETAINEE RELEASED

From: (b)(6) DoD OGC
Sent: Friday, September 28, 2007 4:00 PM
To: (b)(6)
(b)(2),(b)(6)

(b)(2),(b)(6) [redacted]

Subject: GTMO BIRD: HVD's ALLOWED LAWYERS; GITMO DETAINEE RELEASED; CCR FILES VISIT REQUEST FOR KHAN; LAWYERS DENIED ACCESS TO DETAINEES; O'CONNOR COMMENTS ON TERROR TRIALS; DETAINEE ART; LCDR SWIFT & HAMDAN; YEE SPEECH

>All
>
>Today's GTMO bird.
>
>(b)(6) [redacted]
>Paralegal, GySgt, USMC (Ret.)
>Department of Defense
>Office of the General Counsel (Legal Counsel)
>1099 14th Street, NW (Franklin Court)
>Suite 5000w
>Washington, DC
>Comm: (b)(2),(b)(6) [redacted]
>NIPR: [redacted]
>
>CAUTION: Information contained in this message may be protected by the attorney/client, attorney work product, deliberative process or other privileges. Do not disseminate further without approval from the Office of the DoD General Counsel.
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>**********
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U.S. to Allow Key Detainees to Request Lawyers
14 Terrorism Suspects Given Legal Forms at Guantanamo By Josh White and Joby Warrick Washington Post Staff Writers Friday, September 28, 2007; A01 Fourteen "high-value" terrorism suspects who were transferred to Guantanamo Bay, Cuba <http://www.washingtonpost.com/ac2/related/topic/Guantanamo+Bay?tid=informline> , from secret CIA <http://www.washingtonpost.com/ac2/related/topic/Central+Intelligence+Agency?tid=inf

ormline> prisons last year have been formally offered the right to request lawyers, a move that could allow them to join other detainees in challenging their status as enemy combatants in a U.S. appellate court.
The move, confirmed by Defense Department <http://www.washingtonpost.com/ac2/related/topic/U.S.+Department+of+Defense?tid=informline> officials, will allow the suspects their first contact with anyone other than their captors and representatives of the International Committee of the Red Cross <http://www.washingtonpost.com/ac2/related/topic/International+Federation+of+Red+Cross+and+Red+Crescent+Societies?tid=informline> since they were taken into custody.
The prisoners, who include Khalid Sheikh Mohammed <http://www.washingtonpost.com/ac2/related/topic/Khalid+Shaikh+Mohammed?tid=informline> , the alleged mastermind of the Sept. 11, 2001, attacks, have not had access to lawyers during their year at Guantanamo Bay or while they were held, for varying lengths of time, at the secret CIA sites abroad. They were entitled to military "personal representatives" to assist them during the administrative process that determined whether they are enemy combatants.
U.S. officials have argued in court papers against granting lawyers access to the high-value detainees without special security rules, fearing that attorney-client conversations could reveal classified elements of the CIA's secret detention program and its controversial interrogation tactics.
Defense officials gave the detainees "Legal Representation Request" forms during the last week of August and the first week of September, and sources familiar with the process said at least four detainees have requested attorneys.
The form, referring to the Combatant Status Review Tribunal, allows the detainees to say whether they "wish to have a civilian lawyer represent me and assist me with filing a petition to challenge the CSRT determination that I am an Enemy Combatant."
The Detainee Treatment Act, enacted in late 2005, gives Guantanamo Bay captives the right to challenge their enemy-combatant designations in the U.S. Court of Appeals <http://www.washingtonpost.com/ac2/related/topic/U.S.+Court+of+Appeals?tid=informline> for the District of Columbia Circuit.
The form distributed to the high-value suspects also allows them to request that the American Bar Association <http://www.washingtonpost.com/ac2/related/topic/American+Bar+Association?tid=informline> "find a lawyer who will represent my best interests, without charge."
William H. Neukom, the association's president, criticized the use of the organization's name on the form, telling government lawyers yesterday that his organization does not want to "lend support and credibility to such an inadequate review scheme."
A Pentagon spokesman said this week that the detainees, like all others at Guantanamo, are provided information on how to request counsel.
"These counsel will be permitted to visit the detainee and engage in confidential written communications with the detainee once the counsel has obtained the necessary security clearance" and agrees to certain special court rules, said Navy Cmdr. J.D. Gordon. One Pentagon official warned that those lawyers will have to undergo especially thorough background checks before they are allowed to see the high-value captives.
Defense and intelligence officials said the decision to allow legal representation does not represent a shift in policy.
"It was the intent and the plan all along that they would have a right to counsel," said a senior intelligence official, who insisted on anonymity because many details of the detention program remain classified. The official said the concerns about protecting sensitive government information apply equally to the 14 men and the approximately 325 other detainees at Guantanamo Bay.
"The goal here is to have the trials open and public to the greatest extent consistent with protecting classified information," the official said.
But lawyers and advocacy groups pressing for legal rights for the detainees contend that there has been a change in tone since last fall, when Justice Department <http://www.washingtonpost.com/ac2/related/topic/U.S.+Department+of+Justice?tid=informline> lawyers argued that the detainees might reveal details about their captivity that may "reasonably be expected to cause extremely grave damage" to national security, according to an Oct. 26 court filing.
One of the 14 special detainees, Majid Khan, 27, who went to high school in the

Baltimore <http://www.washingtonpost.com/ac2/related/topic/Baltimore?tid=informline> area, filled out his form on Sept. 5. He signed the document and added a short handwritten note at the bottom of the page. That note and the fact that the U.S. military
<http://www.washingtonpost.com/ac2/related/topic/U.S.+Armed+Forces?tid=informline> had him sign the document have riled defense lawyers who have been attempting to represent Khan for more than a year at the request of his family but who have been denied access to him.
In the note, Khan said that he believes he already has an attorney at the Center for Constitutional Rights but that he has never received any official correspondence from that lawyer. The lawyer, Gitanjali Gutierrez, said yesterday that she has written Khan letters over the past year that clearly did not reach him.
"Please send me a lawyer or representative who can brief me with my options," Khan wrote, according to a copy of the form provided to The Washington Post
<http://www.washingtonpost.com/ac2/related/topic/The+Washington+Post+Company?tid=informline> by the Center for Constitutional Rights. "Also please, if you can send me basic introduction criminal law books with all law terms, etc. Also I would like to know what has media said about me and full copy of tribunal CSRT about me, which was available on the Internet. (Thanks in advance)."
The government alleges that Khan took orders from Mohammed, and was asked to research how to poison U.S. reservoirs and how to blow up U.S. gas stations.
Gutierrez said she thinks the effort to connect detainees with lawyers is the Defense Department "trying to put some gloss on the idea that this review process is legitimate and the high-value detainees are being given access to the courts."
"Now it's their opportunity to turn it from a gloss to a reality," Gutierrez said. "But we'll see if they come through."
Staff researcher Julie Tate contributed to this report.
http://www.washingtonpost.com/wp-dyn/content/article/2007/09/27/AR2007092702458.html?hpid=topnews

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Gitmo prisoner released
2 Denver lawyers work to free man held for six years

By Sue Lindsay, Rocky Mountain News
September 28, 2007

Two Denver lawyers have won the release of a man held prisoner at Guantanamo Bay for six years.
"We are overjoyed for our client," attorney John Holland said. "We're relieved for the resolution of this particular injustice, but the problem continues for many other prisoners who are likewise held unjustly and denied all fundamental rights known to the Western world.
"There are many thousands of people who remain completely voiceless in secret prisons. We don't even know their names."
Holland and his daughter, Anna Cayton-Holland, represent the man, who is from the African country of Mauritania, and three other Guantanamo prisoners. Hundreds of other prisoners are represented by teams of volunteer lawyers from throughout the U.S.
Mohamed Al Amin was 17 when he was arrested in Pakistan in 2002. He had been been held since then at Guantanamo, without being charged.
Al Amin was returned to Mauritania on Wednesday and was jailed, awaiting release there, Holland said.
U.S. authorities determined that he was "eligible for release" earlier this year, Holland said, "but he is just now getting out."
"Approximately 90 other people have been determined eligible for release but many still have not been released," he said.
Cayton-Holland said that Al Amin was studying the Quran in Pakistan when he was "sold into custody" by bounty hunters.
"Being a foreign citizen living in Pakistan made him an easy mark," she said. "There has never been any evidence put forward that he was a terrorist."

Holland and Cayton-Holland traveled to Mauritania in January to encourage newly elected President Sidi Ould Cheikh Abdellahi to lobby for Al Amin's release.
"I feel an overwhelming sense of relief," Holland said. "You stay up at night thinking about people like this. You feel terrible because you're impotent - you can't get a hearing."
He said that Guantanamo prisoners are detained for years without a hearing or charges being filed.
http://www.rockymountainnews.com/drmn/local/article/0,1299,DRMN_15_5709320,00.html

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FORMER GHOST DETAINEE AT GUANTÁNAMO TO RECEIVE LAWYERS CCR FILES VISIT REQUEST TO SEE CLIENT MAJID KHAN IN EARLY OCTOBER Synopsis On September 28, 2007, attorneys with the Center for Constitutional Rights (CCR) filed a visit request with the Defense Department to see their client, Majid Khan, who was transferred one year ago from secret CIA detention to Guantánamo.
Two attorneys from the Center received Top Secret SCI clearance this week, higher than many members of the military who conducted the detainees' Combatant Status Review Tribunals (CSRT's), and expect to finally meet their client after a year of fighting for access. The request was made for visits either the week of October 8 or the week of November 5.
Said CCR attorney Wells Dixon, "We are glad the government finally agrees that Majid is entitled to immediate access to his counsel, and we fully expect they will approve our pending visit request and allow us access to him in Guantánamo within a few weeks."
Majid Khan wrote by hand at the bottom of a form offering to have the American Bar Association help him retain counsel, "I think I already have a lawyer at CCR, but I never received any official letters from my lawyers (Gitanjali S. Gutierrez)… Please send me a lawyer or representative who can brief me with my options. Also please, if you can send me basic introduction criminal law books with all law terms, etc. Also I would like to know what has media said about me and full copy of tribunal CSRT about me, which was available on the Internet. (Thanks in advance)."
Said Shayana Kadidal, Managing Attorney of the Center for Constitutional Rights Guantánamo Global Justice Initiative, "What is disturbing about the form given to the detainees is the way the government is trying to make a fundamentally flawed process look legitimate by invoking the name of the American Bar Association. The Detainee Treatment Act review is so limited it doesn't even come close to a substitute for habeas corpus."
http://www.ccr-ny.org/v2/reports/report.asp?ObjID=tkqBlem3rU&Content=1121

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Lawyers are Denied Access to Detainees
A Bad Week at Guantánamo
By ANDY WORTHINGTON
One thing you learn when studying Guantánamo is that nothing can ever be taken for granted, and the events of the last week have demonstrated, yet again, that this is the case. In Washington, last week District Court Judge Ricardo Urbina dismissed 16 lawsuits, challenging the indefinite imprisonment of at least 40 detainees in Guantánamo. This has had the knock-on effect of denying lawyers access to their clients. Crowing smugly, Justice Department lawyer Andrew Warden declared after the decision, "In light of this development, counsel access (both legal mail and in-person visits) is no longer permitted."
That this is possible, 39 months after the Supreme Court ruled decisively, in Rasul v. Bush, that the detainees had the right to challenge the basis of their detention, and that habeas corpus was, as Justice John Stephens so memorably described it, "a writ antecedent to statute throwing its roots deep into the genius of our common law," demonstrates, succinctly, how the Bush administration has, for the last six years, shamed the "genius" of the American legal system by reducing it to a game of legislative ping-pong.
Although lawyers for the detainees remain confident that the Supreme Court will rule in the detainees' favor (probably in spring 2008), this is a terrible setback for the detainees in question. Imprisoned without charge or trial for over five and a

half years, they have no other contact with the outside world apart from through the minimal ministrations of the International Committee of the Red Cross, and their lawyers are often their only lifeline. This process is made that much harder when, year after year, the lawyers are driven to admit to their clients that, despite widespread opposition to the existence of Guantánamo, their attempts to bring them justice-- a day in court before a judge who can impartially weigh the evidence set before him by the government-- are repeatedly obstructed by the administration.
In all likelihood, Judge Urbina's ruling will not shut down the lawyer-client relationship entirely. As reported by the Associated Press, Andrew Warden "outlined a series of legal steps that would be required before the attorneys could resume contact with the detainees." After jumping through hoops and being generally belittled, more restrictive arrangements will be arranged with the lawyers, but they may come too late for the Libyan detainee Abdul Rauf al-Qassim. Cleared by a military administrative board after five years at Guantánamo, al-Qassim, a deserter from the Libyan army, had spent a decade living in Afghanistan and Pakistan without raising arms against anyone, and was kidnapped from a house in Lahore, Pakistan, in May 2002, after fleeing Afghanistan with his pregnant Afghan wife.
Al-Qassim has spent most of this year fighting cynical attempts by the administration to return him to the country of his birth, where he has legitimate fears that he will be tortured. Wells Dixon, one of his lawyers at the Center for Constitutional Rights, explained that he would "most likely not be able to complete [the new] measures in time for a scheduled visit" with al-Qassim next month, which he described as "crucial," because he was "in the midst of trying to prevent the government from transferring [him] back to Libya. In measured tones, he added, "This is just the latest example of the government's efforts to frustrate counsel access to detainees." In a press release, another CCR attorney, Shayana Kadidal, spelt out al-Qassim's plight in stronger terms: "We need to remember that this is a man the government has cleared for release-- as close to a statement of innocence as the government will ever issue. Abdul Rauf should never have been taken to Guantánamo in the first place, and the courts should not allow the government to 'disappear' him into Libya in order to cover up its own mistake."
In a second, and far more shocking development, the Military Commissions at Guantánamo-- the widely derided show trials, which purport to provide justice, while relying on secret evidence obtained through torture-- stumbled back to life on Monday. Condemned as illegal under US law and the Geneva Conventions by the Supreme Court in June 2006, the Commissions were reinstated in the Military Commissions Act (MCA) last fall, but were derailed again three months ago, when the military judges appointed to preside over the cases of child soldier Omar Khadr and Salim Hamdan, one of Osama bin Laden's chauffeurs, shut down the trials. They argued, correctly, that the MCA had mandated them to try "illegal enemy combatants," whereas the system that had made them eligible for trial-- the Combatant Status Review Tribunals, "administrative" hearings which also relied on secret evidence obtained through unknown means-- had only declared them to be "enemy combatants."
After a farcical interlude, in which the administration declared petulantly that it would appeal the judges' decisions, and was then pilloried when it transpired that the appeals court in question had not yet been established, the Court of Military Commissions Review convened a month ago in a borrowed courtroom near the White House.
Announcing their verdict on Monday, the court's three military judges-- all appointed by the Pentagon-- agreed with Khadr's military judge, Col. Peter Brownback, that Khadr's classification as an "enemy combatant" at his Combatant Status Review Tribunal in Guantánamo "failed to meet the requirements for jurisdiction set forth in the Military Commissions Act," but explained that Brownback had "erred" in ruling that a Tribunal Review was required to determine that Khadr was an "unlawful enemy combatant" as a pre-requisite for bringing charges against him under the Military Commissions Act. They added, moreover, that he had "abused his discretion in deciding this critical jurisdictional matter without first fully considering" the government's evidence.
The decision was immediately condemned by human rights activists. Jameel Jaffer, the director of the American Civil Liberties Union's national security project, declared, "This ruling may be a step forward for the military commissions but it's a step backwards for the rule of law. While there are prisoners at Guantánamo who should be tried for war crimes, they should be tried under rules that are fair and

that will be perceived as fair. The current rules fail this test."
More importantly, the verdict was also condemned by Khadr's defense lawyers, led by Lt. Cmdr. William Kuebler, the principled military attorney, who, in the past few months, has described the Commissions as rigged, ridiculous, unjust, farcical, a sham, and a lawless process. As soon as Pentagon spokesman Bryan Whitman announced that Khadr's trial had been revived, and that it was the Pentagon's intention "to move out in an expeditious manner to get the military commission cases to trial," Kuebler responded by saying that Khadr's legal team would appeal, asking a civilian court in Washington to block the trial. "This court," Kuebler explained, referring to the Court of Military Commissions Review, "had the chance to bring some degree of legitimacy to an otherwise lawless process," adding, pointedly, "It failed to do so." In a statement, he and Khadr's other lawyers-- Dennis Edney and Nathan Whitling-- accused the military judge of "prohibited off-the-record coordination," and explained that the date set by the Pentagon for Khadr's trial to begin-- October 11-- failed to allow them enough time to challenge the case. "It is the latest evidence of the government's determination to rush forward with the flawed military commission process at breakneck speed, disregarding whatever rights of the accused that may get in the way," Kuebler declared.
Expect more fireworks to follow from the latest in an increasingly long line of government-appointed military lawyers to have turned on their masters in the most principled manner possible. Those in any doubt that Lt. Cmdr. Kuebler means what he says should recall that in June he explained to a GQ reporter, "I think things have been done to people that under any definition except this administration's very narrow one would be torture."
Andy Worthington (www.andyworthington.co.uk <http://www.andyworthington.co.uk/>) is a British historian, and the author of 'The Guantánamo Files: The Stories of the 774 Detainees in America's Illegal Prison'
<http://www.amazon.com/exec/obidos/ASIN/0745326641/counterpunchmaga> (to be published by Pluto Press in October 2007).
He can be reached at: andy@andyworthington.co.uk
http://www.counterpunch.org/worthington09272007.html

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Retired U.S. justice says terror cases will be a challenge for years 20 hours ago
OTTAWA - A long-serving justice of the U.S. supreme court said those still on the highest American bench will have to deal with interrogation techniques and whether they constitute torture.
Sandra Day O'Connor, the first woman to sit on the American high court, told students at the University of Ottawa that classifying interrogation techniques might not be as clear-cut as many may think.
While she said civil liberties cannot be thrown out in pursuit of security, she quoted one of her predecessors who observed that "the bill of rights is not a suicide pact."
O'Connor, who was appointed to the court by Republican president Ronald Reagan, said she has no illusions about the dangers posed by terrorism.
"We can't grow complacent in our concern about threats to security."
Students asked which side - security or liberty - should be favoured and she said there are no absolutes.
"It depends on the question," she said.
"It depends on the exigencies of the danger involved."
O'Connor, who retired last year after a quarter-century on the high court, said judges have wrestled with similar problems in the past.
She told the students of a time when a president of the United States in wartime decided to use special military tribunals to try citizens accused of colluding with the enemy.
However, she added, that president wasn't George W.
Bush and Guantanamo, it was Abraham Lincoln.
And in that case, the American supreme court ruled that military tribunals had no jurisdiction as long as the civilian courts were open and functioning.
O'Connor, 76, said the issues today are distinct from those facing Lincoln, but they also have their similarities and she suggested the courts can look to history for

guidance.
Dealing with terrorism will challenge lawyers and judges for years to come, O'Connor said.
She told law students that terrorism is a major legal issue today and will continue to be one as courts wrestle with the implications of laws aimed at suppressing terrorists.
The key is striking a balance between protecting national security and preserving civil liberties.
"If I were a law student today, I would be totally fascinated by these very fundamental issues," she said.
Courts in Canada, the United States, Britain, Germany and Australia have all tackled terror cases in recent years.
"In all these nations, people are engaged in discussions concerning these very important issues," she said.
And despite the court rulings, that's not the end of it.
"We haven't heard the last of these issues."
Justice Marshall Rothstein of the Supreme Court of Canada, who also spoke to the group, said these judgments depend on the facts in individual cases.
"It's a balancing exercise," he said.
http://canadianpress.google.com/article/ALeqM5gD5C9pw67Q_HtII99CbZXakqP5Cg

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New exhibit from artist Margot Herster seeks to put faces to the detainees at Guantánamo Bay.
by leah bartos
Sentinel correspondent
From the cloaked silhouettes of Abu Ghraib prisoners to the smoke pluming from the Twin Towers, the most infamous images of the so-called War on Terror depict nothing short of human ugliness stemming from all sides of the frontlines.
But photographer Margot Herster has taken a different view.
In her quest to restore the personalities of a handful Guantánamo Bay prisoners, Herster compiled images of 11 detainees and their families for a new installation titled, "Guantánamo: Pictures from Home," now exhibiting at the Porter Sesnon Gallery on the campus of UC Santa Cruz.
Featuring more than 100 photographs, video vignettes and audio installations, the exhibit offers an alternate view of the Guantánamo detainees, who have gone essentially nameless to the American public at large.
"Everything that we see about the War on Terror has a characteristic of evoking fear and mistrust. This is a project about building trust and building relationships, instead of breaking down relationships," Herster said.
Herster's project was first inspired by her husband's stories about the detainees he represented while doing pro bono work for the Allen & Overy law firm in New York.
From his anecdotes and personal details about the detainees, such as one man whose legs were too short to touch the ground, Herster began to imagine the lives of these individuals, even though she herself would not be permitted to meet them.
After connecting with several other attorneys representing the detainees, Herster began collecting copies of the detainees' passport photos, as well as snapshots of their families that the lawyers had taken when visiting the detainees' home countries of Yemen, Afghanistan, Saudi Arabia, Kuwait, and Bahrain. The attorneys then brought the photos back to the detainees, many of whom had become rather skeptical of the entire U.S. legal process. The family photos, Herster explained, played a key role in establishing a trusting relationship between lawyer and client.
Commenting on the family photos, Herster said, "What struck me was the warmth in them; they were so welcoming and comfortable in the families' living rooms. Given the anxiety and fear and all the things we associate with the people at Guantánamo, it's such a stark contrast to flip through these photos"
There are about 340 people currently detained at Guantánamo on suspected terrorism charges or links to al Qaeda and the Taliban. And while attorneys are working to attain writs of habeas corpus, which would allow them to challenge their detainment in a federal court, Herster is also working to bring faces to these numbers.
"You can start to see a personality developing, even though we don't really know

anything about these people," Herster said of the stories that emerge in the installation.
In addition to the photographs for "Pictures from Home," Herster also collaborated with video artist and photographer Carolyn Mara Borlenghi to produce a short video called "The Lawyers," in which the attorneys recount their experiences representing the Guantánamo detainees, as well as a sound installation called Interview Cell Recordings.
Though an accomplished photographer herself, Herster did not take any of the photos or shoot any of the video footage in the "Pictures from Home" installation. Herster believes that the art lies in the relationship between the photographer and the subject. In this case, the relationship she highlights is between families and detainees, as well as the attorneys who are working to bring them back together. The power of these images, she says, comes from the context in which they were produced.
"It's really interesting how amateur photography has become so prominent in this time, in this conflict. Some of the most powerful images of the war have been from people who are bystanders or participants in the war in some way," Herster said.
While the family photographs were originally produced to build a relationship between the attorneys and the detainees, Herster believes that in a new context, the photographs offer great insights into the lives of these otherwise faceless individuals.
"I think that's all art can do, is give people a vehicle for connecting with one another"
http://www.santacruzsentinel.com/archive/2007/September/28/style/stories/03style.htm

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Above All, an Advocate for Justice

Visiting Associate Professor Charles Swift successfully represented Salim Hamdan, a Guantanamo Bay detainee, before the U.S. Supreme Court. He joined the School of Law faculty this semester.

In December 2003, Lt. Commander Charles Swift, a Navy lawyer, was appointed to represent Salim Ahmed Hamdan, a Guantánamo Bay detainee and Osama bin Laden's former driver. Hamdan was to be tried before a military tribunal on the charges of conspiracy and providing material support for terrorism.

Hamdan didn't want to plead guilty, so Swift decided to challenge the system of military tribunals itself by suing the man who had created it: his boss, President Bush.

"Filing a lawsuit against the president wasn't our idea of courage," said Swift, who is now on the faculty at the School of Law. "Real courage was to face the idea that we could be embarrassed and we could fail and do it anyway."

The controversial case, Hamdan v. Rumsfeld, proceeded all the way to the U.S. Supreme Court. Hamdan, a Yemeni man, denied a role in the 9/11 attacks and protested the injustice of the Bush administration's military commissions.

It was the second time Swift had appeared in federal court, and only the first time for his partner, Neal Katyal.

"It was hard to find anyone who believed for a moment that we would be successful," Swift said.

Swift and Katyal won the case for Hamdan, with the Supreme Court ruling that military commissions violated the Geneva Conventions and the Uniform Code of Military Justice.

Two weeks after the decision, however, Swift was passed over for promotion at the Pentagon, leading to his retirement from the military. Many speculated that this

surprise had something to do with Swift's controversial stance defending a man accused of aiding terrorism.

Swift, who was named one of the National Law Journal's "100 Most Influential Lawyers in America" in 2006, was appointed to the law school's faculty in July.

David F. Partlett, the dean of the law school, said Swift's supposed controversial stance does not detract from, but rather adds to Swift's strength of character.

"I think it's a great thing for Emory law school to have someone who believes so thoroughly in the way law should work in America," Partlett said. "He's an excellent lawyer and he believes that everyone should have the protection of law – and good lawyers everywhere want that."

Shaina Stahl, a third-year law student, also said Swift's presence will only add to the University's prestige.

"I think that it's good to have more and more controversial people – it sparks discussion and that's what we're here to do in an academic environment," Stahl said.

Visiting Associate Professor Charles Swift was born in Franklin, N.C., and graduated from the U.S. Naval Academy in 1984 before attending Seattle University Law School. After graduating cum laude, Swift joined the Judge Advocate General's Corps so he could practice law while remaining a uniformed officer of the U.S. Navy.

Named Junior Officer of the Year in 1997 at Naval Legal Service Northwest, Swift went on to represent more than 150 service members in military justice proceedings.

"The greatest reward you will ever receive in your life is from public service," Swift said. "The amazing thing about life is that it is impossible to know, when that opportunity is presented, whether you will or won't [seize it]."

Swift, a history major at the Naval Academy, expressed admiration for President John Adams, who after the Boston Massacre represented the British soldiers in court, to the detriment of his reputation.

"I think that [America's] greatest strength is that we are first and foremost a nation of laws," Swift said, praising the United States' system, in which someone like Hamdan can triumph over the President in court.

Now the acting director of the International Humanitarian Law Clinic, an offshoot of the work of six Emory law students who also worked with Guantánamo Bay detainees, Swift emphasized the idea that students should get involved in humanitarian efforts.

"You are receiving at Emory an incredible gift … and that is the ability to make a difference," Swift said. "If students come to this school and say, 'I believe in what I believe in, I understand that I could fail, but I'm going to do it anyway,' they are going to make an incredible difference in this world."

Partlett also spoke of the importance of having Swift on campus as an emblem of humanitarian law and the great benefits both faculty and students will reap from his presence at Emory.

"We're all delighted," Partlett said. "He's a wonderful colleague, he's very outgoing, his experience is vast, and it's great for him to be here."

http://www.emorywheel.com/detail.php?n=24344

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GTMO BIRD HVD's ALLOWED LAWYERS GITMO DETAINEE RELEASED

At Guantanamo, a chaplain's story
By Michael Moreno,

Captain James Yee saw guards tear pages from the Quran, interrogators yell, "The devil is your God now," and female guards forcibly give lap dances and touch detainees' genitalia.

But despite his efforts to educate soldiers and improve treatment of detainees, the former Guantanamo Bay Chaplain was labeled a spy.

Yee, who became a prisoner himself after he voiced concern over what he felt to be inappropriate treatment of detainees, spoke at Binghamton University Tuesday night about his experiences and the importance of protecting civil rights.

Yee received his appointment at the detention camp after educating soldiers on Islam following the Sept. 11 terrorist attacks.

During his tenure there Yee counseled Muslim detainees.

"They used Islam against the prisoners to break them," said Yee, who fought for policy changes, including the provision of a small cloth hammock for prisoners to keep their Quran - which was regularly desecrated during cell searches.

Unfortunately for Yee, this same service is what would lead to him being labeled as a spy, arrested and thrown into a maximum security prison for over two months.

"I want the audience to leave here tonight with an awareness of the seriousness and issues surrounding Guantanamo Bay, Cuba," said Yee prior to taking the stage.

His speech touched on many of the interrogation methods he witnessed during his time there, including the mistreatment of the Quran by prison guards and interrogations involving the use of satanic imagery, and the use of female guards in such sexual acts as lap dances and the touching of genitalia.

"Some detainees were brought into a small room with a satanic circle drawn on the ground," said Yee. "They were forced to kneel in the circle, much like in prayer, while the interrogator yelled, 'The devil is your God now, not Allah!'"

Yee, who spent much of his time attempting to defend the rights of the 600-plus Muslims detained at United States Naval base in southeast Cuba, found himself the target of the same treatment when he was arrested by FBI agents at a Florida airport in September of 2003.

Yee was returning from "Gitmo" for a short reprieve to see his family when he was named an enemy combatant and sent to the Consolidated Naval Brig, in Charleston, S.C. There, he was kept for 76 days and treated with sensory deprivation techniques.

Upon his release, he was tried for the mishandling of classified documents, but no evidence was found against him and all charges were dropped. Yee believes to this day that he was singled out not just for being a Muslim, but also because of his Chinese heritage.

He still remembers the words of a fellow soldier at Gitmo: "Who the hell does this Chinese Taliban think he is, telling us how to treat our prisoners?"

Captain Yee, since honorably discharged from service, now travels across the country giving speeches on his ordeal and the the conditions at Guantanamo Bay.

"Our county's leadership needs to change," said Yee. "The current leadership is bringing us down the wrong path. These post-9/11 counter-terrorism policies have eroded our civil liberties."

Yee hopes that his speeches will help "inspire students to protect their freedoms."

"You, as our future leaders, must put this country back on the right track," he said. "We need to become a beacon of human rights to the world again."
http://www.bupipedream.com/pipeline_web/display_article.php?id=5705

GTMO BIRD The Black Sites txt Detainees Rather Stay at Gitmo

From: (b)(6) DoD OGC
Sent: Monday, August 06, 2007 4:17 PM
To: (b)(6)
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Subject: GTMO BIRD: The Black Sites; Detainees Rather Stay at Gitmo

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Today's Gitmo Bird.

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The Black Sites

A rare look inside the C.I.A.'s secret interrogation program.

by Jane Mayer

In the war on terror, one historian says, the C.I.A. "didn't just bring back the old psychological techniques—they perfected them."

In March, Mariane Pearl, the widow of the murdered Wall Street Journal reporter Daniel Pearl, received a phone call from Alberto Gonzales, the Attorney General. At the time, Gonzales's role in the controversial dismissal of eight United States Attorneys had just been exposed, and the story was becoming a scandal in Washington.

Gonzales informed Pearl that the Justice Department was about to announce some good news: a terrorist in U.S. custody—Khalid Sheikh Mohammed, the Al Qaeda leader who was the primary architect of the September 11th attacks—had confessed to killing her husband. (Pearl was abducted and beheaded five and a half years ago in Pakistan, by unidentified Islamic militants.) The Administration planned to release a transcript in which Mohammed boasted, "I decapitated with my blessed right hand the head of the American Jew Daniel Pearl in the city of Karachi, Pakistan. For those who would like to confirm, there are pictures of me on the Internet holding his head."

Pearl was taken aback. In 2003, she had received a call from Condoleezza Rice, who was then President Bush's national-security adviser, informing her of the same news. But Rice's revelation had been secret. Gonzales's announcement seemed like a publicity stunt. Pearl asked him if he had proof that Mohammed's confession was truthful; Gonzales claimed to have corroborating evidence but wouldn't share it. "It's not enough for officials to call me and say they believe it," Pearl said. "You need evidence." (Gonzales did not respond to requests for comment.)

The circumstances surrounding the confession of Mohammed, whom law-enforcement officials refer to as K.S.M., were perplexing. He had no lawyer. After his capture in Pakistan, in March of 2003, the Central Intelligence Agency had detained him in undisclosed locations for more than two years; last fall, he was transferred to military custody in Guantánamo Bay, Cuba. There were no named witnesses to his initial confession, and no solid information about what form of interrogation might have prodded him to talk, although reports had been published, in the Times and elsewhere, suggesting that C.I.A. officers had tortured him. At a hearing held at Guantánamo, Mohammed said that his testimony was freely given, but he also indicated that he had been abused by the C.I.A. (The Pentagon had classified as "top secret" a statement he had written detailing the alleged mistreatment.) And although Mohammed said that there were photographs confirming his guilt, U.S. authorities had found none. Instead, they had a copy of the video that had been released on the Internet, which showed the killer's arms but offered no other clues to his identity.

Further confusing matters, a Pakistani named Ahmed Omar Saeed Sheikh had already been convicted of the abduction and murder, in 2002. A British-educated terrorist who had a history of staging kidnappings, he had been sentenced to death in Pakistan for the crime. But the Pakistani government, not known for its leniency, had stayed his execution. Indeed, hearings on the matter had been delayed a remarkable number of times—at least thirty—possibly because of his reported ties to the Pakistani intelligence service, which may have helped free him after he was imprisoned for terrorist activities in India. Mohammed's confession would delay the execution further, since, under Pakistani law, any new evidence is grounds for appeal.

A surprising number of people close to the case are dubious of Mohammed's confession. A longtime friend of Pearl's, the former Journal reporter Asra Nomani, said, "The release of the confession came right in the midst of the U.S. Attorney scandal. There was a drumbeat for Gonzales's resignation. It seemed like a calculated strategy to change the subject. Why now? They'd had the confession for years." Mariane and Daniel Pearl were staying in Nomani's Karachi house at the time of his murder, and Nomani has followed the case meticulously; this fall, she plans to teach a course on the topic at Georgetown University. She said, "I don't think this confession resolves the case. You can't have justice from one person's confession, especially under such unusual circumstances. To me, it's not convincing." She added, "I called all the investigators. They weren't just skeptical—they didn't believe it."

Special Agent Randall Bennett, the head of security for the U.S. consulate in Karachi when Pearl was killed—and whose lead role investigating the murder was featured in the recent film "A Mighty Heart"—said that he has interviewed all the convicted accomplices who are now in custody in Pakistan, and that none of them named Mohammed as playing a role. "K.S.M.'s name never came up," he said. Robert Baer, a former C.I.A. officer, said, "My old colleagues say with one-hundred-per-cent certainty that it was not K.S.M. who killed Pearl." A government official involved in the case said, "The fear is that K.S.M. is covering

up for others, and that these people will be released." And Judea Pearl, Daniel's father, said, "Something is fishy. There are a lot of unanswered questions. K.S.M. can say he killed Jesus-he has nothing to lose."

Mariane Pearl, who is relying on the Bush Administration to bring justice in her husband's case, spoke carefully about the investigation. "You need a procedure that will get the truth," she said. "An intelligence agency is not supposed to be above the law."

Mohammed's interrogation was part of a secret C.I.A. program, initiated after September 11th, in which terrorist suspects such as Mohammed were detained in "black sites"-secret prisons outside the United States-and subjected to unusually harsh treatment. The program was effectively suspended last fall, when President Bush announced that he was emptying the C.I.A.'s prisons and transferring the detainees to military custody in Guantánamo. This move followed a Supreme Court ruling, Hamdan v. Rumsfeld, which found that all detainees-including those held by the C.I.A.-had to be treated in a manner consistent with the Geneva Conventions. These treaties, adopted in 1949, bar cruel treatment, degradation, and torture. In late July, the White House issued an executive order promising that the C.I.A. would adjust its methods in order to meet the Geneva standards. At the same time, Bush's order pointedly did not disavow the use of "enhanced interrogation techniques" that would likely be found illegal if used by officials inside the United States. The executive order means that the agency can once again hold foreign terror suspects indefinitely, and without charges, in black sites, without notifying their families or local authorities, or offering access to legal counsel.

The C.I.A.'s director, General Michael Hayden, has said that the program, which is designed to extract intelligence from suspects quickly, is an "irreplaceable" tool for combatting terrorism. And President Bush has said that "this program has given us information that has saved innocent lives, by helping us stop new attacks." He claims that it has contributed to the disruption of at least ten serious Al Qaeda plots since September 11th, three of them inside the United States.

According to the Bush Administration, Mohammed divulged information of tremendous value during his detention. He is said to have helped point the way to the capture of Hambali, the Indonesian terrorist responsible for the 2002 bombings of night clubs in Bali. He also provided information on an Al Qaeda leader in England. Michael Sheehan, a former counterterrorism official at the State Department, said, "K.S.M. is the poster boy for using tough but legal tactics. He's the reason these techniques exist. You can save lives with the kind of information he could give up." Yet Mohammed's confessions may also have muddled some key investigations. Perhaps under duress, he claimed involvement in thirty-one criminal plots-an improbable number, even for a high-level terrorist. Critics say that Mohammed's case illustrates the cost of the C.I.A.'s desire for swift intelligence. Colonel Dwight Sullivan, the top defense lawyer at the Pentagon's Office of Military Commissions, which is expected eventually to try Mohammed for war crimes, called his serial confessions "a textbook example of why we shouldn't allow coercive methods."

The Bush Administration has gone to great lengths to keep secret the treatment of the hundred or so "high-value detainees" whom the C.I.A. has confined, at one point or another, since September 11th. The program has been extraordinarily "compartmentalized," in the nomenclature of the intelligence world. By design, there has been virtually no access for outsiders to the C.I.A.'s prisoners. The utter isolation of these detainees has been described as essential to America's national security. The Justice Department argued this point explicitly last November, in the case of a Baltimore-area resident named Majid Khan, who was held for more than three years by the C.I.A. Khan, the government said, had to be prohibited from access to a lawyer specifically because he might describe the "alternative interrogation methods" that the agency had used when questioning him. These methods amounted to a state secret, the government argued, and disclosure of them could "reasonably be expected to cause extremely grave damage." (The case has not yet been decided.)

Given this level of secrecy, the public and all but a few members of Congress who

have been sworn to silence have had to take on faith President Bush's assurances that the C.I.A.'s internment program has been humane and legal, and has yielded crucial intelligence. Representative Alcee Hastings, a Democratic member of the House Select Committee on Intelligence, said, "We talk to the authorities about these detainees, but, of course, they're not going to come out and tell us that they beat the living daylights out of someone." He recalled learning in 2003 that Mohammed had been captured. "It was good news," he said. "So I tried to find out: Where is this guy? And how is he being treated?" For more than three years, Hastings said, "I could never pinpoint anything." Finally, he received some classified briefings on the Mohammed interrogation. Hastings said that he "can't go into details" about what he found out, but, speaking of Mohammed's treatment, he said that even if it wasn't torture, as the Administration claims, "it ain't right, either. Something went wrong."

Since the drafting of the Geneva Conventions, the International Committee of the Red Cross has played a special role in safeguarding the rights of prisoners of war. For decades, governments have allowed officials from the organization to report on the treatment of detainees, to insure that standards set by international treaties are being maintained. The Red Cross, however, was unable to get access to the C.I.A.'s prisoners for five years. Finally, last year, Red Cross officials were allowed to interview fifteen detainees, after they had been transferred to Guantánamo. One of the prisoners was Khalid Sheikh Mohammed. What the Red Cross learned has been kept from the public. The committee believes that its continued access to prisoners worldwide is contingent upon confidentiality, and therefore it addresses violations privately with the authorities directly responsible for prisoner treatment and detention. For this reason, Simon Schorno, a Red Cross spokesman in Washington, said, "The I.C.R.C. does not comment on its findings publicly. Its work is confidential."

The public-affairs office at the C.I.A. and officials at the congressional intelligence-oversight committees would not even acknowledge the existence of the report. Among the few people who are believed to have seen it are Condoleezza Rice, now the Secretary of State; Stephen Hadley, the national-security adviser; John Bellinger III, the Secretary of State's legal adviser; Hayden; and John Rizzo, the agency's acting general counsel. Some members of the Senate and House intelligence-oversight committees are also believed to have had limited access to the report.

Confidentiality may be particularly stringent in this case. Congressional and other Washington sources familiar with the report said that it harshly criticized the C.I.A.'s practices. One of the sources said that the Red Cross described the agency's detention and interrogation methods as tantamount to torture, and declared that American officials responsible for the abusive treatment could have committed serious crimes. The source said the report warned that these officials may have committed "grave breaches" of the Geneva Conventions, and may have violated the U.S. Torture Act, which Congress passed in 1994. The conclusions of the Red Cross, which is known for its credibility and caution, could have potentially devastating legal ramifications.

Concern about the legality of the C.I.A.'s program reached a previously unreported breaking point last week when Senator Ron Wyden, a Democrat on the intelligence committee, quietly put a "hold" on the confirmation of John Rizzo, who as acting general counsel was deeply involved in establishing the agency's interrogation and detention policies. Wyden's maneuver essentially stops the nomination from going forward. "I question if there's been adequate legal oversight," Wyden told me. He said that after studying a classified addendum to President Bush's new executive order, which specifies permissible treatment of detainees, "I am not convinced that all of these techniques are either effective or legal. I don't want to see well-intentioned C.I.A. officers breaking the law because of shaky legal guidance."

A former C.I.A. officer, who supports the agency's detention and interrogation policies, said he worried that, if the full story of the C.I.A. program ever surfaced, agency personnel could face criminal prosecution. Within the agency, he

said, there is a "high level of anxiety about political retribution" for the interrogation program. If congressional hearings begin, he said, "several guys expect to be thrown under the bus." He noted that a number of C.I.A. officers have taken out professional liability insurance, to help with potential legal fees.

Paul Gimigliano, a spokesman for the C.I.A., denied any legal impropriety, stressing that "the agency's terrorist-detention program has been implemented lawfully. And torture is illegal under U.S. law. The people who have been part of this important effort are well-trained, seasoned professionals." This spring, the Associated Press published an article quoting the chairman of the House intelligence committee, Silvestre Reyes, who said that Hayden, the C.I.A. director, "vehemently denied" the Red Cross's conclusions. A U.S. official dismissed the Red Cross report as a mere compilation of allegations made by terrorists. And Robert Grenier, a former head of the C.I.A.'s Counterterrorism Center, said that "the C.I.A.'s interrogations were nothing like Abu Ghraib or Guantánamo. They were very, very regimented. Very meticulous." He said, "The program is very careful. It's completely legal."

Accurately or not, Bush Administration officials have described the prisoner abuses at Abu Ghraib and Guantánamo as the unauthorized actions of ill-trained personnel, eleven of whom have been convicted of crimes. By contrast, the treatment of high-value detainees has been directly, and repeatedly, approved by President Bush. The program is monitored closely by C.I.A. lawyers, and supervised by the agency's director and his subordinates at the Counterterrorism Center. While Mohammed was being held by the agency, detailed dossiers on the treatment of detainees were regularly available to the former C.I.A. director George Tenet, according to informed sources inside and outside the agency. Through a spokesperson, Tenet denied making day-to-day decisions about the treatment of individual detainees. But, according to a former agency official, "Every single plan is drawn up by interrogators, and then submitted for approval to the highest possible level—meaning the director of the C.I.A. Any change in the plan—even if an extra day of a certain treatment was added—was signed off by the C.I.A. director."

On September 17, 2001, President Bush signed a secret Presidential finding authorizing the C.I.A. to create paramilitary teams to hunt, capture, detain, or kill designated terrorists almost anywhere in the world. Yet the C.I.A. had virtually no trained interrogators. A former C.I.A. officer involved in fighting terrorism said that, at first, the agency was crippled by its lack of expertise. "It began right away, in Afghanistan, on the fly," he recalled. "They invented the program of interrogation with people who had no understanding of Al Qaeda or the Arab world." The former officer said that the pressure from the White House, in particular from Vice-President Dick Cheney, was intense: "They were pushing us: 'Get information! Do not let us get hit again!' " In the scramble, he said, he searched the C.I.A.'s archives, to see what interrogation techniques had worked in the past. He was particularly impressed with the Phoenix Program, from the Vietnam War. Critics, including military historians, have described it as a program of state-sanctioned torture and murder. A Pentagon-contract study found that, between 1970 and 1971, ninety-seven per cent of the Vietcong targeted by the Phoenix Program were of negligible importance. But, after September 11th, some C.I.A. officials viewed the program as a useful model. A. B. Krongard, who was the executive director of the C.I.A. from 2001 to 2004, said that the agency turned to "everyone we could, including our friends in Arab cultures," for interrogation advice, among them those in Egypt, Jordan, and Saudi Arabia, all of which the State Department regularly criticizes for human-rights abuses.

The C.I.A. knew even less about running prisons than it did about hostile interrogations. Tyler Drumheller, a former chief of European operations at the C.I.A., and the author of a recent book, "On the Brink: How the White House Compromised U.S. Intelligence," said, "The agency had no experience in detention. Never. But they insisted on arresting and detaining people in this program. It was a mistake, in my opinion. You can't mix intelligence and police work. But the White House was really pushing. They wanted someone to do it. So the C.I.A. said, 'We'll try.' George Tenet came out of politics, not intelligence. His whole modus operandi was to please the principal. We got stuck with all sorts of things. This is really

the legacy of a director who never said no to anybody."

Many officials inside the C.I.A. had misgivings. "A lot of us knew this would be a can of worms," the former officer said. "We warned them, It's going to become an atrocious mess." The problem from the start, he said, was that no one had thought through what he called "the disposal plan." He continued, "What are you going to do with these people? The utility of someone like K.S.M. is, at most, six months to a year. You exhaust them. Then what? It would have been better if we had executed them."

The C.I.A. program's first important detainee was Abu Zubaydah, a top Al Qaeda operative, who was captured by Pakistani forces in March of 2002. Lacking in-house specialists on interrogation, the agency hired a group of outside contractors, who implemented a regime of techniques that one well-informed former adviser to the American intelligence community described as "a 'Clockwork Orange' kind of approach." The experts were retired military psychologists, and their backgrounds were in training Special Forces soldiers how to survive torture, should they ever be captured by enemy states. The program, known as SERE—an acronym for Survival, Evasion, Resistance, and Escape—was created at the end of the Korean War. It subjected trainees to simulated torture, including waterboarding (simulated drowning), sleep deprivation, isolation, exposure to temperature extremes, enclosure in tiny spaces, bombardment with agonizing sounds, and religious and sexual humiliation. The SERE program was designed strictly for defense against torture regimes, but the C.I.A.'s new team used its expertise to help interrogators inflict abuse. "They were very arrogant, and pro-torture," a European official knowledgeable about the program said. "They sought to render the detainees vulnerable—to break down all of their senses. It takes a psychologist trained in this to understand these rupturing experiences."

The use of psychologists was also considered a way for C.I.A. officials to skirt measures such as the Convention Against Torture. The former adviser to the intelligence community said, "Clearly, some senior people felt they needed a theory to justify what they were doing. You can't just say, 'We want to do what Egypt's doing.' When the lawyers asked what their basis was, they could say, 'We have Ph.D.s who have these theories.' " He said that, inside the C.I.A., where a number of scientists work, there was strong internal opposition to the new techniques. "Behavioral scientists said, 'Don't even think about this!' They thought officers could be prosecuted."

Nevertheless, the SERE experts' theories were apparently put into practice with Zubaydah's interrogation. Zubaydah told the Red Cross that he was not only waterboarded, as has been previously reported; he was also kept for a prolonged period in a cage, known as a "dog box," which was so small that he could not stand. According to an eyewitness, one psychologist advising on the treatment of Zubaydah, James Mitchell, argued that he needed to be reduced to a state of "learned helplessness." (Mitchell disputes this characterization.)

Steve Kleinman, a reserve Air Force colonel and an experienced interrogator who has known Mitchell professionally for years, said that "learned helplessness was his whole paradigm." Mitchell, he said, "draws a diagram showing what he says is the whole cycle. It starts with isolation. Then they eliminate the prisoners' ability to forecast the future—when their next meal is, when they can go to the bathroom. It creates dread and dependency. It was the K.G.B. model. But the K.G.B. used it to get people who had turned against the state to confess falsely. The K.G.B. wasn't after intelligence."

As the C.I.A. captured and interrogated other Al Qaeda figures, it established a protocol of psychological coercion. The program tied together many strands of the agency's secret history of Cold War-era experiments in behavioral science. (In June, the C.I.A. declassified long-held secret documents known as the Family Jewels, which shed light on C.I.A. drug experiments on rats and monkeys, and on the infamous case of Frank R. Olson, an agency employee who leaped to his death from a hotel window in 1953, nine days after he was unwittingly drugged with LSD.) The C.I.A.'s most useful

research focussed on the surprisingly powerful effects of psychological manipulations, such as extreme sensory deprivation. According to Alfred McCoy, a history professor at the University of Wisconsin, in Madison, who has written a history of the C.I.A.'s experiments in coercing subjects, the agency learned that "if subjects are confined without light, odors, sound, or any fixed references of time and place, very deep breakdowns can be provoked."

Agency scientists found that in just a few hours some subjects suspended in water tanks—or confined in isolated rooms wearing blacked-out goggles and earmuffs—regressed to semi-psychotic states. Moreover, McCoy said, detainees become so desperate for human interaction that "they bond with the interrogator like a father, or like a drowning man having a lifesaver thrown at him. If you deprive people of all their senses, they'll turn to you like their daddy." McCoy added that "after the Cold War we put away those tools. There was bipartisan reform. We backed away from those dark days. Then, under the pressure of the war on terror, they didn't just bring back the old psychological techniques—they perfected them."

The C.I.A.'s interrogation program is remarkable for its mechanistic aura. "It's one of the most sophisticated, refined programs of torture ever," an outside expert familiar with the protocol said. "At every stage, there was a rigid attention to detail. Procedure was adhered to almost to the letter. There was top-down quality control, and such a set routine that you get to the point where you know what each detainee is going to say, because you've heard it before. It was almost automated. People were utterly dehumanized. People fell apart. It was the intentional and systematic infliction of great suffering masquerading as a legal process. It is just chilling."

The U.S. government first began tracking Khalid Sheikh Mohammed in 1993, shortly after his nephew Ramzi Yousef blew a gaping hole in the World Trade Center. Mohammed, officials learned, had transferred money to Yousef. Mohammed, born in either 1964 or 1965, was raised in a religious Sunni Muslim family in Kuwait, where his family had migrated from the Baluchistan region of Pakistan. In the mid-eighties, he was trained as a mechanical engineer in the U.S., attending two colleges in North Carolina.

As a teen-ager, Mohammed had been drawn to militant, and increasingly violent, Muslim causes. He joined the Muslim Brotherhood at the age of sixteen, and, after his graduation from North Carolina Agricultural and Technical State University, in Greensboro—where he was remembered as a class clown, but religious enough to forgo meat when eating at Burger King—he signed on with the anti-Soviet jihad in Afghanistan, receiving military training and establishing ties with Islamist terrorists. By all accounts, his animus toward the U.S. was rooted in a hatred of Israel.

In 1994, Mohammed, who was impressed by Yousef's notoriety after the first World Trade Center bombing, joined him in scheming to blow up twelve U.S. jumbo jets over two days. The so-called Bojinka plot was disrupted in 1995, when Philippine police broke into an apartment that Yousef and other terrorists were sharing in Manila, which was filled with bomb-making materials. At the time of the raid, Mohammed was working in Doha, Qatar, at a government job. The following year, he narrowly escaped capture by F.B.I. officers and slipped into the global jihadist network, where he eventually joined forces with Osama bin Laden, in Afghanistan. Along the way, he married and had children.

Many journalistic accounts have presented Mohammed as a charismatic, swashbuckling figure: in the Philippines, he was said to have flown a helicopter close enough to a girlfriend's office window so that she could see him; in Pakistan, he supposedly posed as an anonymous bystander and gave interviews to news reporters about his nephew's arrest. Neither story is true. But Mohammed did seem to enjoy taunting authorities after the September 11th attacks, which, in his eventual confession, he claimed to have orchestrated "from A to Z." In April, 2002, Mohammed arranged to be interviewed on Al Jazeera by its London bureau chief, Yosri Fouda, and took personal credit for the atrocities. "I am the head of the Al Qaeda military committee," he

said. "And yes, we did it." Fouda, who conducted the interview at an Al Qaeda safe house in Karachi, said that he was astounded not only by Mohammed's boasting but also by his seeming imperviousness to the danger of being caught. Mohammed permitted Al Jazeera to reveal that he was hiding out in the Karachi area. When Fouda left the apartment, Mohammed, apparently unarmed, walked him downstairs and out into the street.

In the early months of 2003, U.S. authorities reportedly paid a twenty-five-million-dollar reward for information that led to Mohammed's arrest. U.S. officials closed in on him, at 4 A.M. on March 1st, waking him up in a borrowed apartment in Rawalpindi, Pakistan. The officials hung back as Pakistani authorities handcuffed and hooded him, and took him to a safe house. Reportedly, for the first two days, Mohammed robotically recited Koranic verses and refused to divulge much more than his name. A videotape obtained by "60 Minutes" shows Mohammed at the end of this episode, complaining of a head cold; an American voice can be heard in the background. This was the last image of Mohammed to be seen by the public. By March 4th, he was in C.I.A. custody.

Captured along with Mohammed, according to some accounts, was a letter from bin Laden, which may have led officials to think that he knew where the Al Qaeda founder was hiding. If Mohammed did have this crucial information, it was time sensitive-bin Laden never stayed in one place for long-and officials needed to extract it quickly. At the time, many American intelligence officials still feared a "second wave" of Al Qaeda attacks, ratcheting the pressure further.

According to George Tenet's recent memoir, "At the Center of the Storm," Mohammed told his captors that he wouldn't talk until he was given a lawyer in New York, where he assumed he would be taken. (He had been indicted there in connection with the Bojinka plot.) Tenet writes, "Had that happened, I am confident that we would have obtained none of the information he had in his head about imminent threats against the American people." Opponents of the C.I.A.'s approach, however, note that Ramzi Yousef gave a voluminous confession after being read his Miranda rights. "These guys are egomaniacs," a former federal prosecutor said. "They love to talk!"

A complete picture of Mohammed's time in secret detention remains elusive. But a partial narrative has emerged through interviews with European and American sources in intelligence, government, and legal circles, as well as with former detainees who have been released from C.I.A. custody. People familiar with Mohammed's allegations about his interrogation, and interrogations of other high-value detainees, describe the accounts as remarkably consistent.

Soon after Mohammed's arrest, sources say, his American captors told him, "We're not going to kill you. But we're going to take you to the very brink of your death and back." He was first taken to a secret U.S.-run prison in Afghanistan. According to a Human Rights Watch report released two years ago, there was a C.I.A.-affiliated black site in Afghanistan by 2002: an underground prison near Kabul International Airport. Distinctive for its absolute lack of light, it was referred to by detainees as the Dark Prison. Another detention facility was reportedly a former brick factory, just north of Kabul, known as the Salt Pit. The latter became infamous for the 2002 death of a detainee, reportedly from hypothermia, after prison officials stripped him naked and chained him to the floor of his concrete cell, in freezing temperatures.

In all likelihood, Mohammed was transported from Pakistan to one of the Afghan sites by a team of black-masked commandos attached to the C.I.A.'s paramilitary Special Activities Division. According to a report adopted in June by the Parliamentary Assembly of the Council of Europe, titled "Secret Detentions and Illegal Transfers of Detainees," detainees were "taken to their cells by strong people who wore black outfits, masks that covered their whole faces, and dark visors over their eyes." (Some personnel reportedly wore black clothes made from specially woven synthetic fabric that couldn't be ripped or torn.) A former member of a C.I.A. transport team has described the "takeout" of prisoners as a carefully choreographed twenty-minute routine, during which a suspect was hog-tied, stripped naked, photographed, hooded,

sedated with anal suppositories, placed in diapers, and transported by plane to a secret location.

A person involved in the Council of Europe inquiry, referring to cavity searches and the frequent use of suppositories during the takeout of detainees, likened the treatment to "sodomy." He said, "It was used to absolutely strip the detainee of any dignity. It breaks down someone's sense of impenetrability. The interrogation became a process not just of getting information but of utterly subordinating the detainee through humiliation." The former C.I.A. officer confirmed that the agency frequently photographed the prisoners naked, "because it's demoralizing." The person involved in the Council of Europe inquiry said that photos were also part of the C.I.A.'s quality-control process. They were passed back to case officers for review.

A secret government document, dated December 10, 2002, detailing "SERE Interrogation Standard Operating Procedure," outlines the advantages of stripping detainees. "In addition to degradation of the detainee, stripping can be used to demonstrate the omnipotence of the captor or to debilitate the detainee." The document advises interrogators to "tear clothing from detainees by firmly pulling downward against buttoned buttons and seams. Tearing motions shall be downward to prevent pulling the detainee off balance." The memo also advocates the "Shoulder Slap," "Stomach Slap," "Hooding," "Manhandling," "Walling," and a variety of "Stress Positions," including one called "Worship the Gods."

In the process of being transported, C.I.A. detainees such as Mohammed were screened by medical experts, who checked their vital signs, took blood samples, and marked a chart with a diagram of a human body, noting scars, wounds, and other imperfections. As the person involved in the Council of Europe inquiry put it, "It's like when you hire a motor vehicle, circling where the scratches are on the rearview mirror. Each detainee was continually assessed, physically and psychologically."

According to sources, Mohammed said that, while in C.I.A. custody, he was placed in his own cell, where he remained naked for several days. He was questioned by an unusual number of female handlers, perhaps as an additional humiliation. He has alleged that he was attached to a dog leash, and yanked in such a way that he was propelled into the walls of his cell. Sources say that he also claimed to have been suspended from the ceiling by his arms, his toes barely touching the ground. The pressure on his wrists evidently became exceedingly painful.

Ramzi Kassem, who teaches at Yale Law School, said that a Yemeni client of his, Sanad al-Kazimi, who is now in Guantánamo, alleged that he had received similar treatment in the Dark Prison, the facility near Kabul. Kazimi claimed to have been suspended by his arms for long periods, causing his legs to swell painfully. "It's so traumatic, he can barely speak of it," Kassem said. "He breaks down in tears." Kazimi also claimed that, while hanging, he was beaten with electric cables.

According to sources familiar with interrogation techniques, the hanging position is designed, in part, to prevent detainees from being able to sleep. The former C.I.A. officer, who is knowledgeable about the interrogation program, explained that "sleep deprivation works. Your electrolyte balance changes. You lose all balance and ability to think rationally. Stuff comes out." Sleep deprivation has been recognized as an effective form of coercion since the Middle Ages, when it was called tormentum insomniae. It was also recognized for decades in the United States as an illegal form of torture. An American Bar Association report, published in 1930, which was cited in a later U.S. Supreme Court decision, said, "It has been known since 1500 at least that deprivation of sleep is the most effective torture and certain to produce any confession desired."

Under President Bush's new executive order, C.I.A. detainees must receive the "basic necessities of life, including adequate food and water, shelter from the elements, necessary clothing, protection from extremes of heat and cold, and essential medical care." Sleep, according to the order, is not among the basic necessities.

In addition to keeping a prisoner awake, the simple act of remaining upright can

over time cause significant pain. McCoy, the historian, noted that "longtime standing" was a common K.G.B. interrogation technique. In his 2006 book, "A Question of Torture," he writes that the Soviets found that making a victim stand for eighteen to twenty-four hours can produce "excruciating pain, as ankles double in size, skin becomes tense and intensely painful, blisters erupt oozing watery serum, heart rates soar, kidneys shut down, and delusions deepen."

Mohammed is said to have described being chained naked to a metal ring in his cell wall for prolonged periods in a painful crouch. (Several other detainees who say that they were confined in the Dark Prison have described identical treatment.) He also claimed that he was kept alternately in suffocating heat and in a painfully cold room, where he was doused with ice water. The practice, which can cause hypothermia, violates the Geneva Conventions, and President Bush's new executive order arguably bans it.

Some detainees held by the C.I.A. claimed that their cells were bombarded with deafening sound twenty-fours hours a day for weeks, and even months. One detainee, Binyam Mohamed, who is now in Guantánamo, told his lawyer, Clive Stafford Smith, that speakers blared music into his cell while he was handcuffed. Detainees recalled the sound as ranging from ghoulish laughter, "like the soundtrack from a horror film," to ear-splitting rap anthems. Stafford Smith said that his client found the psychological torture more intolerable than the physical abuse that he said he had been previously subjected to in Morocco, where, he said, local intelligence agents had sliced him with a razor blade. "The C.I.A. worked people day and night for months," Stafford Smith quoted Binyam Mohamed as saying. "Plenty lost their minds. I could hear people knocking their heads against the walls and doors, screaming their heads off."

Professor Kassem said his Yemeni client, Kazimi, had told him that, during his incarceration in the Dark Prison, he attempted suicide three times, by ramming his head into the walls. "He did it until he lost consciousness," Kassem said. "Then they stitched him back up. So he did it again. The next time, he woke up, he was chained, and they'd given him tranquillizers. He asked to go to the bathroom, and then he did it again." This last time, Kazimi was given more tranquillizers, and chained in a more confining manner.

The case of Khaled el-Masri, another detainee, has received wide attention. He is the German car salesman whom the C.I.A. captured in 2003 and dispatched to Afghanistan, based on erroneous intelligence; he was released in 2004, and Condoleezza Rice reportedly conceded the mistake to the German chancellor. Masri is considered one of the more credible sources on the black-site program, because Germany has confirmed that he has no connections to terrorism. He has also described inmates bashing their heads against the walls. Much of his account appeared on the front page of the Times. But, during a visit to America last fall, he became tearful as he recalled the plight of a Tanzanian in a neighboring cell. The man seemed "psychologically at the end," he said. "I could hear him ramming his head against the wall in despair. I tried to calm him down. I asked the doctor, 'Will you take care of this human being?' " But the doctor, whom Masri described as American, refused to help. Masri also said that he was told that guards had "locked the Tanzanian in a suitcase for long periods of time—a foul-smelling suitcase that made him vomit." (Masri did not witness such abuse.)

Masri described his prison in Afghanistan as a filthy hole, with walls scribbled on in Pashtun and Arabic. He was given no bed, only a coarse blanket on the floor. At night, it was too cold to sleep. He said, "The water was putrid. If you took a sip, you could taste it for hours. You could smell a foul smell from it three metres away." The Salt Pit, he said, "was managed and run by the Americans. It was not a secret. They introduced themselves as Americans." He added, "When anything came up, they said they couldn't make a decision. They said, 'We will have to pass it on to Washington.' " The interrogation room at the Salt Pit, he said, was overseen by a half-dozen English-speaking masked men, who shoved him and shouted at him, saying, "You're in a country where there's no rule of law. You might be buried here."

According to two former C.I.A. officers, an interrogator of Mohammed told them that the Pakistani was kept in a cell over which a sign was placed: "The Proud Murderer of 3,000 Americans." (Another source calls this apocryphal.) One of these former officers defends the C.I.A.'s program by noting that "there was absolutely nothing done to K.S.M. that wasn't done to the interrogators themselves"—a reference to SERE-like training. Yet the Red Cross report emphasizes that it was the simultaneous use of several techniques for extended periods that made the treatment "especially abusive." Senator Carl Levin, the chairman of the Senate Armed Services Committee, who has been a prominent critic of the Administration's embrace of harsh interrogation techniques, said that, particularly with sensory deprivation, "there's a point where it's torture. You can put someone in a refrigerator and it's torture. Everything is a matter of degree."

One day, Mohammed was apparently transferred to a specially designated prison for high-value detainees in Poland. Such transfers were so secretive, according to the report by the Council of Europe, that the C.I.A. filed dummy flight plans, indicating that the planes were heading elsewhere. Once Polish air space was entered, the Polish aviation authority would secretly shepherd the flight, leaving no public documentation. The Council of Europe report notes that the Polish authorities would file a one-way flight plan out of the country, creating a false paper trail. (The Polish government has strongly denied that any black sites were established in the country.)

No more than a dozen high-value detainees were held at the Polish black site, and none have been released from government custody; accordingly, no first-hand accounts of conditions there have emerged. But, according to well-informed sources, it was a far more high-tech facility than the prisons in Afghanistan. The cells had hydraulic doors and air-conditioning. Multiple cameras in each cell provided video surveillance of the detainees. In some ways, the circumstances were better: the detainees were given bottled water. Without confirming the existence of any black sites, Robert Grenier, the former C.I.A. counterterrorism chief, said, "The agency's techniques became less aggressive as they learned the art of interrogation," which, he added, "is an art."

Mohammed was kept in a prolonged state of sensory deprivation, during which every point of reference was erased. The Council on Europe's report describes a four-month isolation regime as typical. The prisoners had no exposure to natural light, making it impossible for them to tell if it was night or day. They interacted only with masked, silent guards. (A detainee held at what was most likely an Eastern European black site, Mohammed al-Asad, told me that white noise was piped in constantly, although during electrical outages he could hear people crying.) According to a source familiar with the Red Cross report, Khalid Sheikh Mohammed claimed that he was shackled and kept naked, except for a pair of goggles and earmuffs. (Some prisoners were kept naked for as long as forty days.) He had no idea where he was, although, at one point, he apparently glimpsed Polish writing on a water bottle.

In the C.I.A.'s program, meals were delivered sporadically, to insure that the prisoners remained temporally disoriented. The food was largely tasteless, and barely enough to live on. Mohammed, who upon his capture in Rawalpindi was photographed looking flabby and unkempt, was now described as being slim. Experts on the C.I.A. program say that the administering of food is part of its psychological arsenal. Sometimes portions were smaller than the day before, for no apparent reason. "It was all part of the conditioning," the person involved in the Council of Europe inquiry said. "It's all calibrated to develop dependency."

The inquiry source said that most of the Poland detainees were waterboarded, including Mohammed. According to the sources familiar with the Red Cross report, Mohammed claimed to have been waterboarded five times. Two former C.I.A. officers who are friends with one of Mohammed's interrogators called this bravado, insisting that he was waterboarded only once. According to one of the officers, Mohammed needed only to be shown the drowning equipment again before he "broke."

"Waterboarding works," the former officer said. "Drowning is a baseline fear. So is

falling. People dream about it. It's human nature. Suffocation is a very scary thing. When you're waterboarded, you're inverted, so it exacerbates the fear. It's not painful, but it scares the shit out of you." (The former officer was waterboarded himself in a training course.) Mohammed, he claimed, "didn't resist. He sang right away. He cracked real quick." He said, "A lot of them want to talk. Their egos are unimaginable. K.S.M. was just a little doughboy. He couldn't stand toe to toe and fight it out."

The former officer said that the C.I.A. kept a doctor standing by during interrogations. He insisted that the method was safe and effective, but said that it could cause lasting psychic damage to the interrogators. During interrogations, the former agency official said, officers worked in teams, watching each other behind two-way mirrors. Even with this group support, the friend said, Mohammed's interrogator "has horrible nightmares." He went on, "When you cross over that line of darkness, it's hard to come back. You lose your soul. You can do your best to justify it, but it's well outside the norm. You can't go to that dark a place without it changing you." He said of his friend, "He's a good guy. It really haunts him. You are inflicting something really evil and horrible on somebody."

Among the few C.I.A. officials who knew the details of the detention and interrogation program, there was a tense debate about where to draw the line in terms of treatment. John Brennan, Tenet's former chief of staff, said, "It all comes down to individual moral barometers." Waterboarding, in particular, troubled many officials, from both a moral and a legal perspective. Until 2002, when Bush Administration lawyers asserted that waterboarding was a permissible interrogation technique for "enemy combatants," it was classified as a form of torture, and treated as a serious criminal offense. American soldiers were court-martialled for waterboarding captives as recently as the Vietnam War.

A C.I.A. source said that Mohammed was subjected to waterboarding only after interrogators determined that he was hiding information from them. But Mohammed has apparently said that, even after he started coöperating, he was waterboarded. Footnotes to the 9/11 Commission report indicate that by April 17, 2003—a month and a half after he was captured—Mohammed had already started providing substantial information on Al Qaeda. Nonetheless, according to the person involved in the Council of Europe inquiry, he was kept in isolation for years. During this time, Mohammed supplied intelligence on the history of the September 11th plot, and on the structure and operations of Al Qaeda. He also described plots still in a preliminary phase of development, such as a plan to bomb targets on America's West Coast.

Ultimately, however, Mohammed claimed responsibility for so many crimes that his testimony became to seem inherently dubious. In addition to confessing to the Pearl murder, he said that he had hatched plans to assassinate President Clinton, President Carter, and Pope John Paul II. Bruce Riedel, who was a C.I.A. analyst for twenty-nine years, and who now works at the Brookings Institution, said, "It's difficult to give credence to any particular area of this large a charge sheet that he confessed to, considering the situation he found himself in. K.S.M. has no prospect of ever seeing freedom again, so his only gratification in life is to portray himself as the James Bond of jihadism."

By 2004, there were growing calls within the C.I.A. to transfer to military custody the high-value detainees who had told interrogators what they knew, and to afford them some kind of due process. But Donald Rumsfeld, then the Defense Secretary, who had been heavily criticized for the abusive conditions at military prisons such as Abu Ghraib and Guantánamo, refused to take on the agency's detainees, a former top C.I.A. official said. "Rumsfeld's attitude was, You've got a real problem." Rumsfeld, the official said, "was the third most powerful person in the U.S. government, but he only looked out for the interests of his department—not the whole Administration." (A spokesperson for Rumsfeld said that he had no comment.)

C.I.A. officials were stymied until the Supreme Court's Hamdan ruling, which prompted the Administration to send what it said were its last high-value detainees to Cuba. Robert Grenier, like many people in the C.I.A., was relieved. "There has to

be some sense of due process," he said. "We can't just make people disappear." Still, he added, "The most important source of intelligence we had after 9/11 came from the interrogations of high-value detainees." And he said that Mohammed was "the most valuable of the high-value detainees, because he had operational knowledge." He went on, "I can respect people who oppose aggressive interrogations, but they should admit that their principles may be putting American lives at risk."

Yet Philip Zelikow, the executive director of the 9/11 Commission and later the State Department's top counsellor, under Rice, is not convinced that eliciting information from detainees justifies "physical torment." After leaving the government last year, he gave a speech in Houston, in which he said, "The question would not be, Did you get information that proved useful? Instead it would be, Did you get information that could have been usefully gained only from these methods?" He concluded, "My own view is that the cool, carefully considered, methodical, prolonged, and repeated subjection of captives to physical torment, and the accompanying psychological terror, is immoral."

Without more transparency, the value of the C.I.A.'s interrogation and detention program is impossible to evaluate. Setting aside the moral, ethical, and legal issues, even supporters, such as John Brennan, acknowledge that much of the information that coercion produces is unreliable. As he put it, "All these methods produced useful information, but there was also a lot that was bogus." When pressed, one former top agency official estimated that "ninety per cent of the information was unreliable." Cables carrying Mohammed's interrogation transcripts back to Washington reportedly were prefaced with the warning that "the detainee has been known to withhold information or deliberately mislead." Mohammed, like virtually all the top Al Qaeda prisoners held by the C.I.A., has claimed that, while under coercion, he lied to please his captors.

In theory, a military commission could sort out which parts of Mohammed's confession are true and which are lies, and obtain a conviction. Colonel Morris D. Davis, the chief prosecutor at the Office of Military Commissions, said that he expects to bring charges against Mohammed "in a number of months." He added, "I'd be shocked if the defense didn't try to make K.S.M.'s treatment a problem for me, but I don't think it will be insurmountable."

Critics of the Administration fear that the unorthodox nature of the C.I.A.'s interrogation and detention program will make it impossible to prosecute the entire top echelon of Al Qaeda leaders in captivity. Already, according to the Wall Street Journal, credible allegations of torture have caused a Marine Corps prosecutor reluctantly to decline to bring charges against Mohamedou Ould Slahi, an alleged Al Qaeda leader held in Guantánamo. Bruce Riedel, the former C.I.A. analyst, asked, "What are you going to do with K.S.M. in the long run? It's a very good question. I don't think anyone has an answer. If you took him to any real American court, I think any judge would say there is no admissible evidence. It would be thrown out."

The problems with Mohammed's coerced confessions are especially glaring in the Daniel Pearl case. It may be that Mohammed killed Pearl, but contradictory evidence and opinion continue to surface. Yosri Fouda, the Al Jazeera reporter who interviewed Mohammed in Karachi, said that although Mohammed handed him a package of propaganda items, including an unedited video of the Pearl murder, he never identified himself as playing a role in the killing, which occurred in the same city just two months earlier. And a federal official involved in Mohammed's case said, "He has no history of killing with his own hands, although he's proved happy to commit mass murder from afar." Al Qaeda's leadership had increasingly focussed on symbolic political targets. "For him, it's not personal," the official said. "It's business."

Ordinarily, the U.S. legal system is known for resolving such mysteries with painstaking care. But the C.I.A.'s secret interrogation program, Senator Levin said, has undermined the public's trust in American justice, both here and abroad. "A guy as dangerous as K.S.M. is, and half the world wonders if they can believe him—is that what we want?" he asked. "Statements that can't be believed, because people

think they rely on torture?"

Asra Nomani, the Pearls' friend, said of the Mohammed confession, "I'm not interested in unfair justice, even for bad people." She went on, "Danny was such a person of conscience. I don't think he would have wanted all of this dirty business. I don't think he would have wanted someone being tortured. He would have been repulsed. This is the kind of story that Danny would have investigated. He really believed in American principles."
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Some Guantanamo inmates say they'd rather stay than be sent home to N. Africa to face torture

The Associated Press

ALGIERS, Algeria: This was supposed to be the moment Ahmed Bel Bacha was waiting for – the end of his five years in prison at Guantanamo Bay. Instead, the Algerian is fighting to stay put rather than return home.

Bel Bacha, reportedly slated to leave Guantanamo Bay soon along with three of his countrymen, fears he will be tortured back in Algeria, a country he had already fled once before to seek asylum in Britain, his lawyers say.

And so lawyers for the 38-year-old former hotel cleaner have been waging an 11th-hour legal battle to keep him temporarily at Guantanamo while looking for another country to give him political asylum.

Bel Bacha is not alone in his fears: Human rights groups say at least two dozen Guantanamo detainees – including many from the North African countries of Libya, Algeria and Tunisia – are afraid they will face abuse on returning home.

"How many times is the U.S. willing to take the risk with someone's life and send them back to regimes with terrible human rights records?" said Zachary Katznelson, an attorney for the rights group Reprieve, which represents Bel Bacha and three dozen other detainees. Human Rights Watch and Amnesty International are among other groups that are worried.

About 80 detainees have been declared eligible for release. Navy Cmdr. Jeffrey Gordon, a Pentagon spokesman, said detainees at the U.S. Navy base in Cuba can leave only "once humane treatment and continuing threat concerns have been satisfactorily addressed by the receiving country."

"I reiterate that detainees are not repatriated to countries where it is more likely than not that they will be tortured," he said.

Algeria's presidential office told The AP that Algeria had U.S. concerns about the prisoners covered, both through the country's "constant and incontestable commitment to the struggle against international terrorism," and by having signed "numerous international conventions for the protection of human rights."

But rights groups say countries' promises are not enough.

With U.S. President George W. Bush facing international pressure to close the military prison camp down, and with the U.S. administration struggling over what to do with roughly 360 remaining prisoners, rights groups fear U.S. officials may overlook the torture records of inmates' home countries.

In at least one other case already in North Africa, a former Guantanamo detainee says he was mistreated on returning to Tunisia.

Abdullah bin Omar's lawyer and wife say the 49-year-old father of eight was struck while in Tunisian custody, and that security services also threatened to rape bin Omar's female family members.

Bin Omar's wife said in an interview that his physical and mental state has improved since his returned, though his prison conditions are "appalling."

"If he had known he was going to be treated that way, he wouldn't have accepted to come home" and would have sought asylum elsewhere instead, Khadija Bousaidi told The Associated Press.

Tunisia's Justice Ministry has dismissed the allegations he was mistreated as "baseless."

Another Tunisian who was recently returned home and jailed, Lofti Lagha, has still never seen a lawyer, either before or after leaving Guantanamo, Reprieve says. Two representatives from the rights group left Tunisia on Sunday after trying unsuccessfully to see them.

"We were basically given the run-around the entire week," Cori Crider of Reprieve said.

One North African country, Morocco, seems to be treating former Guantanamo prisoners "relatively fairly," Reprieve's Katznelson said. Ten prisoners have gone back, and all are free except two.

In the case of Algeria, Amnesty International said this weekend that U.S. authorities planned to send Bel Bacha and three other Algerians home Monday. Clive Stafford Smith, the legal director for Reprieve, said Monday that his client had been granted another week. It was unclear whether that might have an impact on the three others.

Algeria is still trying to turn the page on an Islamic insurgency that has killed as many as 200,000 people since 1992, and anyone suspected of terrorist activities or knowledge of Islamist groups there "faces a real risk of secret detention and torture in Algeria," Amnesty says.

Beatings and electric shock treatments are often reported in Algeria, as is a method of tying victims down and forcing them to ingest dirty water, urine or chemicals through a rag stuffed in their mouths, Amnesty has said.

Bel Bacha lived for a time in Britain where he worked as a hotel cleaner before his capture in Pakistan, where he had gone to study the Quran, his family said. His brother, Mohammed Bel Bacha, complained that Algerian authorities gave the family little information on the case and that his lawyers had not been allowed to visit the country.

"If authorities are afraid to let the lawyers in, who can guarantee that my brother is going to come back to Algeria safe and sound?" he asked.

The Pentagon alleged Bel Bacha had weapons training in Afghanistan and met Osama bin Laden twice, declaring him an "enemy combatant." A later review found, however, found he no longer posed a threat to the United States and could be released.

Bel Bacha has been held at Guantanamo since February 2002 and is held in a solid-wall cell by himself for as many as 22 hours a day. Twenty-four Algerians are being held there, according to the New York-based Center for Constitutional Rights.

"If anyone comes back to Algeria it's a golden opportunity for Algeria to show that they have changed, that there is a new page in Algeria," said Katznelson of Reprieve. "Because the world will be watching."

http://www.iht.com/articles/ap/2007/08/06/africa/AF-GEN-Africa-Leaving-Guantanamo.php

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READ AHEAD FOR DEPUTY SECRETARY OF DEFENSE

Meeting with **HUMAN RIGHTS EXECUTIVE DIRECTORS WORKING GROUP**

July 21, 2004, 1:30-2:00 pm, SecDef Conference Room

From: Thomas W. O'Connell, Assistant Secretary of Defense (SO/LIC), (b)(2)

Attendees (all DoD):

- PDUSD(P) Ryan Henry
- DASD for African Affairs Theresa Whelan
- Acting DASD for Stability Operations Caryn Hollis
- Acting DASD for Detainee Affairs Matt Waxman
- OGC representative, TBD
- COL (b)(6) J-5 Detainee Policy

Visitors:

- Dr. William Schulz, Amnesty International
- Ken Roth, Human Rights Watch
- Michael Posner, Lawyers Committee for Human Rights
- Holly Burkhalter, Physicians for Human Rights
- Ashley Barr, The Carter Center
- John Bradshaw, Coordinator, Human Rights Executive Directors Working Group
- Patrick McGreevy, Assistant to Coordinator

Issues: The Human Rights Working Group requested this meeting with you to discuss:

- detainees
- DoD's role in the Darfur humanitarian crisis
- expanding the mandate for U.S. troops in Afghanistan
- DoD's policy on cluster munitions.

You last met with them in December 2002.

Desired Outcome: A constructive exchange of ideas. Improved understanding by human rights directors of DoD's approach to the issues raised.

Recommendations: None.

Talking Points: Issue 1 -- Darfur/ Sudan

The U.S. Government is working with international partners to identify additional funding, planners, and logistics assets, such as airlift, needed for the Darfur humanitarian crisis.

State is working with its contractors to line up the necessary airlift (fixed and rotary wing) to deploy African Union troops and deliver humanitarian aid.

Background: Concerned about the mounting Sudanese humanitarian crisis, the group will explore the possibility of DoD providing direct support (such as airlift capacity) to AU forces and assisting humanitarian groups in Darfur. DoD has deployed three soldiers as part of the AU ceasefire monitoring mission and sent an operations planner to assist the AU in planning for future deployments to Darfur.

Talking Points: Issue 2 -- Detainees

Treatment of Prisoners in Iraq, Guantanamo, and Afghanistan

- It has always been the policy and practice of the Defense Department and the U.S. government to treat detainees humanely, and to the extent appropriate and consistent with military necessity, in a manner consistent with the Geneva Conventions.

Existing Standards for Interrogations

- On July 19, 2004, DoD released documents relating to the development of interrogation procedures in use prior to April 2003, and those currently in use at Guantanamo.

- The base document is Army Field Manual 34-52, which establishes basic principles of interrogation doctrine in accordance with U.S. and international law.

- Development and approval of interrogation techniques is done in a deliberate manner with strict legal and policy reviews.

- The guidelines issued ensure the protection of the detainees and our forces.

- No procedures ordered, authorized, permitted, or tolerated torture.

"Ghost" Detainees (Iraq)

- In June 2004, the Secretary briefed the press about a detainee in Iraq who had not been acknowledged to the ICRC.

- This case was an anomaly inconsistent with DoD policy regarding notification to ICRC.

- DoD has since corrected the problem and has allowed the ICRC access to the detainee.

- DoD has instituted additional measures to ensure that this situation does not happen again. To my knowledge, this was the only case of a "ghost" detainee.

Unacknowledged Prisoners at Guantanamo

- The ICRC receives notification on every DoD detainee at Guantanamo.

- The ICRC pays frequent visits to the detainees at Guantanamo.

Provision of Lawyers to Detainees at Guantanamo

- We are working with the Justice Department to determine how to resolve the question on access to lawyers for the habeas process.

- For the Combatant Status Review Tribunal and Administrative Review, the detainees will be assigned a personal representative to explain the process and assist the detainee in preparing his case.

Nature and Procedures of Military Tribunals (Combatant Status Review Tribunal)

- The Combatant Status Review, which you may know as Military Tribunals, an Article 5, or a Army Regulation 190-8 Hearing, is designed to examine the information surrounding each detainee's capture to ensure that he is, in fact, an enemy combatant.

- The Combatant Status Review is an administrative procedure that looks at whether the U.S. is holding the detainee under the proper authorities. The detainees are not charged with specific crimes or violations.

- Military commissions are a separate process that will try a detainee charged with violations of the law of war. Nine detainees have been declared eligible for commissions under the President's Order, and four have had charges referred.

- The Secretary of the Navy is the official responsible for overseeing the Combatant Status Review and the yearly administrative review procedures, which examines the threat posed by individual detainees.

Renditions of Detainees

- DoD has transferred some of the detainees held at Guantanamo to the control of their country of citizenship.

- The U.S. requires that the receiving country provide assurances that the detainee will be treated humanely.

- DoD does not turn over detainees for the purpose of torture.

Background: The group will ask about DoD treatment of prisoners, existing standards for interrogations, ICRC access to prisoners, and so-called ghost detainees. They will also raise issues specific to Guantanamo, including provision of lawyers, nature of military tribunals, and Article V hearings for enemy combatants. The group will also inquire about DoD's role in turning over prisoners to other countries.

If time permits:

Talking Points: Issue 3 -- Afghanistan

- U.S. continues to work with Coalition partners, Afghan authorities, and the UN Assistance Mission to Afghanistan to ensure smooth transition to democratic governance and full implementation of the December 2001 Bonn Agreement.

- LTG Barno, Commander of Combined Forces Command -- Afghanistan, has pledged Coalition support to safeguard upcoming presidential and parliamentary elections from attacks by extremists and anti-government forces.

Background: The group will inquire about prospects of DoD expanding the mandate of U.S. forces in Afghanistan to provide support for the electoral process.

Talking Points: Issue 4 -- Cluster Munitions

- Submunitions are lawful weapons under the law of armed conflict. They have been widely used, and can be accurately directed to reduce the risk of incidental injury.

- The United States gives areful consideration when deciding whether to use submunitions in order to minimze the risk to civilians.

- Information about submunition failure rates has been inconsistent, but we are working to reduce failure rates so these weapons function against the enemy, and not against civilians or friendly forces.

[If asked about use of cluster munitions in populated areas in Iraq]

- Iraq violated the obligation of states not to place military targets among civilian populations.

- The U.S. military followed strict rules of engagement whether and when to use submunitions. Using other munitions would not necessarily decrease the risk to civilians. In many cases, other munitions would increase the risk of injury where an enemy has illegally placed military targets among a civilian population.

Background: The Human Rights Executive Directors Working Group will outline its concern about the humanitarian dangers arising from use of cluster munitions by U.S. forces.

Coordination: Tab A

Prepared by: (b)(6) SO/LIC Stability Operations, (b)(2) and (b)(6)
(b)(6) Detainees Activities Office, (b)(2)
Approved by: Caryn Hollis, Acting DASD Stability Operations, (b)(2)

INFO MEMO

DepSecDef _____
USD(P) _____
I-04/010339-DA

FOR SECRETARY OF DEFENSE

FROM: Ryan Henry, PD Under Secretary of Defense for Policy

SUBJECT: Defining "Ghost" Detainees

- (U) Members of Congress, the press, and some NGOs have raised questions and made allegations about "ghost" detainees. It is important to clarify the differences among detainees who are being categorized under this term and to set the record straight.
  - (b)(1) [redacted]
- (U) The media and Congress have since used the term "ghost" detainees to refer to three other categories of detainees:
  - ~~(S)~~ Detainees recently captured: DoD policy is that detainees must have an ISN within 96 hours unless the security situation prohibits moving a detainee to a processing point in that time.
  - (b)(1) [redacted]
- (U) The attached talking points should be used in response to queries on the subject of "ghost" detainees to clarify the definition (Tab A).

Derived from: Multiple Sources
Reason or Reasons: 1.4 (a)
Declassify On: 3 August 2024

Coordination: Tab B

Attachment: As stated.

Prepared by: (b)(6) OUSD(P) Detainee Affairs, (b)(2)

Talking Points on "Ghost" Detainees

- There have been several recent media reports alleging that DoD holds "ghost" or "hidden" detainees. I would like to clarify this issue.
- DoD does not hold "ghost" detainees.
- All DoD detainees have internment numbers, and the Red Cross is notified that they are under DoD control.
  - DoD policy is to issue an internment number to each detainee captured within 96 hours.
- On occasion, for reasons of military necessity, DoD may restrict access to a detainee. However, the detainee is not "hidden" from the ICRC, and the ICRC knows that the person remains in DoD control.
- As I discussed in a press conference on June 17, there was one detainee in Iraq whom we did not register with the ICRC for about seven months in response to a request by the (b)(1)
- This situation was an anomaly, and DoD has taken steps to correct the situation. That situation does not reflect our policy on ICRC access to detainees.

COORDINATION

Office of the General Counsel Of the Department of Defense	Copy provided August 2, 2004
USD (Intelligence)	Copy provided August 2, 2004
Joint Staff	Copy provided August 2, 2004
ASD (Public Affairs)	Copy provided August 3, 2004

In response refer to:
I-04/010339-DA

FOR UNDER SECRETARY OF DEFENSE (INTELLIGENCE)
GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE
ASSISTANT SECRETARY (PUBLIC AFFAIRS)
DIRECTOR, JOINT STAFF

SUBJECT: Press Points on "Ghost" or "Hidden" Detainees

Members of Congress, the press, and some NGOs have made statements or asked questions about "ghost" or "hidden" detainees being held by the Department of Defense. It is important that we set the record straight on this issue and clarify what the term "ghost" detainee means.

Please verify the veracity of the attached information memorandum and talking points and provide your coordination by August 9, 2004.

Ryan Henry

(b)(1),(b)(5)

(b)(1),(b)(5)

(b)(1),(b)(5)

(b)(1)

(b)(1),(b)(2),(b)(6)

PRINCIPAL DEPUTY UNDER SECRETARY OF DEFENSE
2000 DEFENSE PENTAGON
WASHINGTON, DC 20301-2000

05/000431-DA

POLICY

INFO MEMO

FOR PD UNDER SECRETARY OF DEFENSE FOR POLICY

FROM: Matthew Waxman, DASD for Detainee Affiars MW 1/8

SUBJECT: Alberto Gonzales Confirmation Hearing Testimony on Detainee Issues

- (U/~~FOUO~~) Judge Gonzales' testimony in his confirmation hearing unequivocally stated USG policy opposing torture.

- (U/~~FOUO~~) In the opening statements, Senator Leahy stated that the Justice (OLC) memo served as justification for "harsh treatment that is tantamount to torture." Further, he stated that the Department had agreed to detain "ghost detainees" in violation of international law for the purposes of hiding them from the ICRC. Senator Kennedy characterized U.S. interrogation techniques as committing acts of torture, and said we "tortured people" at Guantanamo and Abu Ghraib.

- (U/~~FOUO~~) In general, Democrat members of the committee vigorously pursued a line of questioning to imply that the Administration, the Department, and Judge Gonzales, supported, or intended to commit, acts of torture, and that the OLC "torture memos" gave legal force to that intent.

- (U/~~FOUO~~) Gonzales took the following positions in his testimony:

  - (U/~~FOUO~~) An unequivocal condemnation of the use of torture.

  - (U/~~FOUO~~) At the time of its issuance, he did not agree with the legal reasoning of the OLC memorandum interpreting the U.S. anti-torture statute (the "Torture Memo"), but it was not his position as White House Counsel to direct the analysis conducted by Justice.

  - (U/~~FOUO~~) It would be inappropriate to have expanded the protections of the Geneva Conventions to al Qaida and the Taliban because those combatants did not abide by the laws of war, and because the U.S. was not engaged in an international armed conflict in fighting them.

- (U/~~FOUO~~) It is correct to treat all detainees, regardless of status, humanely, and in the case of al Qaida and Taliban detainees, consistent with the Geneva Convention and military necessity as dictated in the President's November 11, 2001 military order.

- (U/~~FOUO~~) The Geneva Conventions applied in a limited manner in Afghanistan and applied in full in Iraq.

- (U/~~FOUO~~) The events of Abu Ghraib, based upon his understanding of the findings of the investigations conducted, were the result of failures of discipline and a "policy migration" problem.

- Key issues that have import to the Department:

  - As DoJ withdrew the "Torture Memo," and has subsequently issued a new memorandum interpreting the Federal Torture Statute in a different manner, questions may arise asking why the Department did not also withdraw its documents / policies based upon the original OLC interpretation of the federal torture statute.

  - In replying to such criticism, it would be important to state:

    - The Secretary revoked authorization for interrogation techniques beyond standard Army interrogation techniques long before the OLC withdrew its position.

    - In light of the new OLC opinion, we are preparing for the Secretary's signature a directive that DoD components review the new opinion and ensure that DoD policies and guidelines are in compliance.

  - Judge Gonzales offered an analysis on the findings of the independent investigative panels. In his testimony, Gonzales stated that policy migration was to blame. Critics may charge the Department with not doing enough to rectify this "problem."

    - The Office of Detainee Affairs, the Joint Staff and the Combatant Commands are analyzing this issue and implementing changes.

    - We are in the process of publicizing our efforts to address the recommendations put forth in the investigative reports.

Document 4

From: O'Connell, Thomas, HON, OSD-POLICY
Sent: Tuesday, September 07, 2004 8:00 AM
To: Henry, Ryan, HON, OSD-POLICY; Haynes, WJ, Hon, DoD-OGC; Liotta, Alan, CIV, OSD-POLICY; (b)(6) OSD-POLICY; Butler, Paul, CIV, OSD; Di Rita, Larry, CIV, OSD; Waxman, Matthew, CIV, OSD-POLICY; (b)(6) OSD-LA
Cc: Feith, Douglas, HON, OSD-POLICY; Boykin, William G, LTG, OSD-NII
Subject: Comment from SEN Reed (D) RI (FOUO)

~~FOR OFFICIAL USE ONLY~~

Had a chance meeting w/ Sen Reed of Rhode Island on Saturday. He was friendly but cautioned that SASC woul be soon looking into specific reasons why there were "ghost detainees"at AG prison. Said whole incident- to include military agreements w/ CIA should be explored.

Thomas W. O'Connell
Assistant Secretary of Defense
Special Operations/Low Intensity Conflict

Marshall Center PTSS Daily 29 October 2007

From: VanBuren, Donald CPL. [vanburend@marshallcenter.org]
Sent: Monday, October 29, 2007 11:01 AM
To: Graduate Support Office
Subject: Marshall Center PTSS Daily - 29 October 2007

Attachments: image012.gif; image013.gif; image014.gif; image015.jpg; image016.jpg; image017.jpg; image018.jpg; image019.jpg; image020.jpg; image021.jpg

PTSS Daily

29 October 2007

The PTSS Daily is a special service provided to graduates of the George C. Marshall European Center for Security Studies. You may forward this e-mail provided that you forward it in its entirety.

This newsletter is produced by Ms. Leigh Ann Truly, the Marshall Center Research Library staff, and the faculty of the Program on Terrorism and Security Studies, under the direction of Professor Nick Pratt, Colonel USMC Retired. Please send comments to:mcalumni@marshallcenter.org

NOTE: If you do not wish to receive this newsletter, please send a message to the link below.

"I do not wish to receive future versions of the PTSS Daily."
<mailto:mcalumni@marshallcenter.org>

Editor's Note: Due to the large size of the secondary documents, the PTSS DAILY for today, 29 October 2007 will come in two broadcasts.

Thought for the Day:

"Europe today is witnessing the growth of a disturbing new subculture that mixes violent urban behaviors, nihilism and Islamic fundamentalism. Many young, often European-born Muslims feel a disturbingly intense sense of detachment from, if not sheer hatred for, their host societies and embrace various antagonistic messages."
-- Lorenzo Vidino

[See lead article in General Counterterrorism News, "Current Trends in Jihadi Networks in Europe."]

Flash Points:

AFGHANISTAN: A suicide bomber killed four Afghan soldiers outside a US base in Paktika province on 27 October (Reuters).

INDIA: Communist Party of India-Maoist (CPI-M) cadres killed 23 people in two separate incidents on 27 October in Jharkhand state (Hindustan Times).

IRAN: On 28 October Iran's minister of foreign affairs accused the US and Israel of supporting Kurdish separatists in northern Iraq, accusing them of being "behind some terrorist activities" (AP).

IRAQ: Gunmen kidnapped ten members of a tribal group fighting Al-Qaeda in Iraq (AQI) on 28 October as they returned to their homes in Diyala from a meeting in Baghdad (Reuters).

: A suicide car bomber killed at least six people and wounded nearly 30 in an attack in Kirkuk on 28 October (Al Jazeera).

SUDAN: Abdul Wahid al-Nur, the leader of the Sudan Liberation Movement (SLM), said on 27 October that the peace talks in Libya would fail, and called on his followers not to attend (Guardian).

THAILAND: A Thai-Buddhist civilian was killed and twelve wounded by a 7 kg bomb in the Rangae district of Narathiwat on 27 October (Bangkok Post).

TURKEY: Three people were injured by an explosion on 28 October at a demonstration protesting against the actions of the Workers Party of Kurdistan (Partiya Karkaren Kurdistan: PKK) in Izmit (Reuters)

: Turkish troops killed 20 Workers Party of Kurdistan (Partiya Karkaren Kurdistan: PKK) cadres in the east of the country on 28 October (Reuters).

UNITED KINGDOM: Ahead of a state visit to the UK, Saudi Arabia's King Abdullah on 29 October accused the UK of not doing enough to fight international terrorism, which he said could take 20 to 30 years to beat (BBC).

Top Headlines:

Coalition: 80 Taliban Killed

Source:

Story Highlights;

* Battle near Musa Qala is at least the fifth major fight there since September
* Four bombs dropped on a trench line filled with Taliban, coalition says
* Musa Qala, surrounding region is front line of fighting this year

* Four Afghan soldiers, civilian killed in suicide bomber attack on base

U.S.-led coalition forces killed about 80 Taliban fighters during a six-hour battle outside a Taliban-controlled town in southern Afghanistan Saturday, the latest in a series of increasingly bloody engagements in the region, officials said.

The battle near Musa Qala in Helmand province -- the world's largest poppy growing region -- is at least the fifth major fight in the area since September 1. The five battles have killed more than 250 Taliban fighters, a possible sign that U.S. or British forces could be trying to wrest the area back from Taliban militants.

The latest fight began when Taliban fighters attacked a combined U.S. coalition and Afghan patrol with rockets and gunfire, prompting the combined force to call in attack aircraft, which resulted in "almost seven dozen Taliban fighters killed," the U.S.-led coalition said in a statement early Sunday.

The coalition said that four bombs were dropped on a trench line filled with Taliban <http://topics.cnn.com/topics/The_Taliban> fighters, resulting in most of the deaths.

Taliban militants overran Musa Qala in February, four months after British troops left the town following a contentious peace agreement that handed over security responsibilities to Afghan elders. Musa Qala has been in control of Taliban fighters ever since.

Situated in the north of Helmand, Musa Qala and the region around it have been the front line of the bloodiest fighting this year. It is also the heartland of Afghanistan's illicit opium poppy farms.

Violence in Afghanistan <http://topics.cnn.com/topics/Afghanistan> this year has been the deadliest since the 2001 U.S.-led invasion. More than 5,200 people have died this year due to the insurgency, according to an Associated Press count based on figures from Afghan and Western officials

Also Saturday, suicide bomber wearing an Afghan security uniform detonated his explosives at the entrance to a combined U.S.-Afghan base in the east of the country, killing four Afghan soldiers and a civilian, officials said The suicide bomber walked up to a security gate for Afghan soldiers outside Forward Operating Base Bermel in the eastern province of Paktika, near the border with Pakistan, NATO's International Security Assistance Force said.

F our Afghan soldiers and a civilian were killed and six Afghans were wounded, NATO's International Security Assistance Force said. No Americans were hurt.

It was not immediately clear if the bomber had been trying to gain entry to the base.

Taliban insurgents have set off more than 100 suicide blasts this year, a record pace.

Elsewhere, Taliban militants killed three Afghan police who had been trying to prevent them from carrying out a kidnapping, said Helmand provincial police Chief Mohammad Hussein Andiwal. The militants successfully kidnapped an Afghan man during the gun battle, he said.

Australia's prime minister, meanwhile, said more NATO powers must directly engage the Taliban to help ease the burden on Australia, the United States, Britain, Canada and the Netherlands, which all have troops in the dangerous southern and central parts of Afghanistan.

Germany, Italy, France and Spain have troops in the relatively safer northern

sections, a fact that is causing a rift within NATO. Australian Prime Minister John Howard said those countries need to help ease the burden on countries operating in the south. "Some of the other countries have lots of troops in Afghanistan, but they're not in some of the areas that are experiencing the heaviest fighting," he said.

The governments of the Netherlands and Canada, in particular, are coming under domestic pressure to pull out troops because of heavy casualties. I think the Dutch government has been very courageous to date," Howard said. "It's not for me to comment on Dutch politics, but I do observe that the Dutch are making a great contribution and as are of course the Canadians."

Justice Department 'Dismayed' Over Release Of USS Cole Bombing Leader

Source: Terry Frieden and Kelli Arena CNN, updated 8:56 p.m. EDT, Fri October 26, 2007

Story Highlights:

* Jamal al-Badawi, a leader in the USS Cole bombing, has been released
* Al-Badawi is one of the FBI's most wanted terrorists
* Rudy Giuliani calls on U.S. government to cancel $20 million in aid to Yemen
* U.S. officials close to the case express outrage over the release

U.S. law enforcement officials Friday blasted Yemen's release of one of the leaders of the 2000 bombing of the USS Cole, which killed 17 U.S. soldiers.

"We are dismayed and deeply disappointed in the government of Yemen's decision not to imprison [Jamal al-Badawi]," said a Justice Department statement issued by the Department's National Security Division. We have communicated our displeasure to Yemeni officials," the statement said.

The statement pointedly referred to al-Badawi <http://topics.cnn.com/topics/jamal_al_badawi> as one of the FBI's most wanted terrorists and noted prosecutors in New York City want to get their hands on him. "He was convicted in Yemeni courts and has been indicted in the Southern District of New York," the Justice Department said. Officials said the decision is not consistent with cooperation between counterterrorism officials of the United States and Yemen <http://topics.cnn.com/topics/yemen> . Al-Badawi -- who had escaped prison last year -- was freed after turning himself in two weeks ago, renouncing terrorism and pledging allegiance to Yemeni President Ali Abdullah Saleh, according to news reports. Witnesses said al-Badawi was "receiving well-wishers at his home" in Aden, Yemen, according to The Associated Press in Sana, Yemen.

Former New York City Mayor and presidential candidate Rudy Giuliani promptly called for the U.S. government to cancel $20 million in aid to Yemen for releasing al-Badawi. The retired former commander of the Cole <http://topics.cnn.com/topics/uss_cole/> called the release "disappointing." "In the war on terrorism, actions speak stronger than words, and this act by the Yemeni government is a clear demonstration that they are neither a reliable nor trustworthy partner in the war on terrorism," said Cmdr. Kirk Lippold.

U.S. law enforcement officials close to the case privately expressed outrage over the release of al-Badawi. "He's got American blood on his hands. He confessed to what he did ... and they let him go," said one official who asked not to be identified because he was not authorized to speak publicly. "This will not be the

last we hear of him," another federal official under the same restriction told CNN's Kelli Arena.

The Justice Department said U.S. officials will try to work with the Yemeni government "to ensure al-Badawi is held accountable for his past actions." Suicide bombers on a boat attacked the guided missile destroyer USS Cole on October 12, 2000, in the harbor at Aden. Seventeen U.S. sailors were killed and 39 injured. Al-Badawi, convicted in 2004 and sentenced to death, previously escaped from prison in 2003, before his trial, and was recaptured in 2004. In 2006, he escaped again with 22 others, and had been at large since then.

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(One of the main organizers of Al Qaeda's recruiting operation was arrested by Yemeni security forces along with 6 others in the city of Aden. The port city is a major hub for the exporting of suicide bombers for service in Iraq. The name of the individual arrested was not given.)

Turkey Intensifies Ops in SE But No Border Crossing Yet

PM Erdogan promised no Iraq incursion before DC visit; Ankara talks failed.

Synopsis: Turkish counter-insurgency operations along its side of the Turkey-Iraq border have intensified in recent weeks, reportedly killing at least 65 PKK rebels over the last week. Over 8,000 troops backed by helicopter gun ships and artillery assaulted PKK positions in the border region within Turkey. Meanwhile, speaking after crisis talks with Iraqi officials ended unsatisfactorily, Prime Minister Recep Tayyip Erdogan said Turkey will launch a military strike against Kurdish rebels in northern Iraq when necessary, regardless of the international community's attitude. He had assured Washington early in the week that no border incursion would take place before he completed next week's DC visit and talks with President Bush. His DC talks are one component of the extensive diplomatic activity underway on the issue. Iran's President Ahmadinejad has also weighed, calling Iraq's Prime Minister Maliki and agreeing to cooperate against PKK separatists and he received a call from Turkey's President Gul on the same subject. Also, Turkey's Foreign Minister Ali Babacan is visiting Iran this week and the PKK problem will figure prominently in those discussions. Iran is also fighting Kurdish militants sneaking from bases in Iraq. The Iraqi delegation, which left Ankara Saturday, had proposed reinforcing Iraqi military outposts at the Turkish border to prevent infiltration and reviving a tripartite panel of Turkish, Iraqi and US officers to coordinate efforts against the separatists. Turkey rejected the idea of the U.S. stationing forces along the border.

Analysis/Road Ahead: Facing intense domestic political pressure, but recognizing the potentially negative impact an incursion may have on regional stability, Prime Minister Erdogan has embarked on a two-pole strategy; 1) intensify military operations against the PKK within Turkey while building up forces to attack their bases in Iraq, and 2) build a regional consensus for action against the PKK that

will pressure the U.S. and Baghdad into suppressing PKK activities and forces within Northern Iraq. He has two hopes in engaging Iran - using Tehran's influence in and on Iraq, and using U.S. concerns about Iranian influence to give further impetus for American officials to pressure Iraq's Kurds into taking action against the PKK. Prime Minister Erdogan doesn't want to jeopardize U.S. relations or any planned agreements, but unless he sees concrete efforts emerging against the PKK, he will launch a border incursion, although it will be limited in scope, depth and duration.

Sources: AFP, AP, BBC, Turkish Press Review, 27-29 Oct 07. Earlier media reporting

Fighting Escalates in Pakistan's NW Tribal Area

Pakistani troops attacked militants in Swat.

Synopsis: Pakistani troops and helicopter gunships have attacked militants in the north-western district of Swat, reportedly killing 10 of them. Violence flared in the area a few days ago, after about 2,500 soldiers were deployed to the area to combat rising Islamist militancy. At least 17 troops died in an apparent bomb attack on a paramilitary vehicle on Thursday, and clashes followed. Hundreds of local people have been fleeing the violence. Pakistan is moving to confront pro-Taleban militant Maulana Fazlullah, who wants to impose Sharia law and has reportedly used radio broadcasts to call for jihad, or holy war, against the Pakistani authorities. After clashes erupted, militants captured and beheaded six security officials and killed seven civilians. Sunday's fighting took place near the town of Mingora, after militants fired at paramilitaries, the Pakistani army said. "People are leaving their homes. All shops and markets are closed," a scared resident told Reuters. Swat is one of a number of areas near the Afghan border where militants have been stepping up attacks in recent months. In a possibly related development, tribal elders in the border area of Pakistan's Northwest Frontier Province (NFWP) ordered all militants to leave the area by 04 November or face attack, following the militants' mistreatment of local villagers.

Analysis/Road Ahead: The government has taken action against Qazi Fazlullah because of his attacks on government officials, local tourist sites, and pro-government tribal elders. Although Qazi denies any connection to the Taliban, he shares their political ideology and goals and his madrassas has been used as a training facility for Talibanists and other militants. Qazi remains on the run within the district but continues his radio broadcasts from a mobile transmitter, calling on his followers to strike at all blasphemers (video stores, movie houses, Westerners and Pakistani government officials). The government is using Frontier Corps personnel because of their better familiarity with the terrain backed by Army artillery and, if required helicopter gunships and motorized forces. The insurgents will continue to employ IEDs, car bombs and classic guerrilla tactics, but the extent of villager support or acquiescence will shape the government campaign's duration. However, success lies in establishing government services and sustaining its authority

Sources: AFP, BBC, Dawn, 28 Oct 07. Earlier media reporting.

Niger Delta Militants Kidnap Six Oil Workers, Shut Down Oil Facility

The 26 October attack forced Italy's ENI to halt production.

Synopsis: Gunmen kidnapped six workers from an Italian oil production facility off the coast of Nigeria, forcing Italy's ENI to halt production of 50,000 barrels per

day. It was the second kidnapping from an offshore oilfield in Nigeria in one week, undermining a five-month ceasefire by armed groups which had raised hopes for peace talks with the government. The gunmen overpowered an oil industry vessel shortly before dawn and used it to board the nearby Mystras oil production facility, operated by Saipem and SBM Offshore. "Attackers managed to climb aboard the FPSO Mystras and seized six workers, whose nationalities are Polish, Filipino and Nigerian." Another Nigerian worker reportedly was injured. The Mystras floating production, storage and offloading (FPSO) vessel pumps oil from the Okono Okpoho field. The Nigerian Navy dispatched a vessel to the area. Nigeria's oil production has dropped 20% since a surge in militant attacks and kidnappings in February 2006. Armed groups fighting for regional control over the oil resources of the Niger Delta had observed a ceasefire since the inauguration of President Umaru Yar'Adua in May, who promised to address the underlying causes of the conflict. However, a prominent rebel leader, Henry Okah of the Movement for the Emancipation of the Niger Delta (MEND), was arrested in Angola last month and Nigeria is trying to bring him home to face charges. MEND threatened to resume attacks, and claimed responsibility for last Saturday's attack on Shell's EA field, in which seven workers were taken hostage for two days. No group has yet claimed responsibility for this latest attack.

Analysis/Road Ahead: This latest attack confirms that the militants have ended their ceasefire and the seizure of a supply vessel to facilitate entry to the oil facility marks a new and potential more dangerous tactic in the Niger Delta insurgency. It will complicate oil company security efforts by forcing them to choose between placing security detachments on each vessel or forcing them to lie off the platform until a boarding party can search them. Neither is an inexpensive prospect nor a guarantee of oil platform security. The militants will resume a pace of weekly attacks by October's end and double that by early next year unless the government demonstrates progress on the region's concerns. The resumed violence contributed to the concerns that spiked oil prices above $90 a barrel.

Sources: AP, BBC Radio, Oil and Gas News, 26 Oct 07. Earlier media reporting.

Counterterrorism News by Nation:

Afghanistan

NATO Afghan Force Is Insufficient, US General Says

Source: Reuters, Jon Hemming, 27 Oct 07

NATO is taking a risk by not sending enough troops to Afghanistan. Afghanistan has seen an increase in violence this year, with more clashes with Taliban insurgents and more suicide bombings, killing as many as 5,000 people since January. While the NATO-led International Security Assistance Force (ISAF) claims significant battlefield successes against the Taliban, U.S. Defense Secretary Robert Gates has led calls for NATO nations to send more soldiers and allow them to do more. ISAF commander General Dan McNeill said NATO countries had not even sent troops already promised. "NATO agreed last year to a force level here ... it prescribed a minimum force ... that force has not been filled yet. On that basis alone, I think, no, I don't have enough force here," he told Reuters in an interview. "We are taking a certain amount of risk by having an unfilled force," he said. Many of the 37 nations contributing troops impose tight restrictions, known as caveats, barring them from offensive operations or from deployment in the more dangerous south. German troops in the relatively safe north, for example, are not allowed to patrol at night, officials say. "The caveats impinge on my ability to use all those principles of war in both planning and prosecuting operations," McNeill said. "When countries say their forces can only operate in certain ways and in a certain geographic space that certainly impinges on my ability to mass forces."

But the four-star U.S. general said there was no purely military solution to the conflict in Afghanistan and ISAF was simply buying time for Afghan forces to take on the Taliban. "A military dimension is part of the solution, it is not the whole solution. We have to build robust and fully capable Afghan national security forces," he said. While the Afghan army is becoming more capable of independently engaging Taliban rebels in the field, McNeill said there was still a long way to go to build up the Afghan police which is key to combating the threat of suicide attacks. More than 200 people have been killed in around 130 suicide attacks this year -- more than all of 2006 -- as Taliban insurgents switch to what the military calls asymmetrical warfare after suffering heavy defeats in pitched battles. Security has improved since a year ago though, McNeill said, when many feared the rebels would seize their former stronghold city of Kandahar and follow it with a large spring offensive. "The rhetoric from last fall has been 'we're coming, we've got an offensive coming'. Well maybe they did, but none of us has seen it," he said. Military success against the Taliban has been marred by a number of incidents in which civilians have been killed. Afghan President Hamid Karzai demanded foreign forces use fewer air strikes as they kill too many civilians, he said in an interview to be broadcast on U.S. television on Sunday. McNeill said he had issued a directive in June slightly modifying the rules of engagement for launching air strikes. "I think President Karzai's statement to me about seven or eight days ago was that, yes, he thought that that had had the desired effect," he said. "We take every precaution to minimize risk to non-combatants as well as to the property of Afghans." The general said the Taliban used civilians as human shields and attacked from houses, inviting civilian casualties, and had harmed their own cause with indiscriminate suicide attacks. Similarly, the accidental killing of civilians hurt ISAF's efforts in Afghanistan.

Battles Near Taliban-Held Town Intensify

Source: AP, 29 October

Days after Taliban fighters overran Musa Qala, a U.S. commander pledged that Western troops would take it back. Nine months later, the town is still Taliban territory, a symbol of the West's struggles to control the poppy-growing south. But a string of recent battles around Musa Qala, won overwhelmingly by American Special Forces, signal a renewed U.S. focus on the symbolic Taliban stronghold. An Afghan army commander said Sunday that U.S. and Afghan forces have taken over the area around the town and that Afghan commanders are holding talks with Musa Qala's tribal leaders to persuade them to expel the Arab, Chechen and Uzbek foreign fighters who roam its streets alongside the Taliban militants. U.S. Special Forces soldiers accompanied by Afghan troops killed about 80 fighters during a six-hour battle outside Musa Qala on Saturday, the latest in a series of increasingly deadly engagements in Helmand province – the world's largest poppy-growing region and the front line of Afghanistan's bloodiest fighting this year. There have been at least five major battles in the area since Sept. 1, including Saturday's fighting, and Special Forces troops have killed more than 250 militants, according to coalition statements.

"Musa Qala is part of the overall concept here, denying the Taliban the ability to control northern Helmand," said Maj. Chris Belcher, a spokesman for the U.S.-led coalition. "Our goal is to stop them from accomplishing that ... We're in Musa Qala and we're going to stay there." The vast majority of Western forces in Helmand are British, though U.S. Special Forces troops are also active in the province. Taliban militants overran Musa Qala on Feb. 1, four months after British troops left the town following a contentious peace agreement that handed over security responsibilities to Afghan elders. Days after the Taliban takeover a U.S. military spokesman, Col. Tom Collins, said NATO and Afghan forces would take back the town "at a time and place that is most advantageous." Lt. Col. Richard Eaton, a spokesman for British troops in Helmand, said that "nothing in Afghanistan is ever

straightforward." "You can't do everything simultaneously. That is not how a counterinsurgency works," Eaton said. "As (the commander of NATO's forces in Afghanistan) has said, we will deal with Musa Qala at a time of our choosing." Eaton also did not rule out the possibility of future peace talks in the town, saying that the solutions to insurgencies are political.

Brig. Gen. Ghulam Muhiddin Ghori, a top Afghan army commander in Helmand, said the foreign fighters are running training camps near Musa Qala to teach militants how to carry out suicide and roadside bomb attacks. But he said no big military operations are being launched to overtake the town itself because of a fear of civilian casualties. "Afghan and coalition forces have surrounded the Musa Qala district center. We have started negotiations with tribal leaders there to take over Musa Qala from the Taliban," Ghori told The Associated Press. "The tribal leaders are also worried about these Taliban because the foreign fighters – Arabs, Chechens, Baluchs and Uzbeks – they are in Musa Qala." Violence in Afghanistan this year has been the deadliest since the 2001 U.S.-led invasion. More than 5,200 people have died this year due to the insurgency, according to an Associated Press count based on figures from Afghan and Western officials. The latest Musa Qala battle began Saturday when Taliban insurgents attacked a combined U.S. coalition and Afghan patrol with rockets and gunfire, prompting the combined force to call in attack aircraft, resulting in "almost seven dozen Taliban fighters killed," the U.S.-led coalition said. The coalition said four bombs were dropped on a trench line filled with fighters, resulting in most of the deaths. It said there were no immediate reports of civilian casualties.

The top U.S. commander in Afghanistan, Maj. Gen. David Rodriguez, declined to talk about Musa Qala at a news conference in Kabul on Sunday. Speaking on a separate topic, he said it could take between 18 months and two years for Afghan units to be able to conduct major operations on their own. Rodriguez said Afghan forces excel at small-unit tactics and coordinating with the Afghan people but still need to improve their command structure, the use of air power, their logistics support and medical capabilities. NATO's International Security Assistance Force, meanwhile, said an investigation into allegations of civilian casualties in Wardak province on Oct. 22 found that no civilians had been killed. A provincial council member at the time said 12 civilians had been killed, but ISAF said the investigation found that the allegations were "without merit." Separately, a suicide bomber blew himself up next to a taxi-stand in Lashkar Gah, Helmand's capital, killing one civilian and wounding six others, said provincial police chief Mohammad Hussein Andiwal. The bomber was also killed in the blast. Andiwal could not say who was the target of the attack or whether the explosives on the body of the bomber went off prematurely.

Australia Urges Europe To Do More In Afghanistan

Source: FOCUS News Agency, 26 Oct 07

Sydney. Europe should deploy more troops to the dangerous southern regions of Afghanistan, Australia's foreign minister said Friday as the country mourned its second soldier killed there in three weeks.

Alexander Downer said Australia would welcome forces from NATO's European members joining them in southern Afghanistan, the former stronghold of the extremist Taliban regime and now the focus of insurgent attacks. "Many of the European NATO countries have their troops in the north, which is not free of Taliban activity, but it is a good deal quieter and a less threatening environment," Downer told reporters. "We would like to see some of the restrictions that European parliaments have placed on their troops lifted." His comments echo those made earlier this week by US Defense Secretary Robert Gates, who said restrictions on where European troops could be deployed and what they could do were putting NATO

soldiers at a serious disadvantage. Downer was speaking following the death of an elite Australian soldier in southern Uruzgan province who was killed by small arms fire while on patrol.(AFP)

Algeria

Algerian Forces Kill 15 Islamic Militants-Papers

Source: Reuters, 27 Oct 07

Algerian government forces stepping up attacks on al Qaeda-aligned armed groups.

Algerian government forces, stepping up attacks on al Qaeda-aligned armed groups, killed 15 militants and captured seven in the past two days near the Tunisian border, newspapers reported on Saturday. They also seized large quantities of ammunition and destroyed several hideouts in the operation in Tebessa province, 630 km (400 miles) east of the capital Algiers, the government-owned El Moudjahid said, citing a security source. One army officer was killed in the offensive, which was launched by a combined force of the army, police and municipal guards, based on information provided by a rebel who had surrendered, the independent newspaper Liberte said. The rebel group may have had links to a failed assassination attempt on President Abdelaziz Bouteflika in Batna town in September, said the independent daily El Watan. The Al Qaeda Organization in the Islamic Maghreb claimed the attempt in Batna by a suicide bomber, in which 22 people were killed, as well as three other suicide bombings this year. The armed movement, previously known as the Salafist Group for Preaching and Combat (GSPC), has switched to high-profile urban bombings. Seventy-five people were killed in political violence last month including 60 in suicide blasts, according to a Reuters account based on newspaper reports. Algeria is emerging from more than a decade of conflict that began when the military-backed government scrapped 1992 legislative elections a radical Islamic party was poised to win. Authorities had feared an Iranian-style revolution. Up to 200,000 people have been killed during the ensuing violence. The bloodshed has subsided in recent years and last year the government freed more than 2,000 former Islamist guerrillas under an amnesty designed to put an end to the conflict.

17 Islamists Killed In Algerian Army Raids

[The Jijel ambush is a different operation.]

Source: IOL, 27 Oct 07

The Algerian army killed 17 Islamist rebels during security operations in the east of the country over three days this week, security sources said Saturday.

One army officer was also killed in the raids, the sources added. Fifteen Islamists died in a major attack on their base at Djebel Al-Anoual, near Tebessa on the Tunisian frontier. The officer was killed in the attack which was backed up by helicopters, the sources said. The operation was launched after an Islamist gave himself up and offered information about an attempted attack on President Abdelaziz Bouteflika's convoy on September 6 in the south-east of the country in which 15 people died. The sources said two more Islamists were killed in an army ambush at Jijel, about 300 kilometers (180 miles) northeast of Algiers.

Recasting Jihad in the Maghreb

Source: Andrew Black, Terrorism Monitor, Volume 5, Issue 20 (October 25, 2007)

It has been a little over one year since Ayman al-Zawahiri announced the official merger between al-Qaeda and the Salafist Group for Call and Combat (GSPC), and since that time the jihad in the Maghreb has passed through a tumultuous and dynamic period. On the one hand, it has been characterized by an increase in bombings-particularly in public settings-the use of suicide attackers, and the targeting of foreign nationals and assets. Yet, on the other hand, Al-Qaeda in the Islamic Maghreb (AQIM), the successor to the GSPC, has more recently exhibited signs of internal fissures, largely resulting from recruitment issues and the actions of its amir, Abu Musab Abd al-Wadoud (Liberte, September 18; Terrorism Monitor, September 13). Recent reports allege that al-Wadoud has been replaced by Ahmad Haroun, a claim refuted on the AQIM website (http://qmagreb.org, October 6; El-Khabar, October 3). Despite the operational successes of the past year and al-Wadoud's apparent ability to recast the regional jihad, the divisiveness within the organization has made its future somewhat precarious.

The Changing Landscape

In late July, AQIM released a statement noting that it had succeeded in restructuring and reforming the agenda of the Algerian jihad (MEMRI, July 25). The extent of these adjustments encompasses matters from strategy, such as targeting foreigners, to tactics, such as the use of suicide operatives. At the broadest level, this reform has led the Algerian jihad to shift from a nationalist to a regionalist movement, as exhibited in January 2007 when al-Wadoud announced that the GSPC would be changing its name to Al-Qaeda in the Islamic Maghreb, a name more reflective of the organization's expanding purview (Terrorism Monitor, February 1).

Operationally, AQIM has recently been linked with numerous activities outside of Algeria. Although the GSPC had been known to conduct operations throughout the Maghreb and into sub-Saharan Africa-notably exhibited in a June 2005 attack on the Lemgheity military barracks in northeastern Mauritania-since the merger there are signs that AQIM has placed greater emphasis on recruiting and perpetrating attacks in each of the states in the Maghreb. A prime example of this is a disrupted plot in Tunisia, which would have initially targeted the U.S. and UK embassies in Tunis around the New Year, followed by smaller attacks on tourist sites throughout the country. Significant information came to the attention of Algerian and Tunisian security officials that the plot was closely linked with the GSPC and included a Mauritanian member of the Algerian group. His involvement in the plot and more recent reports of non-Algerians operating under the AQIM banner are a testament to al-Wadoud's ability to not only recruit foreigners, but also to deploy them throughout the region (Liberte, August 7; El-Khabar, August 21). Other recent examples of AQIM's regional operations include the group's links with a disrupted plot in Morocco, as well as a September report that Egyptian authorities were investigating AQIM's attempts to procure forged passports for its members traveling to Iraq (MAP, October 20; Elaph, September 4).

Beyond this, efforts in the public relations arena have grown dramatically under al-Wadoud's leadership. Stretching back to the summer of 2004 when he became amir of the GSPC, al-Wadoud has placed great emphasis on the organization's information operations (Terrorism Focus, May 15). In an attempt to eliminate the near information blackout his predecessors had cast on the organization-and no doubt heeding al-Zawahiri's advisement that the jihadi movement must not become isolated from the populace-al-Wadoud began to engage the Algerian people and the outside world through an enhanced information campaign [1]. Though clumsily executed at first, the GSPC/AQIM media apparatus has become comparable to those found in other jihadi venues. AQIM now disseminates regular videos of attacks, such as the "Under the Shadow of the Swords" series, as well as statements from al-Wadoud through a variety of affiliated forums, which is largely due to the

inconsistency of the group's website [2].

Style of Attack

Militarily, al-Wadoud has gone beyond the minimalist strategies of his predecessors and enacted a multifaceted campaign blending guerrilla attacks in eastern Algeria with publicity grabbing bombings in urban areas. Whereas the GSPC had previously relegated itself to engaging the government in rural, mainly northeastern Algeria, al-Wadoud has chosen to expand the campaign to include increasing urban attacks like the April 11 dual bombings in Algiers.

Fundamental to AQIM's campaign is target selection, often an important indicator of an organization's ideological leanings and grand strategy. In the GSPC/AQIM case, this target set is diverse but has remained largely unchanged since 2004, although priorities within this set have clearly been altered. The key themes include a virulent hatred of foreigners alleged to be supporting the "apostate regimes" and pillaging North African resources. France, in particular, has featured prominently in the organization's rhetoric-famously highlighted in al-Zawahiri's quote from his September 11, 2006 speech that the GSPC be a "a bone in the throat of the American and French crusaders" (Le Monde, September 18; Libération, September 19; Terrorism Focus, August 7). Specifically, AQIM's leadership has identified France's cultural influence, which is palpable throughout Morocco, Algeria and Tunisia, as being a source of corruption within the region. The previous day, AQIM injured two Frenchmen and an Italian in a bombing near Lakhdaria (Echorouk Online, September 21). Al-Zawahiri addressed the issue in a September 20 speech calling for AQIM to purge "the Islamic Maghreb of the French and the Spanish who have returned there" (MEMRI, September 20). Consistent with the jihadi narrative, AQIM has named both the United States and United Kingdom as legitimate targets, whose embassies were targets in the aforementioned Tunis plot. Finally, there are indications that AQIM is looking to target the region's tourist and energy sectors, arguably the backbone of the Maghrebi economies [3]. Although terrorism has not had a significant impact on regional economies in recent history, there is concern among regional governments that a revived terrorist threat could be a drain on their economies, particularly given the reliance on revenue from these sectors (Dar al-Hayat, April 27).

Al-Wadoud's efforts to alter both the ideology and strategy of the organization have also manifested in the use of suicide bombers in Algeria, such as the April 11 attacks and the September bombings in Dellys and Batna. Although suicide attacks have previously been committed in the region and Algerians have even perpetrated martyrdom operations in other jihadi venues, this tactic has not been featured in the Algerian context despite the country's long and brutal civil war. In addition to the obvious tactical benefits that martyrdom operations bring-which are a critical component of the narrative of the Global Salafi-Jihad-they are powerful symbols of the vitality of an organization's struggle and are also an important legitimizing mechanism for its cause. As seen in the aftermath of the April 11 bombing, each suicide operative is lionized as a hero, his symbolic death effectively declaring the organization's cause to be worth giving oneself up for. In the case of AQIM-an organization attempting to congeal support while mobilizing and recruiting additional members-martyrdom is a potent addition to the attack repertoire. Although al-Wadoud's decision to employ suicide operations has brought criticism from within and without his organization, the AQIM amir has received support for his decision from key figures in the global jihadi movement, most notably from Abu Yahya al-Libi (Echorouk Online, August 12; MEMRI, August 17). However, insofar as AQIM can encourage Iraqi veterans to return to the Maghreb and fight or recruit under its banner-and there are signs that this has occurred-the employment of suicide operations will likely increase (El-Watan, September 12).

The Threat to the West

Well before the merger between the GSPC and al-Qaeda, North Africans had weighed heavily on Western European security, as noted by French Interior Minister Michele Alliot-Marie (Agence France-Presse, September 23). While perpetrating

attacks on the continent was arguably not a core objective of the Maghrebi groups, it is now a part of AQIM's objectives. With this in mind, much of the rhetoric surrounding the merger specifically identified attacking Western countries, particularly France, as central to AQIM's strategy (Terrorism Focus, September 26, 2006; Terrorism Focus, August 7).

One must also not overlook the implications this may potentially have for North America. Although it must be plainly stated that the perceived threat from AQIM to the United States is low, there are indications that North African groups continue to maintain networks in North America and that there is a potential, albeit remote, for these networks to become operational. This gains credence remembering the case of Ahmed Ressam, an Algerian national and the so called "Millennium Bomber," who was based in Montreal and who had plans to bomb Los Angeles International Airport on New Year's Eve in 1999 [4]. To make this network operational, al-Wadoud and his organization must find a narrative that sufficiently resonates within this network, an onerous task and one potentially made more difficult with the recent leadership troubles (Terrorism Monitor, September 13).

Conclusion

In sum, while AQIM's ascent has raised the specter of a revitalized and expansive jihad in North Africa—one which may include coordinated operations throughout the region and the West—the unsteadiness in the group's leadership among other factors have cast doubt on AQIM's future prospects. Regardless of his fate as the leader of AQIM, it appears the reformation process al-Wadoud enacted has fundamentally recast the Maghrebi jihad by altering both the character of his Algerian movement and the structure of the regional jihad at large. As evident from the high number of attacks and casualties in September, AQIM is becoming increasingly active and lethal, and the group has demonstrated a willingness to perpetrate large-scale, suicide bombings in urban environments. These attacks and the proliferation of media material over the past year have bolstered AQIM's relevancy in the regional counter-terrorism discourse and reinserted the North African arena into the conscience of the Global Salafi-Jihad.

Notes

1. See Ayman al-Zawahiri, Knights Under the Prophets Banner.

2. The group's recent website, http://www.qmagreb.org, has been shut down multiple times, but usually reappears a few days later.

3. For an assessment of Morocco's tourist industry and its capacity to overcome a terrorist attack, see Terrorism Monitor, June 7. Separately, energy targets are a popular theme in the jihadi narrative, and have featured strongly in the writings of Abu Musab al-Suri, Ayman al-Zawahiri and several other strategists linked to the North African arena.

4. For an examination of this network, see Marc Sageman, Understanding Terror Networks, University of Pennsylvania Press, Philadelphia, 2004.

Austria

Infiltrating the Muslim Elite? Controversy Over the Muslim Brotherhood

Source: OSC Analysis, 10/25/2007 20:24

A polemic has broken out during the last year over allegations that leading Austrian Muslims harbor ties to the Muslim Brotherhood or sympathize with its "ideology." Although Austria until recently has been considered successful in integrating its

Muslim population, many Austrians have now grown concerned about whether their approach to integration is working. Some have charged Austria's leading Muslim organizations, such as the Islamic Faith Community, of sympathy or even support for the Muslim Brotherhood. Although open sources cannot confirm ties to the Muslim Brotherhood, they do suggest that allegations of sympathy for the Brotherhood represent code language for the charge that prominent Austrian Muslims are hostile to integration. The allegations thus serve as rhetorical weapons against these Muslim organizations.

Background

Whether the Muslim Brotherhood (MB) exists in Austria, and, if so, to what extent, has recently become the subject of an intense debate. In a series of articles and essays, Wiener Zeitung journalist Stefan Beig and political scientist Thomas Schmidiger, have accused some Muslim organizations of supporting the MB. Beig bases his accusations on the "expertise" of Schmidiger, who is a doctoral candidate at the University of Vienna. They have alleged, for example, that the official umbrella organization representing Muslims in Austria, the Islamische Glaubensgemeinschaft in Oesterreich (IGGIOe, Islamic Faith Community in Austria), has inculcated MB "ideology" in schools. They have also alleged that leading figures in such organizations as the Islamische Liga der Kultur, the Vienna-based Schura Mosque, and the Muslim Youth Organization in Austria have expressed sympathy for, and even extended financial support to, Iraqi insurgents, HAMAS, and the Egyptian MB.

The Muslim Brotherhood and Muslim Brother "Ideology"

The Muslim Brotherhood (MB), founded in Egypt by Hasan al-Banna in 1928, has offered an Islamic alternative to the middle-eastern secular nationalist response to colonialism and its legacies. Whether the MB approach is compatible with democracy, or whether it implies an Islamist theocracy, has been at the heart of much of the controversy surrounding the MB since its inception. Then-Egyptian President Nassar banned the organization in 1954, viewing it as a threat to his version of secular Arab nationalism (Al-Banna's son-in-law, Said Ramadan, father of the well-known European-Muslim theologian Tariq Ramadan, fled to Geneva at this time). Some argue that HAMAS claims direct lineage from the MB and that Muslim Brother organizations provide financial support for HAMAS. In the 1980's, the MB officially renounced violence. In Egypt, several members now serve as "independents" in the Egyptian parliament, arguing, in effect, that the MB is a fundamentally democratic organization.

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Currently, in Austria, the charge that a Muslim organization is an "adherent" of the MB, or supports MB "ideology," is intended to be understood as a charge that that particular Muslim organization is hostile to integration and committed to establishing an Islamist polity in Europe. Open sources cannot confirm MB membership on the part of the main Austrian Muslim organizations, or leading Austrian Muslims, partly because the MB remains a clandestine organization (it is still banned in Egypt). Many European Muslim organizations are presumed to be a part of, or close to, the MB, including the Federation of Islamic Organizations in Europe (FIOE), the French Union Organisation Islamique Francaise (UOIF), and the German Islamische Gemeinschaft Deutschlands. In the case of Austria, the accusation, valid or not, that an organization has ties to the MB, serves as code language for an organization hostile to European democracy and civilization. Specific public policy positions of organizations such as the IGGIOe, on issues regarding Islamic religious instruction in public schools, or the building of mosques, are interpreted against the backdrop of an alleged "hidden agenda" of instituting an Islamist society.

Integration and Radicalization in Austria

Until recently, scholars and government experts considered Austria a positive model for the integration of first and second generation Muslims.1 Unlike in Germany, for

example, Islam received official recognition as early as 1912.2 In 1979, the government recognized the IGGIOe as the official representative of Austrian Muslims and the government's negotiating partner on all policy matters concerning Islam.

Gradually, however, the Austrian model and many leading Austrian Muslim figures have come under attack. A number of recent official reports have cast doubt on the success of integration. In the resulting debate, some have accused the IGGIOe of being insufficiently representative of the Austrian Muslim community. Some have also accused the IGGIOe of harboring an MB agenda, meaning a wish to introduce an Islamist system by stealth.

• A 2006 government study on the state of integration in Austria by the German legal scholar Mathias Rohe, analyzed Muslim and non-Muslim attitudes toward the many issues -- such as the wearing of headscarves, religious education, and the problem of "parallel societies" -- that have defined integration debates across Europe. The results highlighted the continuing challenges facing Austrians as they attempt to realize a truly integrated society (Rohe, 2006). A group of the leading Muslim organizations in Austria issued a statement warning against what it considered a negative misunderstanding of the study and the growing criticism of the IGGIOe (derIslam.at, 27 May 2006).

• The 2005 report of the Austrian Office for the Protection of the Constitution stated, "in Austria, like in Europe as a whole, the Muslim Brotherhood is widely represented. Though it does not have any official presence in Austria, it has many representatives in many mosques, Islamic associations and organizations" (www.bmi.gv.at).3 This OSC product is based exclusively on the content and behavior of selected media and has not been coordinated with other US Government components. 2 25 October 2007

As a debate on the Austrian model of integration developed over the course of 2006, the IGGIOe came under increasing attack for its supposedly failed policy of "integration through participation."

• During the spring of 2006, Guenther Ahmed Rusznak, an ethnic German convert to Islam, founded the Islamic Information and Documentation Center (Islamische Informations - und Dokumentationszentrum, or IIDZ) as a more secular and pro-European Islamic organization (Salzburger Nachrichten, www.salzburg.com, 5 April 2006). The IIDZ has led a concerted attack on the IGGIOe in the Austrian media, accusing it of a lack of "representativeness" as an organization and of inhibiting successful integration ("Von Unwahrheiten, Halbwahrheiten und anderen Luegen," www.iidz.at).

• According to the online Muslim magazine Kismet, Rusznak accused the IGGIOe of serving as a "center of fundamentalism" (kismetonline.at, nd). Speaking to the Austrian daily Die Presse, he called for the reform or abolition of the IGGIOe because of its "undemocratic structures" (www.diepresse.at, 7 February 2007).

IGGIOe

The IGGIOe has been recognized by the state as the official umbrella organization for Muslims in Austria since 1979, serving as the official representative for Muslims vis-a-vis the Austrian Government, much as the Catholic Church does for Austrian Catholics.4 Similar to the corresponding Catholic, Protestant and Jewish organizations, the IGGIOe takes a leading role in shaping religious education for Austrian Muslim children at the primary and secondary levels. Owing to the IGGIOe's official status, many experts have considered Austria an integration success story.5

IGGIOe Inculcating MB "Ideology"? This year, some journalists and other "experts" have accused the IGGIOe of using its privileged position to inculcate MB "ideology" in Austria.

• Wiener Zeitung journalist Stefan Beig has written a series of articles in the last

year alleging IGGIOe support for HAMAS, concluding that this proves that the IGGIOe secretly supports the MB (see the July 2007 OSC Report, Islamic Bulletin for Austria 19-25 July 07). In a 25 July interview with University of Vienna Political Scientist Thomas Schmidiger, Beig mentions that the IGGIOe had for eight years ensured that Muslim secondary students in Austria read Yusuf al-Qaradawi's book, The Permitted and the Forbidden in Islam, thus supposedly proving again the IGGIOe's determination to inculcate Brotherhood views (www.wienerzeitung.at).6

• The IGGIOe admits that the purpose of its educational policy is to inculcate a sense of Muslim identity, particularly among second generation Muslims. It nevertheless claims that its religious education policy is aimed at demonstrating to This OSC product is based exclusively on the content and behavior of selected media and has not been coordinated with other US Government components. 3 25 October 2007

Muslim students the compatibility of Islam with Austrian and European culture (www.derislam.at, 26 May 2007).

The IGGIOe's approach to Islam and integration give rise to different interpretations.

The accusations concerning the IGGIOe's, and many of its affiliated organizations', approach to militancy and the MB coincide with doubts about the IGGIOe's approach to Islam and integration. At the Austrian Imam Conference in Vienna on 24 April 2005, the Austrian Muslim elite, of which the IGGIOe is the head, issued a statement on the relationship between Islamic identity and the need for integration into Austrian society. The final resolution states that the IGGIOe considers the survival of a distinctly Muslim culture and identity in Europe critical. Yet its definition of a Muslim identity focuses on religious practice and the rigorous interpretation of the earliest Islamic sources, rather than a more "modernized" Muslim identity. On the one hand, the rigorous recourse to the three earliest sources, the Koran, the Sunna, and the Hadith, is directed against militant Islamists who claim justification from such sources. On the other hand, leading figures of the Austrian Muslim community have voiced skepticism toward a new, "Euro-Islam."7

• An earlier analysis of Islamic education in Germany and Austria argues that the IGGIOe emphasizes religious practice, rather than membership in a worldwide Muslim community, or Ummah.8 The IGGIOe would thus appear to work against the basic trend noticed by experts of a more universalistic "Euro-Islam."9

The Islamic Cultural League

Many commentators believe that the Vienna-based Islamic Cultural League (Islamische Liga der Kultur) has ties to the MB. The League, whose website (www.ligaklutur.net), is currently under construction is known to be affiliated with the transnational FIOE, presumed to be an MB organization with other alleged affiliates, the French UOIF, and the German Islamische Gemeinschaft Deutschlands.

• Thomas Schmidinger alleges that Aiman Morad, a member of the League's executive board, finance director of the Islamic Religious Pedagogical Academy, and chief of the IGGIOe's religious education department, is a Syrian MB member. Furthermore, to Schmidinger, Morad and the League demonstrated its closeness to the MB by inviting Egyptian member of parliament and Muslim Brother, Mohammad Sa'd al-Katatni, to Vienna to speak at the League (support.wzonline.at, 3 July 2007).

• Karl Pfeifer, a columnist for the news portal www.judentum.net, writes that on 17 October 2006 he witnessed Morad deliver an anti-Israeli and anti-American tirade that blamed the West for all of the Muslim world's problems. To Pfeifer, this undermines the "liberal Muslim" claims of the Austrian Muslim elite, of which Morad is a member (www.judentum.net). This OSC

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Omar al-Rawi

Schmidinger and others have also accused Omar al-Rawi, the IGGIOe's chief of integration and member of the Austrian Social Democrats, of ties to the MB. Al-Rawi is one of the most prominent politically active Muslims in the country. As one of the leading members of the IGGIOe, cofounder of the Austrian Muslim Initiative (Initiative oesterreichische Muslime), and Sozialistische Partei Oesterreichs (SPOe) deputy on the Vienna city council, Al-Rawi portrays his work as dedicated to the task of integrating immigrant Muslims into Austrian society.

Toward Integration?

In his many public comments about the problems of integration, Al-Rawi has made two basic points. First, he argues that Muslim immigrants should make their integration into Austrian society a priority. Following a cardinal principle of the IGGIOe, Austrian Muslims are just that, Austrian Muslims. Secondly, he often claims that discrimination is responsible for the difficulties of integrating Muslims into Austrian society.

• Al-Rawi has warned against sympathizing with terrorism. After the July 2005 bombings in London, for example, he argued in Vienna's Die Presse, that "we need a clear, unconfused concept of Islam in this respect [i.e. against religious justifications for violence]. . . . Those who secretly delight in, or sympathize with, assassinations must know that they are accomplices to such crimes" (EUP20050728086014, 28 July 2005).

• Al-Rawi advocates a concept of integration that stresses assimilation reconcilable with a Muslim identity. In an interview with Islamonline.net, the internet paper associated with Al-Qaradawi, in January 2005, Al-Rawi urged mosques to do more to facilitate the Muslim integration. Praising Adnan Ibrahim's Al-Shura mosque as a model, the article quoted him indirectly as saying that this mosque had helped "Muslims to amalgamate with society" (16 January 2005).

• Speaking on ORF Television in May 2007, he said that too few Muslims had advanced to the middle class because of a lack of education and German-speaking ability.10 Al-Rawi has highlighted his own position as a social democratic politician to stress his commitment to Austrian social democracy, rather than to Islam, as the organizing principle of his political views.11 This OSC product is based exclusively on the content and behavior of selected media and has not been coordinated with other US Government components. 5 25 October 2007

Yet when commenting on the problems of Muslim integration in Austria, Al-Rawi will often exclusively emphasize social and cultural impediments placed by native Austrians and Austrian institutions. He thereby demonstrates one of the problems noted by Rohe's 2006 study on the state of integration, a "nurturing of an attitude of victim hood" (Rohe, 2006).

• In his commentary in Die Presse following the 2005 London attacks, he coupled his condemnation of terrorism with a reminder that one should focus on the "causes" rather than the "symptoms" of terror. That is, "sustainable results are achievable when we offer something better at the end of the day, paving the way for better ideas and more convincing objectives" (EUP200507286014, 28 July 2005).

• In a forum on integration in the Austrian journal Falter, in 2004, Al-Rawi responded to a comment from Buelent Oeztoplu, who blamed political Islam for the "alienation" of Austrian Muslim youth. Al-Rawi stated that "one cannot blame Islam for this sense of alienation. Rather, for that, society is responsible. We must ask ourselves, why is there this feeling of exclusion. Islam offers the

youth an identity and a second home" (www.falter.at, 7 April 2004). Schmidinger accuses Al-Rawi of closeness to the MB. His argument rests primarily on guilt by association.

• Schmidinger argues that Al-Rawi's concept of "integration through participation" is identical to that of Tariq Ramadan's, the prominent Muslim intellectual based in Geneva. Ramadan, grandson of MB founder Hassan al-Banna, has long been the subject of controversy over whether his vision of an integrated "Euro-Islam" represents MB "ideology" in disguise. Assuming Ramadan's affiliation with the Brotherhood, Schmidinger accuses Al-Rawi of, at the least, advancing the interests of MB "ideology." "The concept of integration of the official IGGIOe is identical with that of Tariq Ramadan's." In fact, Schmidinger accuses Al-Rawi of using the Initiative of Austrian Muslims (IMOe or Initiative Muslimischer OesterreicherInnen) as a vehicle to advance supposed Brotherhood concepts.12

• A polemic between Schmidinger and Al-Rawi began in January 2007, when Schmidinger accused the respected Vienna Imam, Adnan Ibrahim, of doublespeak, in a commentary in Die Presse (9 January 2007). Al-Rawi responded with accusations that Schmidinger was a member of a small group of disaffected German intellectuals, the "anti-Germans," who had left Germany for Austria to indulge in "pro-Zionist self-hatred" and "anti-Islamic conspiracy theories."13 Al-Rawi has also accused Schmidinger of affiliation with US "neoconservatives" (www.kurier.at, 7 July 2007). Schmidinger rejects accusations of membership in the "anti-Germans" as vigorously as Al-Rawi rejects accusations of membership in the MB.14

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Thomas Schmidinger

Thomas Schmidinger Source: homepage.univie.ac.at/thomas.schmidinger

Thomas Schmidinger has played the role of academic authority in many articles in the Austrian press, accusing leading Austrian Muslims of harboring MB sympathies. His essays, depicting an anti-democratic MB, have frequently been cited to buttress allegations of radicalism against the IGGIOe and other organizations. He is often interviewed about the alleged MB influence in Austria and has contributed several commentaries on the subject himself.

Schmidinger claims the title of Lehrbeauftragter (lecturer or adjunct professor). More precisely, he is a Doktorand (doctoral student), currently enrolled in the University of Vienna's political science department. Schmidinger's allegations against leading Austrian Muslims follow a consistent three-step pattern: (1) he levies an accusation against a leading Austrian Muslim, (2) he refers to a controversial issue concerning political Islam outside of Austria and misrepresents the issue as settled (for example, whether Tariq Ramadan is a radical Islamist or a modernizing liberal), and (3) associates the Austrian Muslim in question with the referenced, supposedly damning, controversy.

Doublespeak?

Suspicion has lately devolved on Adnan Ibrahim, a prominent Imam of the Vienna Shura Mosque. Lionized by Omar al-Rawi as a "star preacher" and an example of how an Imam should champion integration, critics have claimed that Ibrahim says one thing to a German-speaking audience and another to Arabic speakers.

• According to the website Sicherheit-Heute.de, which is critical of the IGGIOe and has given prominence to the accusations of Schmidiger and Rusznak, Ibrahim delivered a sermon entitled "Jihad Philosophy and Martyrdom," in which he called for Muslims to be prepared to give their lives as martyrs for "Palestine and Iraq" (20 January 2007).

• Guenther Ahmed Rusznak has drawn attention to previous Ibrahim sermons and judgments, which Ibrahim now claims to disown, condemning Muslim-Christian intermarriage and excusing female genital mutilation.15

• In response to some anonymous accusations, the Vienna Prosecutors Office investigated charges that Ibrahim had instigated his followers to Jihad. According to a 27 July statement by Minister of Justice Maria Berger, the recordings made of This OSC product is based exclusively on the content and behavior of selected media and has not been coordinated with other US Government components. 7 25 October 2007

Ibrahim's sermons had been edited, with comments taken out of context and some comments not clearly attributable to Ibrahim, casting doubt on the accusations against him (www.parlinkomgiv.at, 30 July 2007).

Implications

Monitored open sources cannot confirm alleged sympathy or outright connections between the Austrian Muslim elite and the militant MB. The Austrian Government has not released detailed information about an MB presence in its annual reports on threats to the constitution. The public claims of the critics of the IGGIOe, the legitimacy of which rests on the academic credentials of those making the claims, are dubious. In the one case, that of Adnan Ibrahim, in which the Austrian Government commented on the charges, it suggested that the accusations rested on weak evidence.

End Notes:

1 See, for example, Sieglinda Katharina Rosenberger, "Governing Religious Diversity in Austria - Framework for Europe?" 2006, www.ces.fas.harvard.edu. Hayrettin Aynden, Dirk Halm, Faruk Sen, "'Euro-Islam' Das neue Islamverstaendnis der Muslime in der Migration," 2003, study conducted by the Stiftung Zentrum fuer Tuerkeistudien for the Renner Institut and posted at www.renner-institut.at.

2 For an historical overview of Austria's internal regulation of Islam, see Martina Schmied, "Islam in Oesterreich," at www.bmlv.gv.at.

3 The 2006 and 2007 reports contain no entries on the Muslim Brotherhood.

4 This contrasts with the situation in Germany, where there is no analogous Muslim institution like the Protestant (EKD) or Catholic churches with which the state can confer on issues -- such as education -- that touch religious interests.

5 Thus University of Vienna Political Scientist Sieglinda Katharina Rosenberger argues that the Austrian state-church system, as applied to the Muslim community through the IGGIOe, "strengthen's integration rather than separation." See Rosenberger's "Governing Religious Diversity in Austria - A Framework for Europe?" paper presented at the Center for European Studies at Harvard, 7 April 2006, www.ces.fas.harvard.edu.

6 Whether one should classify Qaradawi as a Muslim Brother has been hotly debated among scholars and analysts for some time.

7 See the final statement of the "Austrian Imam Conference," 24 April 2005, posted on the IGGIOe website, www.derislam.at

8 Irka-Christin Mohr, "Islamic Instruction in Germany and Austria: A comparison of Principles Derived from Religious Thought," Cahiers d'etudes sur la Mediterranee orientale et le monde turco-iranien, No. 33, 2002.

9 See, for example, Peter Mandaville, "Critical Islam & Muslim Identity: Interpretation, Belonging, and Citizenship Among Muslims in Europe & North America," paper delivered at a conference on "Migration, Religion and Secularism - Comparative

Approach (Europe and North America)," Paris, June 17-18, 2005, at www.histoire-sociale.univ-paris1.fr).

10 Markus Mueller, "Der Islam in Oesterreich", ORF-Oe1 16 May 2007, as posted on www.antifa.co.at. This OSC product is based exclusively on the content and behavior of selected media and has not been coordinated with other US Government components. 8 25 October 2007

11 "Wir sind keine Aktiengesellschaft," interview with Al-Rawi, www.kurier.at, 7 July 2007.

12 Schmidinger, "Tariq Ramadan und die Muslim Brueder in Europa," no date, hompage.univie.ac.at/thomas.schmidinger.

13 Al-Rawi, "Woelfe im Schafspelz? Replik auf Thomas Schmidinger, der versucht, eine Weltverschwoerungstheorie von bedrohlicher muslimischer Unterwanderung in Oesterreich zu verbreiten," Die Presse, 16 January 2007.

14 Ibid.

15 Karl Pfeifer, "Islam in Oesterreich: - so waren wir alle getaeuscht: Bericht von einer Wiener Pressekonferenz," posted on hagalil.com, 9 February 2007.

Azerbaijan

One 'Wahhabi' Killed, Two Arrested In Azerbaijan - Agency

Source: Baku Turan in Russian 0733 GMT 27 Oct 07

The National Security Ministry carried out a special operation against a group of armed people in country house No 104 in the settlement of Mastaqa [near Baku] this morning. Two men were arrested and one was killed while putting up armed resistance, Turan has learnt from informed sources.

When proposed to give himself up, one of those inside the house threw a grenade at special squad soldiers and then was gunned down. Three assault rifles, several grenades and other ammunition were discovered at the country house during the search.

According to preliminary information, the criminals were Wahhabis and were not residents of the settlement. It is noteworthy that one of the impounded assault rifles was the one which had been stolen from a military unit by fugitive officer Kamran Asadov, who is also a Wahhabi. The prosecutor's office has started an investigation into the case.

Bangladesh

Two Bangladesh Militants Jailed For 20 Years - Paper

Source: Dhaka New Age in English 0000 GMT 26 Oct 07

Sylhet divisional speedy trial tribunal on Thursday, 25 October, sentenced two members of Jamiat-ul-Mojahedin Bangladesh (JMB) to 20 years' imprisonment in two cases filed in connection with the 17 August bomb explosion in Sunamganj town. Dipraman Sarker, judge of the tribunal, handed down the verdict in the presence of

Abdul Aziz alias Hanif, body guard of the executed chief of the banned outfit Shaikh Abdur Rahman, and Salah Uddin alias Saleheen.

The tribunal also fined them Tk 10,000 each, in default to suffer two more years, court sources said. According to the prosecution, JMB men carried out bomb attacks on the Shahi Eidgah premises in Sunamganj town and the district bar building as a part of its countrywide near simultaneous bomb attacks on 17 August 2005.

Jasim Uddin Faruq, ward commissioner of the Sunamganj municipality, lodged a case in connection with a bomb attack at Eidgah while Sazzadur Rahman, office assistant of the district bar association, filed another case in connection with a bomb blast at the district bar building. The police on June 30, 2006 submitted charge sheets against Hanif and Salehin who were also sentenced to varying terms of imprisonment in other four cases.

Columbia

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<http://www.itar-tass.com>

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(In the Columbian town of Cali, police disarmed a powerful home-made bomb. Alerted by local citizens, the suspicious device turned out to have the equivalent power of 25 Kg of TNT and a fairly sophisticated detonation system which was designed to be detonated by a cell phone signal. According to Cali Chief of Police, General Jesus Antonio Gomez, the device was meant for security personnel, and was likely the work of the "Revolutionary Armed Forces of Columbia". Two other smaller devices were found in the same area, according to Gomez.)

France

French Court Convicts Algerian Of Paris Bombings

Source: Reuters, 26 Oct 07

A French court jailed Algerian Rachid Ramda for life on Friday for his role in financing a spate of bomb attacks on the Paris underground rail network that killed eight people and wounded 200 others in 1995.

Paris Assizes Court ordered that Ramda should serve a minimum 22 years behind bars for his role in the attacks, the worst bombings on mainland France since World War Two. Court president Didier Wacogne, sitting with six professional assessors, said Ramda was "guilty of complicity to murder and attempted murder" as well as an array of explosives and other offences. Around 70 relatives and friends of victims of the attacks were present for the verdict which was met in silence. Ramda, 38, who denied the charges, was sentenced to 10 years in prison in 2006 for terrorist conspiracy linked to the same bombing campaign.

His lawyer Sebastien Bonot protested during the case that Ramda was being tried a second time for the same crime, and said after Friday's verdict that his client would appeal. "This decision is certainly not a surprise but we feel that justice and the law have not been done," he told reporters. The prosecution said Ramda was a key figure in Algeria's radical Armed Islamic Group (GIA), and added that phone taps showed he was in regular contact with Ali Touchent and Boualem Bensaid, the GIA's coordinators in France. A police search of Ramda's London address produced a Western Union payment slip bearing his fingerprints which showed he had sent 5,000 pounds ($10,250) to the Paris bombers. The GIA claimed responsibility for bombings that were part of a campaign to punish French support for Algerian authorities that scrapped multi-party elections in 1992 that an Islamic party had been poised to win.

"Londonistan"

During his month-long trial Ramda denied involvement in the attacks and caused uproar among victims' families present in public gallery when he said those responsible for the carnage deserved the death penalty. Bensaid and another man, Smain Ali Belkacem, are currently serving long prison terms for planting the gas cylinder bombs that investigators said were packed with nails and bolts to cause maximum injury. Friday's conviction marked the culmination of a long battle by the French authorities to try Ramda, who spent 10 years in detention in Britain fighting extradition to France. Ramda was arrested on a French warrant in 1995 but Britain refused to send him back to France on the grounds he might face mistreatment by anti-terrorism police. French authorities accused the British of underestimating the threat posed by Islamic militants based in the British capital -- which was dubbed "Londonistan" by some critics of British policy. However, following the deaths of 52 people in the July 2005 suicide bomb attacks on London's transport system, the mood changed in Britain and Ramda was extradited in December 2005.[As Dr. Boaz Ganor frequently reminds PTSS audiences, "The free world must understand that "cultural relativism" applied to terrorism - whatever the terrorists' goals - will lead only to more terrorism.]

Georgia

Georgia Stops Armenians Entering Turkey With Radioactive Matter

Source: Associated Press via Dow Jones, 26 Oct 07

The four men were carrying 2 grams of Lovresium or LAV-103, a radioactive isotope.

Georgian border guards detained four Armenians attempting to cross into Turkey this week with just over 2 grams of a radioactive substance, the former Soviet republic's border police service said Friday. The Armenians were detained at a border crossing into eastern Turkey on Wednesday with the substance in a special container, the border police said in a statement. It identified the substance as an isotope called Lovresium, or LAV-103, but no reference to such an isotope could immediately be found. Georgian authorities were attempting to determine where the detainees got the substance and what they were planning to do with it, border police spokeswoman Lela Mchedladze said.

Germany

German SPD Congress Rebuffs Schaeuble: Rule of Law Vital in Combating Terror

Source: ddp in German 1850 GMT 26 Oct 07

The Social Democratic Party of Germany [SPD] is calling for the rule of law to be maintained in combating terrorism, and has rebuffed the plans of Federal Interior Minister Wolfgang Schaeuble (Christian Democratic Union [CDU]). "We are opposed to any and every attempt to sacrifice the open nature of our democratic society to the illusion of a security society," states a policy paper adopted by the party congress in Hamburg on Friday [26 October]. The SPD will therefore "not accept the military being entrusted with internal policing functions."

The protection of security and freedom formed the basis of a libertarian society, it was argued. The SPD therefore resolutely opposed any call that was incompatible with these fundamental values. This applied for example to the abandonment of the presumption of innocence in criminal law, the targeted killing of suspects, the internment of "persons posing a danger," along with the announcement of an order for a passenger aircraft to be shot down.

From the technical point of view, the powers of the Federal Crime Police Office (BKA) also had to be fully in tune with the latest developments. However, this did nothing to alter the particular impact of online searches [of suspects' computers] on citizens' rights, as many legal and technical issues were thereby raised. "For this reason, we wish to initially await the Federal Constitutional Court's ruling on online searches under North Rhine - Westphalia's constitutional protection [homeland intelligence] law, so as not to unnecessarily incur the risk of a ruling of unconstitutionality," the agreed paper adds.

Hizballah Keeps Low Profile, Capable of Mobilizing

Source: OSC Analysis in English, 25 Oct 07

German authorities have recently stepped up efforts in monitoring Hizballah-related activities and have identified several key sites frequented by Hizballah supporters. Open source reporting suggests that, at present, the Hizballah sympathizers are only loosely organized, value Germany as a mediator, and have made a conscious decision to keep a low profile. At the same time, Hizballah sympathizers have shown some capability to mobilize public support for their cause, especially over the internet. Media reporting indicates that Hizballah has been linked to terror-related activities in Europe in the past.

German Authorities Identify Key Hizballah-Associated Sites

Although German authorities have been aware of a latent Hizballah presence in Germany for many years, the fighting between Israel and Hizballah in 2006 and Germany's ensuing maritime contribution to the UN Interim Force in Lebanon (UNIFIL) prompted many German politicians and security officials to question whether the fighting and Germany's role in stopping weapons smuggling into Lebanon could lead to Hizballah sympathizers in Germany committing acts of violence domestically. Subsequently, several governmental reports identified locations frequented by Hizballah activists and sympathizers.

* In February 2007, the German parliament issued a report stating that it was "aware of 30 cultural and mosque associations" in Germany frequented by Hizballah members or sympathizers, whose numbers it estimated to be around 900. Yet the report concluded that Hizballah supporters did not pose an "immediate threat" to the country (http://dip.bundestag.de, 19 February 2007).

* In 2007, the Federal Office for the Protection of the Constitution described the Iranian-supported Islamic Center of Hamburg-ICH (Islamisches Zentrum Hamburg), which allows Hizballah-affiliated persons to use its facilities, as "Hizballah's most important contact point" in Germany (www.verfassungsschutz.hamburg.de, 15 February 2007).

* Berlin-based daily Morgen Post quoted city authorities as saying that "Lebanese Hizballah members" use the Imam Reza mosque, known for organizing the yearly anti-Israel Al-Quds Day Berlin demonstration, for meetings with Iranian officials (24 July 2006).

Sympathizers Appear To Be Only Loosely Organized

Hizballah in Germany lacks central leadership and appears to have no formal organizational structure. Some government reporting suggests that the sympathizers in Germany maintain links to Hizballah in Lebanon through personal contacts with Hizballah officials.

* In its 2006 security assessment, the Hamburg Office for the Protection of the Constitution stated that in Germany Hizballah is "represented in a number of mosque organizations operating relatively independently," adding that "Hizballah has no unified structure" (www.fhh.hamburg.de). A Westdeutscher Rundfunk public radio station, using government sources, cited the lack of a German-based leader "acceptable to all parties" as a possible reason why Hizballah leadership in Beirut has long tried "in vain" to "build an efficient structure" in Germany (27 July 2006).

* Two separate government reports assessed that the connection to Hizballah in Lebanon is maintained through individual trips to Lebanon, personal and family contacts, and emissaries sent from Lebanon to Germany, who inform sympathizers of current Hizballah directives and operations in the Middle East (www.fhh.hamburg.de; http://dip.bundestag.de). According to the Baden-Wurttemberg intelligence service, "Hizballah members from Lebanon, among them shaykhs, office-holders, or members of parliament, regularly travel [to Baden-Wurttemberg] for ceremonies" (www.verfassungsschutz-bw.de).

* In October 2001, public television station ZDF reported the official visit of the high-ranking Hizballah representative, Shaykh Ali Khatoun, to the Islamic Center of Muenster-IZM (Islamisches Zentrum Muenster), a Lebanese mosque identified by German authorities as a Hizballah "meeting place" (www.puc-web.de; www.im.nrw.de).

Hizballah Values Germany as Mediator, Keeps Low Profile...

On several occasions, Germany has acted as an arbiter between Hizballah and Israel, negotiating the release of Israeli-held Hizballah prisoners. Hizballah leadership has expressed appreciation for Germany's mediating role and has instructed its

followers there to avoid attention.

* German mediation between Israel and Hizballah resulted in the exchange of prisoners and the return of remains in 1996, 2004 and 2007 (Der Spiegel, 12 August 1996; Handelsblatt, 30 January 2004; Financial Times, 16 October 2007).

* In the past, Hizballah Secretary General Nasrallah has publicly acknowledged Germany's "important role as mediator" in Hizballah-Israeli negotiations (AFP, 22 January 2000).

* A parliamentary report stated that, regarding Germany, Hizballah's "highest priority" is an "undisturbed presence" there, adding that it "takes pains to avoid conflicts with local authorities." A State of Hamburg intelligence service report assessed that, in 2004, Hizballah Secretary General Nasrallah directed its German followers to "keep to the letter of [German] law" to avoid state scrutiny (www.deutscherbundestag.de; www.verfassungsschutz.hamburg.de).

…But Sympathizers Capable of Mobilizing Public Support, Especially Via Internet

Hizballah supporters in Germany, carrying the group's paraphernalia and portraits of its Secretary General Nasrallah, showed solidarity by taking part in the many anti-Israel demonstrations held throughout Germany during the 2006 Israeli-Hizballah conflict. The large turn-out suggests that the number of Hizballah supporters in Germany exceeds official estimates and that the sympathizers are quite savvy in using the internet.

Protesters in Germany carrying Nasrallah portraits(www.netzeitung.de, 26 July 2006)

* According to a report in the weekly Der Spiegel, officers from the Office for Protection of the Constitution monitoring the 2006 anti-Israel rallies were "amazed" by the fact that the number of participants far exceeded the organizers' expectations (23 July 2006). For example, an unofficial tally of protesters at a Berlin rally was estimated at 10,000 (www.tagesspiegel.de).

* Der Spiegel reported on 23 July 2006 that at another Berlin rally about 1,500 "mostly Lebanese and Palestinian protestors" with Hizballah flags and portraits of Hizballah Secretary General Nasrallah "dominated the scene." Describing the summer 2006 demonstrations in Lower Saxony, the Office for the Protection of the Constitution report referred to a "large number of Hizballah supporters," identifiable by their "Hizballah emblems" and Nasrallah portraits (www.cdl.niedersachsen.de).

* Rallies throughout Baden-Wuerttemberg and the rest of Germany were "partly coordinated and organized on the internet" by sites like www.rache-engel.de ("Revenge Angel"), which provided downloadable images and banner slogans for use in demonstrations, according to a government security report (www.verfassungsschutz-bw.de/downloads/jabe/2006/jabe-islam-2006.pdf).

* Administrators of the website www.muslim-markt.de, "probably the largest German-language internet portal for Muslims" (www.spiegel.de) use the site to promote the annual anti-Israel Al-Quds Day in Berlin, where "regime-loyal Iranians and Hizballah supporters" gather to demonstrate, according to security experts (www.berlin.de/imperia/md/content/seninn/verfassungsschutz/stand2005/jb_2006_ht_ae.pdf).

Precedents for Hizballah Terrorist Activity in Europe and Germany

Even though authorities assess that current Hizballah activity in Germany is law-abiding, the group's past illegal operations in Europe demonstrate its ability to conduct terrorist operations in the region.

* In October 2007, amidst a new round of German-brokered prisoner exchange talks between Hizballah and Israel, Germany announced its early release of a Lebanese and an Iranian prisoner convicted for the 1992 assassination of dissident Kurds in Berlin (AFP, 16 October 2007). German authorities believed the attack was ordered by Tehran and involved a "middle man for the Lebanese Hizballah" (The Guardian, 7 April 1997).

* In 2000, Hizballah operatives in Switzerland lured an Israeli businessman to the Middle East, where he was kidnapped and held by the group for years before being released in a German-brokered prisoner swap (AP, 19 April 2004).

* In 1989, German authorities arrested Hizballah associate Bassam Makki on charges of planning attacks against a synagogue and US military buildings and personnel in Germany (Sueddeutsche Zeitung, 7, 18, 21 July 1989).

[See "Arab Public Support for Hizballah, Iran, Syria Wanes" in General CT News.]

Greece

Greece to Introduce a 'Europe-Wide System for Monitoring People' Says Paper

Source: Al. Avlonitis, Ethnos tis Kiriakis in Greek 21 Oct 07 46

The Greek Government has given its full consent to the introduction of a Europe-wide system for monitoring people. Its consent has been given quietly, in the name of fighting terrorism, a fight that has now been expanded to include illegal immigration and cross-border crime. The last two are believed by some to be directly connected to each other.

The government's consent has been given despite the fact that the responsible independent authorities have long warned of serious repercussions concerning the protection of fundamental rights and other, constitutionally-protected, freedoms. These include the protection of personal rights and a prohibition against the use of any personal data, some of which could be of a sensitive nature. In its latest annual report, the APPD [Authority for the Protection of Personal Data] voices several warnings about the dangers posed and stresses that its warnings have not been heeded.

The planned monitoring system provides that each country should maintain a large data base, which will be used to enter information about the DNA, fingerprints and details of any vehicles owned by suspects. At a later stage, it will include biometric data, since it appears inevitable that full use will be made of information such as the iris of the eyes, the structure of the hands, etc. All the above will be taking place in the name of security.

The data collected could be exchanged between European countries although Washington is anxiously expecting for them to be made available to the United States as well. A precedent for this exists in other measures that have been introduced, such as the agreement providing for judicial cooperation. The intention is to use the recording of personal data as a deterrent against all those either suspected or already convicted of carrying out criminal activities and, moreover, to have any such information exchanged between all countries.

Nevertheless, according to existing plans, during its second phase of implementation all the above data could be made available in order to prevent the movement of "undesirable" elements. These could include, among others, soccer hooligans that wish to see their team playing in another country but, mainly, "troublesome" demonstrators traveling to protest at the meetings of the Group of "Eight," etc.

The government was aware of this possibility because the relevant plans were drafted during the EU's German Presidency. Nevertheless, it still decided not to object and to refrain from raising any reservations. On the contrary, it gave assurances that it was in favor of every European initiative leading to the exchange of intelligence, data, etc. Taking the opportunity presented, it raised the issue of the accelerating rate of illegal immigration and asked for financial assistance in order to fortify the Greek frontiers, since our country forms the South-Eastern corner of Europe and a major gateway for entry to the continent.

The report of the AAPD

The creation and maintenance of DNA records for use in criminal investigations will inevitable lead to dangers..

In its annual report the AAPD's chairman, Dh. Gourgourakis, stresses that the use of any records should be on a limited basis. Moreover, as he points out, there could be grave repercussions to our criminal law system if the use of the DNA data base extends to include all criminal cases and not merely extremely grave ones. The probable dangers increase due to the fact that the data base will be used not just for the investigation of criminal activities but also for their prevention. The AAPD has also expressed reservations about the intention to use biometric data for the identification of individual persons, believing that this system is prone to mistakes.

Therefore, it is possible that even though biometric data are taken from two different persons, these could be claimed to originate only from one, and vice versa. In other words, biometric data taken from the same person at different times could appear to come from different persons. This could lead to false conclusions, even if this happens in a small number of cases. From comparisons among one million sets of fingerprints, it is believed that an average of 10 false conclusions is made.

SOS for human rights

The AAPD warned a long time ago of all the unpredictable consequences and lurking dangers facing human rights because of various European agreements that allow the monitoring of persons as a deterrent measure. It has also identified a number of "grey areas" included in such agreements, such as the PRUM Convention, because they leave open the possibility of using the data base and to exchange information not only for persons already convicted but also for mere suspects or witnesses. They could also be aimed against "undesirable" troublemaking soccer fans or "troublesome" demonstrators. Furthermore, it underlines that the new proposal are a reversal of the current system governing the exchange of personal data, which is strictly regulated, within the framework of the existing cooperation between judicial and police authorities regarding criminal cases.

On the contrary, it sets up as a rule for the collection of numerous personal data, some of which could be of a sensitive nature, in order to act as a deterrent measure and allow them to be used by the authorities of other European states. This, according to the AAPD, could jeopardize constitutionally-protected human rights.

India

Maoist Rebels Kill 18 in Attack on Indian Village

Source: Ranjana Shukla Hong Kong AFP in English 0911 GMT 27 Oct 07

At least 18 people, including a former minister's son, were killed overnight when Maoist rebels opened fire on a group of football spectators in eastern India, a

police official said Saturday. Between 30 and 40 heavily armed rebels stormed a village around midnight and opened fire on about 150 people gathered there after a match to watch a local cultural performance, police said. "Seventeen persons have been killed in the attack," district police superintendent Arun Kumar Singh told AFP in Jharkhand state. One man died later of a bullet wound, taking the toll to 18, police said, adding that a three-year-old was among the three remaining wounded. "Intensive combing operations are going on," Singh said, adding that the border with Bihar, the state to the north, had been sealed to prevent rebels from fleeing there.

The night's entertainment was organized by the brother of the former chief minister Babu Lal Marandi, whose son Anup Marandi was in Chilkhari village for the match. "The police security personnel deployed left the place after the football match," said Singh. "They did wrong. They should have stayed."

The attack echoed the assassination of federal lawmaker Sunil Mahto, who was gunned down by Maoists posing as spectators at a football match in a village in the state in March. The attackers, including several women, wore fatigues similar to those used by India's anti-terror paramilitary forces and gradually surrounded the unsuspecting crowd before opening fire, witnesses said.

The Maoist insurgency -- which grew out of a peasant uprising in eastern India in 1967 -- threatens huge swathes of India's centre, east and south and has spread to half of India's 29 states. Prime Minister Manmohan Singh last year described them as the single biggest threat to India's internal security, but the Maoists say they are only fighting for the rights of neglected tribal people and landless farmers.

Former chief minister Marandi flew on Saturday to the village, which is surrounded by heavy forest and situated 290 kilometres (180 miles) from the state capital Ranchi, but spoke to reporters before he left. "The government seems to have no idea how to get out of this situation. It is getting worse," said a calm Marandi, who was the first to run the newly-created Jharkhand state when it was carved out of Bihar in 2000. The left-wing guerrillas of the outlawed Communist Party of India (Maoist) hold sway in 16 of the 19 districts in the mineral-rich state. "The Maoists have no faith in democracy. They have concentrated in the areas where there is no development, no streets, no electricity. If we want to solve this problem, we have to move development in those areas."

Marandi's family members have organised sports and entertainment events in remote areas in a bid to encourage villagers not to support the rebels. The former chief minister said his brother and son "should have been more careful." Marandi's brother told AFP that he narrowly dodged a bullet that hit another villager in the eye and fled several kilometres (miles) before calling the police. "I saved my life by squeezing amongst the villagers and I escaped," said Nunu Lal Marandi. "I had informed police about the program and sought security. But no proper security arrangements were made."

India TV Channels Pulled After Massacre Sting Operation: Reports

Source: AFP in English 0819 GMT 27 Oct 07

Officials in the Indian state of Gujarat have blocked television channels which aired a sting operation that claimed to expose government involvement in the 2002 mass killings of Muslims, reports said Saturday. The Headlines Today private television network began Thursday broadcasting footage of men accused of taking part in the deadly Gujarat riots five years ago apparently admitting that the Hindu nationalist-ruled local government backed the violence.

On Friday cable operators in the state's commercial capital Ahmedabad received written orders to block the Aaj Tak (Until Today) and Headlines Today channels, the Indian Express newspaper reported Saturday. Channels that covered the expose, which

comes as the state readies for assembly elections in December, were also ordered to be pulled, it said. State elections officer Ashok Manek confirmed the order had been issued by top Ahmedabad district official, or collector, Dhananjay Dwivedi, the report said. Dwivedi cited concerns about sparking "communal feeling," said the report, referring to a term commonly used to describe tension between religious groups in India. Dwivedi could not be reached for comment.

Police verbally told cable operators in other parts of the state to stop carrying the channels, a Hindustan Times report said. But Gujarat government spokesman Bhagyesh Jha denied that the state had issued any orders against television channels. "I have not passed the order," said Jha. "You ask the collector (Dwivedi) about it." The channels showed interviews secretly recorded by a reporter of the investigative news magazine Tehelka (Sensation!) with several men allegedly involved in the anti-Muslim attacks. At least 2,000 people, mostly Muslims, were killed after a Muslim mob was accused of torching a train, burning 59 Hindus alive. So far, more than a dozen people have been convicted over the bloodshed. An enquiry by the state-run railways later ruled the fire on the train which sparked the riots was an accident.

Indonesia

Indonesia Restricts Rights of Three Convicted Bali Bombers Ahead of Executions

Source: Unattributed, The Sydney Morning Herald (Internet Version-WWW) in English 26 Oct 07

The three death row Bali bombers have had their prison visitation rights restricted in a bid to prevent contact with other terrorists ahead of their looming executions. Indonesia's elite anti-terror squad Detachment 88 is vetting all potential visitors, who must first apply to visit the trio in the super maximum security Batu Prison on isolated Nusakambangan Island, which is dubbed Indonesia's Alcatraz.

Authorities are inching forward in their preparations to execute bombing mastermind Imam Samudra, senior Jemaah Islamiah figure Mukhlas, aka Ali Ghufron, and his younger brother, the "smiling assassin" Amrozi bin Nurhasyim, for their role in the 2002 Bali bombings. The blasts killed 202 people, including 88 Australians, when they ripped apart Kuta's Paddy's Bar and the Sari Club on October 12, 2002. Central Java's Department of Justice and Human Rights this week said all potential visitors must now first apply to the department in writing, and enclose their Indonesian identification card. "It's for the sake of preventing convicts from meeting members of the terrorist network," the office's penitentiary division head, Bambang Winahyo, told local media this week. Physical contact including handshakes was forbidden for visitors, except for blood-relatives. Head of Batu Prison, Sudijanto, confirmed there were new restrictions in place. "The family is allowed to have physical contact, but if they are not family, then there is a restriction," he said.

"They are terrorists." The tighter security measures also follow the escape this week of two convicts from the super maximum security facility. All visits to the prison had been temporarily halted, he said. "All of our employees are deployed in the forest to look for them," Sudijanto said. "So for now we cannot receive any visitors." The pair escaped after reportedly being allowed to use a toilet at the prison clinic, where they had earlier been taken complaining of ill health. Sudijanto said one prisoner, serving 14 years for robbery, was recaptured on Thursday. The other, a convicted murderer, was still somewhere on the 30 sq km island, he said.

The three Bali bombers were transferred to the island prison, off Central Java's south coast, in 2005 for security reasons, after the second set of bombings in Bali sparked demonstrations from Balinese calling for their immediate

execution. When AAP visited the facility two weeks ago, the three bombers said they were ready to die and would not be asking for a pardon - the final legal step before the execution can take place. "Absolutely we are not afraid," Samudra said, after being allowed to mingle, uncuffed, with other prisoners to pray for the holy Islamic day Lebaran. "That's what I've been waiting for ... firstly with execution we will go to heaven and then our wish to see god and the angels is far higher than the wish of the infidels for our death."

Iraq

Petraeus: Al-Qaida Reeling, But Still Lethal

Source: Army Times, 28 Oct 07

The threat from al-Qaida in several former strongholds in Baghdad has been significantly reduced, but criminals who have established "almost mafia-like presence" in some areas pose a new threat, the top U.S. commander in Iraq said Sunday.

Gen. David Petraeus stressed, however, the terror organization remained "a very dangerous and very lethal enemy" – a comment underscored by the abduction Sunday in Baghdad of 10 Sunni and Shiite tribal leaders who joined forces against al-Qaida. "Its presence has been significantly reduced and its activity and freedom of action have been degraded," Petraeus told a small group of reporters at a U.S. base near Saddam Hussein's hometown of Tikrit, 80 miles north of Baghdad. He singled out success in what had been some of the most volatile Sunni neighborhoods in Baghdad, including Ghazaliyah, Amariyah, Azamiyah and Dora. "Having said that ... al-Qaida remains a very dangerous and very lethal enemy of Iraq," he said. "We must maintain contact with them and not allow them to establish sanctuaries or re-establish sanctuaries in places where they were before."

The gunmen ambushed the two cars carrying the 10 sheiks – seven Sunnis and three Shiites – in Baghdad's predominantly Shiite neighborhood of Shaab at about 3:30 p.m., police officials said. The sheiks were returning to Diyala province after attending a conference with the Shiite-dominated government's adviser for tribal affairs to discuss coordinating efforts against al-Qaida in Iraq, police and a relative said. Petraeus said the reduced threat from al-Qaida had given way to nonsectarian crimes – kidnapping, corruption in the oil industry and extortion. "As the terrible extremist threat of al-Qaida has been reduced somewhat, there is in some Iraqi neighborhoods actually a focus on crime and on extortion that has been ongoing and kidnapping cells and what is almost a mafia-like presence in certain areas," he said. Petraeus made his comments after a transition ceremony as the 1st Armored Division, which is based in Wiesbaden, Germany, assumed command of northern Iraq from the Hawaii-based 25th Infantry Division.

The new commander for the region, Maj. Gen. Mark Hertling, said the number of attacks so far in October had dropped by 300 from the previous month, although he did not provide more specific numbers. A car bomb Sunday ripped through a Kirkuk bus terminal that serves travelers to Iraq's Kurdish region, killing eight people and wounding 26, according to police Brig. Gen. Sarhat Qadir. The terminal is located in a mainly Kurdish area of Kirkuk, an oil-rich city which Iraq's Kurds want to annex to their self-rule region in the north of the country. The city's Arab and Turkomen residents dispute the Kurdish claim. Gunmen meanwhile, sprayed a car carrying five bodyguards of the head of local Sunni Endowments department in the turbulent city of Basra, killing one of them and injuring the rest, police said. Also in Basra, a mainly Shiite city 340 miles southeast of Baghdad, a local elections official was gunned down late Saturday in front of his house.

The police officials who reported both attacks spoke on condition of anonymity because they were not authorized to speak to the media. They did not give a motive for the attacks. But while the attack on the bodyguards may have had a sectarian motive – the Sunni Endowment is a state agency that looks after the sect's mosques and seminaries – the second one could have been linked to the widening fight among rival Shiite groups vying for control of the city in the wake of the redeployment outside Basra of British troops. News of the attacks in Basra came as a public tussle between Shiite Prime Minister Nouri al-Maliki and the country's Sunni Arab vice president, Tariq al-Hashemi, grew more intense. Al-Hashemi's office said in a statement Sunday that he asked President Jalal Talabani to push parliament to pardon security detainees who aren't what he called "dangerous elements" that would rejoin the insurgency. Al-Hashemi has campaigned for the release of thousands of detainees held in Iraqi and U.S.-run detention facilities without charge. He appeared to be trying to bypass al-Maliki in the appeal.

Nearly 90 percent of the estimated 25,000 Iraqis held by the U.S. military are believed to be members of the once-dominant Sunni Arab minority, a fact that Sunni politicians say is evidence of sectarian policies of the Shiite-dominated government. Petraeus also offered some personal reflection on the plight of Sultan Hashim al-Tai, who faces the death penalty after his conviction for his role in a Saddam Hussein-era military campaign that killed tens of thousands of Kurds. Al-Tai and the two other defendants – Saddam's cousin "Chemical Ali" al-Majid and Hussein Rashid Mohammed, former deputy operations director for the Iraqi military – were convicted in June of genocide, war crimes and crimes against humanity for their part in the 1986-88 crackdown. They were sentenced to death by hanging. But the executions have been delayed as Iraqi politicians wrangle over the refusal of Jalal Talabani, himself a Kurd, to sign the order, as required by the constitution. Some legal experts have argued the requirement did not apply to former regime officials.

Al-Tai, a Sunni Arab from the northern city of Mosul, negotiated the cease-fire than ended the 1991 Gulf War, when a U.S.-led coalition drove Iraqi forces from Kuwait. He also surrendered to U.S. forces in September 2003 after weeks of negotiations. His defense lawyers claimed the Americans had promised al-Tai "protection and good treatment" before he turned himself in. Petraeus, who was then commander of the 101st Airborne division that oversaw the surrender, denied he had promised al-Tai immunity. "We put the word out to his family through interlocutors that you know I would receive his surrender in an honorable manner and convey him to the central authorities and that's basically what we did. And I did treat him honorably." Petraeus said they brought al-Tai's family to him for a "final farewell." The commander also recalled that he personally flew al-Tai in his helicopter to Mosul and spent about an hour with him as they waited for a C-130 transport plane to fly him to Baghdad. "But the bottom line is that if the appropriate Iraqi process is followed then we will respect that process," he said, adding that the three men remained in U.S. custody.

Coalition Forces In Iraq Capture Extremist Splinter Group Leader

Source: KUNA, 27 Oct 07

Coalition forces captured a senior militia extremist, killed two others and detained an additional 14 admitted criminals during operations in the village of al Fawwaliyah, northwest of Khalis early Saturday, according to the Multi-National Force (MNF).

In a statement, it said the operation was "targeting a splinter group leader, who was not honoring Muqtada Al-Sadr's pledge to cease attacks and who was involved in weapons procurement, kidnapping operations and explosively formed penetrator attacks against coalition forces. Intelligence indicates that this individual also has ties to an Iranian intelligence cell." It said that as the

assault force approached the building where the criminals were believed to be housed, they called for the occupants to exit the building. Two armed men with weapons and hand grenades maneuvered on the assault force, one of whom was wearing a suicide vest. Coalition forces engaged, killing the two men after they failed to comply with instructions and warning shots. Upon securing the area, the main target of the raid identified himself and peacefully surrendered to the ground force.

Inside the building, Coalition forces discovered several automatic weapons, a sniper rifle, maps and ammunition magazines. The area was further assessed to be a substantial militia extremists' compound used to coordinate criminal activity in the area. An additional 14 admitted criminals were detained on site. "We continue to support the Government of Iraq in welcoming the commitment by Muqtada al-Sadr to stop attacks and we will continue to show restraint in dealing with those who honor his pledge," said Major Winfield Danielson, MNF-I spokesman. "Those who have honored his pledge have made a positive impact, reducing violence levels in Iraq. However, as this operation illustrates, not all are honoring his pledge and some continue to conduct violent crimes against Iraqi citizens and security forces. Coalition forces will continue to take the necessary action against these criminals to protect the Iraqi people from their violent actions," he concluded.

President Of Iraqi Kurd Region Urges End To Rebellion

Source: Agency Focus Daily, in Bulgarian 25 October 07 - Translated by Cubic Translation Service

The president of Iraq's northern Kurd region urged the outlawed Kurdistan Workers' Party to end its more than two-decade armed fighting against Turkey.

According to a tough worded four-point statement, issued by the office of Massud Barzani, the President of the autonomous Kurd region of Iraq declared, "We call upon the PKK to eliminate violence and armed struggle as a mode of operation. We do not accept in any way, in accordance with our commitment to the Iraqi constitution, the use of Iraqi territories, including the territories of the Kurdistan region, as a base to threaten the security of neighbouring countries."

Israel

Israel Cuts Gaza Fuel In Response To Rocket Fire

Source: Reuters, 28 Oct 07

Israel began reducing fuel supplies to the Gaza Strip on Sunday under new economic sanctions to punish the Hamas-controlled Palestinian enclave for rocket fire on Israeli towns.

"In line with the Israeli government's decision, the Defense Ministry will this week begin cutting fuel supplies to the Gaza Strip by between 5 and 11 percent, depending on the type of fuel," an Israeli security source said. Palestinian officials had already complained on Sunday that deliveries of fuel oil for Gaza's power station, as well as diesel and petrol, were cut by between a quarter and a half. There was no immediate obvious impact on electricity supply. An official from the European Union, which funds fuel oil to Gaza's only electricity generating plant, said deliveries to the plant were down by about a quarter but it had stocks for some seven days of

operation. Power demand tends to ease at this time of year, as air conditioning use decreases. Israeli Prime Minister Ehud Olmert has said he will not allow a "humanitarian crisis". Officials say Israel will take care to ensure supplies for medical and other vital facilities in Gaza, which last month it declared to be an "enemy entity".

Hamas, the Islamist group whose violent seizure of control in the territory in June triggered a virtual closure of its borders, condemned Israel's "blackmail". "The ... bid to strangle the Palestinian people will create an explosion that will blow up not only in the face of Hamas but affect the entire region," Hamas spokesman Faze Barroom said. Under pressure to act against rocket attacks at a time when the government is also being criticized for talking peace with Hamas's Palestinian rivals in the West Bank, Defense Minister Ehud Barak last week ordered gradual cuts in energy supplies. Makeshift rockets have killed two Israelis this year. The United Nations has cautioned Israel against imposing "collective punishment" on Gaza's 1.5 million people. Israeli officials said the government was still reviewing its legal position -- Palestinians argue that, as Israel continues to control Gaza's frontiers since withdrawing troops in 2005, it still has the obligations of an occupying power under international law to ensure the welfare of the population.

An Israeli court is reviewing the sanctions, the security source said. He added that Israel had closed the Sufa crossing point, one of the few passages for goods since the main cargo clearing terminal was closed when Hamas seized power. The Palestinian Authority led by President Mahmoud Abbas in the larger West Bank, which has cut off relations with Hamas, has called on the international community to intervene to protect the civilian population of the Gaza Strip. An association for fuel merchants in Gaza said only about half the day's deliveries of petrol and diesel had been made. Mojahed Salama, head of the Palestinian Authority's Petrol Agency based in the West Bank, said Sunday fuel imports showed a 40 to 50 percent reduction in diesel and petrol supplies and a 12 percent reduction in fuel for the power plant in Gaza. A spokesman at Israeli fuel supply firm Dor Alon said it was implementing orders received from the Defense Ministry.

Abbas: Hamas Planning West Bank Takeover

Source: Jerusalem Post, 29 October

Hamas is planning to overthrow the Palestinian Authority government in the West Bank with the help of external forces, PA President Mahmoud Abbas said Sunday. Meanwhile, Fatah officials in Ramallah revealed that some Hamas leaders had received financial aid from former PA chairman Yasser Arafat. Documents released by the officials showed that the Hamas leaders had received thousands of dollars from Arafat in the 1990s. "We have information that Hamas is planning to copy the Gaza coup in the West Bank," Abbas said. "It's no secret that international parties are supporting Hamas in its efforts." Although Abbas did not name the international parties, his aides told The Jerusalem Post he was referring to Iran, Syria and Qatar. Abbas expressed confidence that Hamas's plan would fail. He also expressed readiness to resume talks with Hamas after the Islamist movement relinquishes control over the Gaza Strip. "Hamas is an integral part of the Palestinian people and we are prepared to talk to them if they cede control over the Gaza Strip," Abbas said. "But we know that Hamas can't make decisions on its own because of political and economic pressure from outside forces."

Abbas said Hamas was talking with Israel. He said that although he was not opposed to such talks, Hamas leaders must openly admit that they were talking to Israel. Hamas spokesman Fawzi Barhoum denied that his movement was planning to stage a coup against Abbas's government. He said the charges were aimed at covering up for the "crimes" committed by Abbas's "militias" against Hamas supporters and figures in the West Bank. Barhoum said Hamas was "forced to take security measures in the Gaza Strip to stop Abbas's forces from carrying out the Zionist-American plot

to overthrow the democratically elected government."

Fatah spokesman Ahmed Abdel Rahman said Sunday that Hamas's "coup" in the Gaza Strip had undermined the Palestinian cause in the international and Arab arenas. He denied that Hamas and Fatah were conducting secret negotiations to end the conflict, but said some Arab and Islamic countries had been mediating between the two parties. Abdel Rahman said there were growing signs the Palestinians in the Gaza Strip were unhappy with the Hamas rule. He said Hamas's actions in the Gaza Strip had alienated many Palestinians, who were publicly criticizing the Hamas government.

The Fatah official, who also serves as an adviser to Abbas, said a PA delegation was expected to visit Damascus soon in a bid to persuade the Syrians to ban a meeting organized by radical Palestinian groups to protest against the upcoming US-sponsored peace conference. According to documents published by Fatah officials, several Hamas members who had formed a new party called the National Islamic Salvation Party received $50,000 a month from Arafat. The party, which is an offshoot of Hamas, was headed by Yahya Musa, who today serves as a Hamas legislator in the Palestinian Legislative Council. According to the documents, some of Hamas's current leaders and spokesmen had also received $5,000 each from Arafat. The money was given to them after they wrote letters to Arafat seeking financial aid.

Bomb Detonated Under SUV Of Deposed Gov't Security Personnel

Source: KUNA, 27 Oct 07

Unknown armed men detonated an explosive device early Saturday morning under an SUV belonging to the Palestinian police force of the deposed government, near a police station in the southern Gaza city of Khan Younis.

Witnesses said the blast damaged the vehicle but there was no loss of life. The Interior Ministry of the deposed government said in a statement that the attack was staged by people who had "deviated from the track of law," adding that "any attempt to re-instigate chaos is rejected." Moreover, it said it would not be lenient with "traitors" whom it claimed wanted to destabilize Gaza.

Two Dead In Gaza House Explosion: Medics

Source: Reuters, 27 Oct 07

An explosion ripped through a house in the southern Gaza Strip on Saturday, killing at least two Palestinians, witnesses and medical workers said.

The source of the blast was unclear. An Israeli army spokeswoman said Israel was not involved in the incident. Medics said a young child and a woman were killed and at least three others were wounded. Residents searched through the rubble of the house for other survivors. Witnesses described a loud explosion in a village east of the southern Gaza town of Khan Younis near the border fence with Israel.

Israeli Troops Kill Palestinian Militant In Gaza

Source: Reuters, 26 Oct 07

Israeli troops killed a Palestinian gunman belonging to the Islamic Jihad militant group in the Gaza Strip on Friday, militants and hospital officials said.

An Israeli army spokesman said troops had clashed with militants during routine operations near the southern Gaza town of Khan Younis. Israeli troops frequently conduct raids into the Gaza Strip to try to prevent Palestinian militants from firing short-range rockets into southern Israel.

Israeli Troops Raid Gaza, Kill 6 Militants

Source: Reuters, 26 Oct 07

Israeli troops killed six Palestinian gunmen on Friday in some of the heaviest fighting for weeks in the Gaza Strip, Palestinian medical and militant sources said.

Two Israeli troops were wounded, the army said, as three separate raids were mounted into the territory, backed by air strikes. Seven Palestinian militants and three civilians were wounded, hospital staff said. Fighters from Hamas, the Islamist group which controls Gaza, were joined by other militants in battles that began overnight. The Israeli army, which described the raids as "routine", said its forces pulled back in early afternoon and witnesses said fighting appeared to have ended. On Thursday, Israel said it planned to start cutting power supplies to Gaza in response to almost daily rocket fire on Israeli towns nearby. Explosions and gunfire could be heard throughout Gaza and plumes of smoke billowed from the battle zones, in the north, south and centre of the 45-km (30-mile) strip of coast.

Hamas, which routed forces loyal to Palestinian President Mahmoud Abbas to seize control of the territory in June, said three of its men were killed. Islamic Jihad militants said three of their number also died in the clashes. Hamas said its fighters had overrun a small Israeli position and shot two soldiers. The group showed journalists some Israeli military equipment, some of it bloodstained -- evidence Hamas leaders said of their fighters' successes. As the fighting died down, Abbas met Israeli Prime Minister Ehud Olmert in an effort to narrow differences over a possible peace settlement that the United States hopes to push forward at a conference to be held near Washington before the year ends. Hamas's leader in Gaza, Ismail Haniyeh, dismissed such meetings as "a cover for continued Israeli aggression".

Kenya

Kenyan Paper Urges State To Clarify Over Deportation Of 19 On Terrorism Charges

Source: THE PEOPLE in English 0000 GMT 27 Oct 07

The cat and mouse game over the fate of 19 people who were deported to Ethiopia, Somalia and Guantanamo Bay in Cuba has taken a rather disturbing angle. The fact that the matter is quickly transforming into a hot political tool is an open secret. But it is iniquitous for any person to play around with this matter to gain political mileage. Kenyans and indeed the families of these people deserve to be told nothing but the truth.

On the one hand, the government has been issuing very conflicting statements on the matter which is of grave importance to the families of these 19 individuals. The sequence of events surrounding this issue is also confusing Kenyans and smacks of conspiracy to hide the truth. Recently, President Kibaki appointed a special task force to investigate the alleged deportation after pressure from Muslim leaders. The committee will be chaired by Eng A M H Sharawe, while Ambassador Amina Mohamed will be the secretary. Members include senior Muslim officials in the government. But the Ministry of Immigration and Registration of Persons and the government spokesman Alfred Mutua later emerged and denied that the extradited individuals are Kenyans. Internal Security Minister John Michuki has also added his voice to the issue by denying that the government has sanctioned the deportation of the 19 people on allegation of terrorism. The Human Rights Forum and the National Muslims Leaders Forum has, however, maintained the Kenyans are being held outside the country and has tabled a report with the government to substantiate their claims.

The [opposition] Orange Democratic Movement (ODM) presidential candidate Raila Odinga added a new twist when he published the names of the alleged victims of the deportation in a section of the press. Foreign Affairs Minister Raphael Tuju shocked the country last Thursday [25 October] when he admitted the individuals were indeed deported on grounds that they were a security threat. Whether these individuals are Kenyans or not is an issue the government needs to clarify without giving contradictory statements. It is not right to gamble with the lives of 19 individuals for political expediency.

Ex-Terror Suspect's Case Withdrawn

Source: All Africa / The Nation, Caroline Rwenji & Mark Agutu, 27 Oct 07

The State has withdrawn a case against a former terrorism suspect accused of being in the country illegally.

Mr. Farah Ahmed Hirsi was a happy man yesterday when state counsel Vincent Wohoro entered a nolle prosequi [NOLLE PROSEQUI - An entry made on the record, by which the prosecutor or plaintiff declares that he will proceed no further.], stopping all the charges. Mr.. Hirsi had been accused of also giving false information when he applied for a passport. He came into the limelight after an explosion at the Ambassadeur Hotel building, on Moi Avenue, Naiobi, killing one person and injuring several others. He presented himself to police after learning that he was a suspect.

Through lawyer Ahmednassir Abdulahi, Mr. Hirsi said he believed the charges were meant to save the face of police, who had maintained that he was the main suspect in the blast. In an application, he told the court that the State wanted to withdraw the case so that they could have him deported to Somalia, Ethiopia or Guantanamo Bay in Cuba. He wanted the court to stop his deportation, saying that he is a Kenyan born in Mandera. Mr. Hirsi further accused police of failing to substantiate, or even charge him with, the offences. The trial is an abuse of the court process, he said, adding that he was being prosecuted in bad faith, unfairly and maliciously. "There is no valid reason for the police to say they need my client in their investigations into the blast yet they are charging him on immigration related matters," the lawyer said. Mr. Hirsi had been released on a Sh50,000 cash bail by Nairobi magistrate Stella Muketi, and ordered to report to police every Monday for a month. In another case, local manufactures were yesterday allowed to join a case challenging the Government's planned economic partnership with the European Union.

Judge Joseph Nyamu of the judicial review division granted an application by the Kenya Association of Manufacturers, through lawyer Ochieng' Oduol, that said it had interests in the matter. The new development came as Mr.

Justice Nyamu certified the application as urgent and directed that the file be sent to Chief Justice Evan Gicheru to set up a bench of judges to hear the case. The judge also directed the other applicants - the Kenya Small-Scale Farmers Forum and the Kenya Human Rights Commission - to serve all the defendants, named as the Government and the Kenya National Commission on Human Rights, with the suit papers to enable them to prepare and file their responses ahead of the hearing on a date to be set by the chief justice. In their application filed on Thursday by lawyer James Orengo, the two lobby groups warn that the EPA trade arrangement will have devastating effects on the economy, equating it to the Structural Adjustment Programmes of the 1980s, which caused an economy downspin through its push for liberalisation.

Niger

Niger Rebels Say Kill 12 Soldiers In Ambush

Source: Reuters, 27 Oct 07

Niger's Tuareg-led rebels said on Saturday they had killed at least 12 soldiers and destroyed two army vehicles in the desert north of the central African country, but the military denied this.

The Niger Movement for Justice (MNJ), which has already killed more than 45 soldiers during an eight-month uprising, said on its Web site it carried out the ambush at dawn on Thursday near Touara, in the region of Agadez. The MNJ has not staged any attacks since the start of the Muslim fast of Ramadan last month, during which it had declared a truce. The deputy head of Niger's army, Colonel Garba Maikido, told national radio that only a few soldiers had been lightly injured after a vehicle ran over a mine near the Algerian border.

Maikido was speaking at the presentation of a seizure of 1.1 tonnes of cannabis resin, worth an estimated 7 billion CFA francs ($15.33 million), captured by an army patrol in the northern region of Air. Soldiers also seized arms, munitions and aircraft fuel. President Mamadou Tandja's government has refused to recognize the MNJ, blaming the violence in northern Niger on bandits and smugglers of arms and drugs. The rebels demand greater regional autonomy and want a larger share of revenues from major uranium mines in the region to be spent on local development. Niger's uranium provides around a quarter of France's electricity and French state-run utility Areva operates mines in the region. Chinese investors hope to start production soon.

Nigeria

Nigerian Rebel Group MEND Claims Oil Kidnap

Source: Reuters, Tom Ashby, 27 Oct 07

A prominent militant group claimed responsibility on Saturday for the kidnapping of six foreign workers from an Italian oil facility off the coast of Nigeria.

The Movement for the Emancipation of the Niger Delta (MEND) gave no reason for Friday's abduction, the second in a week, which underscored the fragility of a peace initiative in the Niger Delta, Africa's biggest oil producing region.

"MEND carried out the attack. Six oil workers captured," the group said in an e-mail to Reuters from a recognized MEND address. The raid on the Mystras oil production vessel, 53 miles (85 km) offshore and operated by ENI <ENI.MI> unit Saipem and SBM Offshore <SBMO.AS>, cut output by 50,000 barrels per day (bpd) and helped lift oil prices to a record $92 a barrel on Friday. ENI said the six hostages included Polish, Filipino and Nigerian nationals, but industry sources said some Indians were also among the captives. Attacks by MEND since early last year had already cut Nigerian output by a fifth and forced thousands of foreigners to flee the vast wetlands region in southern Nigeria. MEND had observed a ceasefire since the inauguration of President Umaru Yar'Adua in May, who promised to address armed groups' grievances of poverty and neglect. But it threatened to resume kidnappings and attacks after the arrest last month of one of its leaders, Henry Okah, in Angola on gun running charges.

Kingsley Kuku, secretary of a government committee negotiating with the rebels, told Reuters he was making contact with those responsible for the abduction. "This happened in an area under the control of MEND," he said. "We are reaching out to MEND. We are working on it and we are getting close. When we are through, they should be released within 48 hours." MEND also claimed responsibility for an attack on the offshore EA oilfield last week in which seven workers contracted to Royal Dutch Shell <RDSa.L> were abducted for two days. The EA field, which can pump 115,000 bpd, has been closed since an earlier attack in February 2006. Kuku said MEND fighters had resumed operations because of Okah's detention. He said he feared the group was preparing for a major assault on the world's eighth largest oil exporter.

"From what we are hearing, these are warning strikes. That is what they say. We are worried they are planning something bigger," he told Reuters. MEND has accused Nigeria of being behind Okah's arrest. The Nigerian presidency has said it wants Okah returned to Nigeria to face criminal charges, a position that is not shared by many involved in the peace effort. Nigeria has no extradition treaty with Angola. Kuku said any attempt to bring Okah to Nigeria as a suspected criminal would be counterproductive. "Nigeria should not get involved. Angola should release Okah so our peace process can go on," he said. The government has had regular contacts with several militia leaders over the past few months in the hope of holding a formal peace conference before the end of the year. But militant representatives say they are frustrated with the slow pace of progress and organisation of the talks, and they doubt the sincerity of the government.

Pakistan

Daily Says Swat Violence Result Of Govt's 'Capitulation' To Militants

Source: The News International, 28 Oct 07 "The new FATA?"

The war-like situation that has broken out in Swat, which unnervingly mirrors that of the troubled tribal areas, offers irrefutable evidence of the government's inability to contain the militants' surge from the border region into the county's heartland and its failure to put into action the lessons learnt in the past.

The capturing of eight security personnel by the militants and the beheading of four, whose corpses were later publicly displayed in local markets, is a very disturbing indicator of what the state is up against in Swat. The situation there had been tense for quite a while before the government, which was for all intents and purposes sitting on its hands, finally decided that it needed to take action to halt the growth of extremism.

The problem, similar to the one encountered in the tribal areas, is that

an operation has finally been launched in the region but not before the hold of the militants, under the leadership of Maulana Fazlullah, has grown manifold, thanks to the government's previous inaction. Fazlullah was allowed to operate with an absurd amount of freedom, spreading his ideology of hate while raising his own standing army which, reports suggest, consists of almost 5,000 men and is tactically organised to a point where there is a separate cell of 'elite' fighters called the 'Shaheen Commando Force'. There is no way that the government can take the route of ignorance in this regard because the activities of the militant maulana were brazenly open. It is a documented fact that he began operating his own FM radio channel without the required government approval and he also openly challenged the provincial government's polio vaccination campaign in the region, telling his followers to refuse inoculation for their children. Ironically enough, instead of taking swift and robust action against a man that had all the makings of a future thorn in the government's side, the provincial government allowed him to continue operating his illegal channel in exchange for him stopping his action against the polio campaign. Whichever way one views this, the bottom line is that it reeks of powerlessness on the part of the authorities; the capitulation in turn only served to embolden the maulana and his horde of militants.

There is no doubting the fact that the operation is necessary, and is one in which the state needs to come out on top if the rest of the country is to escape the growing tentacles of extremism and Talibanisation. Having said that, though, the fact also is that had this problem in Swat been tackled when it had began, the situation would not have been as grim as it is today. This is precisely what the government also did in the case of Lal Masjid and even, one could argue, in Waziristan. Questions also need to be asked about the usefulness of strategies -- which the government now says are a thing of the past -- that sought to actually encourage such elements because they could be used to fight 'jihads' or proxy wars. While one hopes that the authorities are able to clean up the situation in Swat soon, the situation on the ground, with some reports suggesting that help for the militants may be on its way from neighbouring Kohistan district, indicates that the fight could well go on for many weeks or even longer.

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(Pakistan army forces on Sunday killed 10 islamist fighters during a skirmish in the Northwestern part of the country. The battle began on Friday in the Svat valley 180 km North of the city of Peshawar. The valley, a tourist attraction with Buddist memorials and a temperate climate, is now the operating area for 2500 Pakistani troops.)

JUI-F Leader Says Secret Agencies Behind Swat Violence

Source: Dawn, 28 Oct 07

Secret agencies were involved in violence in Swat and the government should withdraw forces from the Malakand region, said the provincial amir of the Jamiat Ulema-i-Islam, Senator Maulana Gul Naseeb Khan, on Saturday.

Addressing a public rally in Chakdara, Maulana Naseeb said the Malakand division was a peaceful region but the government and its secret agencies had turned it into a battlefield. accusing the government of toeing the American agenda, he condemned militants for attacking girls schools and music shops. e claimed that the people involved in bombings were neither jihadis nor good Muslims but were products of government agencies.

Terming the Frontier caretaker government powerless, he said that all powers were being exercised by the federal government. e said the recent incidents in Swat were part of a campaign to defame ulema and the Taliban. e challenged the government to produce foreign militants before the people and said if there was any foreign militant in the area, local people would themselves hand them over to the government. he rally was organised by the Adenzai chapter of the JUI-F and was attended by JUI's tehsil amir Maulana Habibun Nabi, Maulana Gul Rahim and Maulana Bashir Ahmad.

20 Killed In Latest Clashes Between Pakistani Forces, Militants

Source: KUNA, 27 Oct 07

More than 20 persons, including security personnel, were killed and several were wounded in an operation against a local militant commander and his supporters launched Friday in once peaceful lush-green Sawat valley in northern frontier province of NWFP, said officials Saturday.

Meanwhile, militants kidnapped 13 security personnel and publicly beheaded four. Fighting resumed between the two sides on Saturday after few hours of ceasefire, security sources told KUNA. They said militants and paramilitary troopers were exchanging heavy fire. They added that militants attacked the house of a local government official and put it on fire. Sources confirmed that more than 20 persons including about a dozen security personnel were killed in fighting and several others were wounded. Forces launched offensive on Friday against local militants commander, Maulana Fazlullah, in Imamdehri village of the valley, a day after about 39 soldiers were killed in a suicide and ammunition explosions. Militancy and extremism is on rise in once peaceful and premier tourist Swat valley since Tahreek Nifaz-e-Shariat Mohammadi (TNSM), Fazlullah's Al-Qaeda linked banned group, established its strongholds in the area.

Despite governments ban on his group and illegal radio station, Fazlullah, also known as Mullah Radio, has been giving fiery anti-government and anti-west speeches on his illegal FM radio station. Meanwhile, militants of TNSM group Friday publicly executed four law-enforcement personnel, all in their mid-20s, in what witnesses described as gruesome and gory scene of beheading by masked militants armed with rocket-propelled grenades and assault rifles. There was no information about the identity of the beheaded men but local newspapers citing witnesses said two of them were from police and the other two belonged to paramilitary force. Police sources said that masked militants Friday evening attacked a security checkpoint in Mangora area of Sawat and kidnapped at least 13 security personnel.

Wikipedia map showing location of Swat

Militants Execute 13 In Volatile NW Pakistan

Source: Reuters, Junaid Khan, 27 Oct 07

Militants in northwestern Pakistan executed 13 people, including six members of the security forces, in apparent retaliation for a crackdown on their stronghold, an official and residents said on Saturday.

The Swat valley in the North West Frontier Province was the scene of a fierce battle between the security forces and followers of a radical Muslim cleric on Friday after authorities sent more than 2,000 soldiers to counter growing militancy. At least 17 paramilitary soldiers and four civilians were killed in a suspected suicide attack near the valley's main town of Mingora on Thursday. Provincial officials said the militants on Friday killed seven civilians outside nearby Matta town, and beheaded three soldiers and three policemen they had taken hostage.

"(The civilians) were travelling in a van. The militants took them out of the van and slaughtered them," Badshah Gul Wazir, a top provincial home ministry official, told Reuters. The corpses of the slain police and soldiers were found in the same area. "All six of them have been found beheaded," he added. He said two civilians were killed in the crossfire. Residents said there had been sporadic exchange of fire between the security forces and militants in Swat on Saturday but there were no reports of casualties. Swat, a scenic valley close to Pakistan's lawless tribal belt bordering Afghanistan, has seen a surge in militant activity since Maulana Fazlullah, a pro-Taliban cleric, reportedly launched an illegal FM radio station and urged people to join a jihad or Muslim holy war. Fazlullah is de facto head of a pro-Taliban group, Tehrik-e-Nifaz-e-Shariat-e-Mohammadi (TNSM) or Movement for the Implementation of Mohammad's Sharia Law, which was banned by U.S. ally President Pervez Musharraf in January 2002.

Muslim Khan, an aide to Fazlullah, denounced the executions. "Someone may have done it out of emotion but we condemn it," he told a group of reporters. Militants have attacked security forces and carried out bomb attacks in recent months in Swat where they have been forcing residents to follow a strict Islamic code. Pakistani tribal areas have been a hotbed of support for al Qaeda and Taliban militants who have fled Afghanistan. Thousands of soldiers and militants have died in battles in these regions since 2003. Violence has escalated across Pakistan since July, when militants scrapped a peace deal and the army stormed a radical mosque in the capital, Islamabad. Last week, at least 139 people were killed in a suicide attack in the city of Karachi during a procession led by former prime minister Benazir Bhutto on her return from eight years of self-imposed exile.

Russia

Attack On Tyumen-Baku Passenger Train In Russia

Source: Azerbaijan News Service, 28 Oct 07

50-60 people armed with cutting facilities attacked passenger train at Artezian station of the Autonomous Republic of Kalmykia.

There was an armed attack to Tumen-Baku passenger train. Nadir Azmammadov, head of press service of Azerbaijani State Railway, informed ANS TV that 50-60 people armed with cutting facilities attacked passenger trainat Artezian station of the Autonomous Republic of Kalmykia. 25 people were injured as the result. 4 of them being seriously injured, were placed in Kizlyar hospital. Transport police and soldier, who came to help, are also among injured. The administration of the Azerbaijani State Railway sent a telegram to the administration of the Russian Railways LLC, North-Caucasus Railways and Russia's transport police asking to seriously investigate the incident

Chechen Police Arrest Suspected Rebel

Source: Regnum in Russian 0559 GMT 26 Oct 07

During operational and search measures carried out on the evening of 25 October, the police in Oktyabrskiy district of Groznyy arrested a 31-year-old local resident. According to the law-enforcement agencies, he has been a member of Akmurzayev's bandit group since 2000, the Chechen Interior Ministry told Regnum news agency. A criminal case has been opened under Part 2 of Article 208 (participation in armed resistance or attacks) of the Criminal Code of the Russian Federation.

Saudi Arabia

Saudi King Chides UK on Terrorism

Source: BBC News, 29 October

Saudi Arabia's King Abdullah has accused Britain of not doing enough to fight international terrorism, which he says could take 20 or 30 years to beat. He was speaking in a BBC interview ahead of a state visit to the UK - the first by a Saudi monarch for 20 years. He also said Britain failed to act on information passed by the Saudis which might have averted terrorist attacks. King Abdullah is expected to arrive in the UK on Monday afternoon; his visit begins formally on Tuesday. In the BBC interview he said the fight against terrorism needed much more effort by countries such as Britain and that al-Qaeda continued to be a big problem for his country. BBC world affairs correspondent John Simpson says King Abdullah is annoyed that the rest of the world has largely failed to act on his proposal for a UN clearing house for information about terrorism.

Terror 'information'

Speaking through an interpreter, the Saudi monarch said he believed most countries were not taking the issue seriously, "including, unfortunately, Great Britain". "We have sent information to Great Britain before the terrorist attacks in Britain but unfortunately no action was taken. And it may have been able to maybe avert the tragedy." The Saudi leadership maintains that it passed the UK information that might have averted the London bombings of 2005 if it had been acted on. BBC security correspondent Frank Gardner says Whitehall officials have strenuously denied this, and a subsequent investigation by Parliament's Intelligence and Security Committee (ISC) found no evidence of any intelligence passed on by the Saudis that could have prevented the 7 July 2005 bombings. The king's visit has provoked controversy over Britain's relationship with Saudi Arabia. A demonstration is planned outside the Saudi embassy in London later in the week in protest at the country's human rights record. And acting Liberal Democrat leader Vince Cable has announced he is boycotting the visit, citing the corruption scandal over Al Yamamah arms deal, and the Saudis' human rights record.

Serbia

War-Crime Suspects Key To Serbia's Future

Source: Financial Times, 28 Oct 07

The European Union and Serbia are approaching a moment of truth as EU leaders weigh up whether Belgrade's co-operation in tracking down alleged war criminals is enough to justify putting Serbia on the road to EU membership.

Carla del Ponte, chief prosecutor at the United Nations war crimes tribunal for the former Yugoslavia, discussed the matter with Olli Rehn, the EU's enlargement commissioner, on her return from a two-day trip to Serbia last week. The pair will hold more discussions at the end of the week before a final decision is taken. EU governments have mixed views about how much Serbia's progress towards membership should depend on handing over war-crimes suspects. The central problem concerns Ratko Mladic, the former Bosnian Serb military commander and alleged organiser of the 1995 Srebrenica massacre. Ms del Ponte said Belgrade's co-operation was improving but could not be deemed sufficient without Mr Mladic's arrest. However, some EU officials want to initial a "stabilisation and association agreement" with Serbia – the first step towards EU membership – if Belgrade is doing all it can to find Mr Mladic and three other fugitives. Boris Tadic, Serbia's pro-EU president, said he hoped Ms del Ponte would "prepare a positive report regarding our co-operation . . . even though we are facing some difficulties to find Ratko Mladic and other fugitives."

Serbian officials this month offered a €1m ($695,000, £487,000) reward for information leading to Mr Mladic's arrest, and rewards of €250,000 for two others. Radovan Karadzic, the former Bosnian Serb political leader, would also be worth €1m, but he does not hold Serbian citizenship, officials said. Western intelligence agencies are uncertain where Mr Karadzic is hiding, but suspect Mr Mladic is in Serbia, according to diplomats in Brussels. Besides opening the door to the EU, Mr Mladic's arrest would, in Serbia's view, boost its goal of retaining sovereignty over the breakaway province of Kosovo. Ms del Ponte has said political pressure, especially from the EU, is the only way ex-Yugoslav suspects have ever come to trial in The Hague. Serbia has delivered nearly 40 war crimes suspects to the tribunal since 2000. However, co-operation with the tribunal was "not fully satisfactory" before Serbia's current government was formed four months ago, Mr Tadic said. The president has insisted on intelligence oversight as a condition for his Social Democrats working in coalition under the nationalist-leaning prime minister, Vojislav Kostunica. Until then, Mr Kostunica had periodically questioned the fairness of the Hague tribunal for Serb suspects. "The first report I get every morning is on full co-operation with the tribunal," he said.

Somalia

Heavy Fighting Shakes Somalia

Source: News24, 27 Oct 07

Insurgents and government-allied forces battled with machine guns, mortars and rocket-propelled grenades on Saturday in the heaviest fighting to hit Somalia's capital for months, leaving at least seven people dead and dozens others wounded, witnesses and health officials said.

Islamic fighters briefly occupied a police station in south Mogadishu, before heading back out of the area, chanting "God is great", witnesses said. Witnesses said at least seven people including a woman had died in the heavy fighting, which saw insurgents and government troops and allied Ethiopian forces trading heavy machine-gun fire and mortar rounds. Insurgents could be seen firing rocket-propelled grenades.

At least 35 people were under treatment at Mogadishu's Medina Hospital from injuries suffered during the fighting, including some who were seriously wounded, said Tahir Mohammed Mahmoud, an administrative assistant. He said it was the worst fighting, and heaviest day for hospital admissions, for at least four months in the war-scarred city. Another witness to the fighting, Hassan Hussein, said he saw two dead Ethiopian troops. Ethiopian officials were not immediately available for confirmation. On the political front, Prime Minister Ali Mohamed Gedi was in the Ethiopian capital, Addis Ababa, for consultations. He has been locked in a power struggle for months with President Abdullahi Yusuf, who wants to push through a no-confidence vote this week and form a new government - presumably without Gedi. On Friday, Gedi told local media that he was not planning to resign, contrary to widespread speculation.

Twenty-two ministers and deputy ministers have threatened to resign unless the no-confidence vote is held, exposing deep rifts in the administration. Mogadishu has been plagued by fighting since government troops and their Ethiopian allies chased out the Council of Islamic Courts in December. For six months, the Islamic group controlled much of southern Somalia, and remnants have vowed to fight an Iraq-style insurgency. Thousands of civilians have been killed in the fighting this year. Somalia has not had a functioning governments since 1991, when rival warlords overthrew dictator Mohamed Siad Barre and then turned on each other. Some 1.5 million Somalis are now in need of food aid and protection - or 50% more that at the start of the year - due to inadequate rains, continuing internal displacement and a potential cholera epidemic, the UN says.

Spain

Spain To Extradite Syria Arms Dealer Suspect To US

Source: Reuters, 26 Oct 07

Spain's High Court on Friday agreed to a U.S. request to extradite a suspected Syrian weapons dealer accused of planning to supply arms to a Colombian rebel group.

Monzer al-Kassar was arrested in Madrid in June on charges of conspiring to sell millions of dollars worth of weapons to the Revolutionary Armed Forces of Colombia (FARC). U.S. authorities accuse Kassar of agreeing to provide arms to the FARC to protect a cocaine-trafficking business and attack U.S. interests in the South American country. A long-time Spanish resident known as the "Prince of Marbella" for his outlandish lifestyle, Kassar has sold weapons to the Palestine Liberation Front, Nicaragua, Bosnia, Croatia, Iran, Iraq and Somalia since the 1970s, the U.S. Embassy in Madrid said. In 1995, Kassar was acquitted by Spain's high court of a charge of piracy in connection with the 1985 hijacking of the Italian cruise liner Achille Lauro by Palestinian guerrillas.

Syria

Syria Air Strike Target 'Removed'

Source: BBC, 26 Oct 07

Newly-released satellite images of the presumed site of an Israeli air raid on Syria last month suggest that a large building has been completely removed.

US research group, the Institute for Science and International Security, obtained and analysed the images. The industrial-style building may have been a nuclear reactor under construction, says the ISIS. A BBC correspondent says the images are not conclusive. Nor is it certain that they show the site hit by Israeli jets. The Israeli strike has been shrouded in mystery and speculation. Originally Israel did not even admit that the 6 September raid had been carried out, and its military censor ordered a complete blackout on information. But Syria said Israeli warplanes violated its airspace in what it called a "hostile act", and Israel eventually acknowledged the mission some four weeks later. Intelligence sources hinted at a possible link with North Korea's nuclear programme.

'Resemblance'

On Wednesday the Institute for Science and International Security (ISIS), an independent organisation, released satellite images pre-dating the attack, of a facility in northern Syria that it believes was the target. They showed both a large industrial building and a pumping station near the Euphrates river. The ISIS said the building bore a resemblance to the Yongbyon nuclear facility in North Korea. "The length of the outer walls of the structures are approximately the same," the institute said in its analysis. "From the image, the Syrian building is similar in shape to the North Korean reactor building, but the Syrian building is not far enough along in its construction to make a definitive comparison," it said. The ISIS has now produced a more recent image of the same site taken on 24 October, more than six weeks after the alleged air attack. The image appears to show that the building has been completely removed and the ground scraped clean.

'Provocative'

Syria has consistently denied any plans to build a nuclear reactor, and its ambassador to the UN rejected the ISIS's analysis, saying the building was "only a centre for research for the desert areas, arid and desert areas in Syria". "The main point is that is that the Israeli fighter jet violated the airspace of a member state of the United Nations. This is the only fact that we should focus on," Bashar Jaafari said. "The Israelis have undertaken a provocative action and they should assume the consequences." North Korea has adamantly denied that it was involved in helping Syria build any kind of nuclear facility. The images, says the BBC's diplomatic correspondent Jonathan Marcus, are far from conclusive. But they suggest that, for whatever reason, the Syrian authorities have gone to great lengths to remove any trace of the building apparently targeted in the strike, our correspondent adds.

The ISIS argues that "dismantling and removing the building at such a rapid pace dramatically complicates any inspection of the facilities and suggests that Syria may be trying to hide what was there". The report also raises the question of whether Syria might be in breach of its safeguards agreement with the International Atomic Energy Agency, our correspondent says. Under that, it would have an obligation to notify the UN's nuclear watchdog of any plans to construct a new nuclear facility. While about the Israeli air strike on Syria is a mystery, it is believed that in the early hours of 6 September a number of Israeli jets appeared to enter Syrian airspace from the Mediterranean Sea. Later, unidentified drop tanks, which may have contained fuel from the planes, were found on Turkish soil near the Syrian border, indicating a possible exit route. Witnesses said the Israeli jets had been engaged by Syrian air defences in Tall al-Abyad, north of Raqqa and near the

border with Turkey.

Turkey

Turkish Troops 'Kill PKK Rebels'

Source: BBC, 28 Oct 07

Turkish troops have killed 15 suspected Kurdish rebels in the east of the country, reports say.

Military sources and Turkish TV reports said operations were taking place near the town of Pulumur, in the eastern province of Tunceli.

The area is thought to be a stronghold of separatists from the Kurdistan Workers' Party (PKK). Turkey has stepped up moves against the PKK recently after strikes from across the border with Iraq. The government in Ankara has warned it will not tolerate continued raids by PKK fighters based in northern Iraq, and has massed troops near the border in preparation for a possible ground invasion.

Sunday's raid happened a considerable distance from the border flashpoints. Tunceli is some 550km (340 miles) north-east of the province of Sirnak and 650km (400 miles) north-east of Hakkari, where most of the recent fighting has taken place. The government-run Anatolia news agency said fighting began on Sunday morning, wit Turkish troops backed by helicopter gunships. One report said some 8,000 troops were involved. Security forces also shut down a major highway leading to the town of Pulumur, Anatolia reported. There was no official confirmation of casualty figures, but two private TV stations said 15 PKK rebels were killed. The latest raid came a day after Turkish Prime Minister Recep Tayyip Erdogan criticised European Union nations for not doing enough to rein in the guerrillas...

Kurdish PKK Militants Focused On Own Survival

Source: Reuters, 26 Oct 07

Holed up in the mountains of northern Iraq, Kurdistan Workers' Party (PKK) guerrillas have grabbed world attention as rarely before as Turkey mulls whether to launch a cross-border incursion against their bases.

But recent attacks on Turkish soldiers look above all like a sign of desperation as a depleted PKK show no sign of being able to force their aims onto the political agenda, analysts say. Their goals, derived from a Marxist-Leninist ideology, have anyway become blurred since they took up arms in 1984 with the aim of establishing an independent Kurdish state in southeast Turkey. More than 30,000 people have died in the conflict. "Their own survival is more important to them now than the issue of Kurdish rights or autonomy," said Gareth Jenkins, an Istanbul-based expert on Turkish security issues. "What they are fighting for is political legitimacy for themselves -- to get Turkey to negotiate with them so they can become a political player." He said the PKK still saw Abdullah Ocalan, their leader captured in 1999, as a potential interlocutor with the state.

After his capture, Ocalan called for a peaceful resolution and the rebels announced a ceasefire. This was ignored by Turkey, which like the United States and the European Union condemns the PKK as a terrorist group. Many of the

group's statements have since shifted their focus more to demanding greater political and cultural rights for Turkey's 12-15 million Kurds. While there is still wide sympathy for the PKK in the southeast, some of the steam may have gone out of Kurds' complaints that their interests and culture are suppressed. In recent years, Turkey has begun to allow limited Kurdish television broadcasts, and Kurdish lessons in private classes. And in last July's parliamentary election, the ruling AKP made strong gains in the region at the expense of the main Kurdish party.

Stirring Tensions

At the same time, the PKK's attacks have continued and recently intensified, to try to draw attention to their cause. "In order to do this they must create an atmosphere in which there are clashes. They want to stir up tensions between Turks and Kurds by provoking Turks. But I don't think this game will work," said Sadi Cayci, international law consultant at the Eurasian Strategic Studies Centre in Ankara. Cayci said the militants' ultimate aim of creating a Kurdish state remained, and had been reinforced by the growing autonomy of the Kurdish administration in northern Iraq.

The PKK's camps in northern Iraq are now at the heart of their activities, and their armaments are believed to come from poorly controlled Iraqi military stocks. The PKK are still capable of raising money through fund-raising events and protection rackets within Turkey, and through the Kurdish diaspora in Europe, to fuel their insurgency, and this month have mounted two large-scale attacks in which 25 Turkish soldiers have been killed. But their numbers are estimated to be down sharply from a decade ago, to about 3,000 in Iraq and 1,000-2,000 in Turkey.

This explains why more than half the PKK attacks in the last two years have been bomb attacks, the Turkish military says. A military official in southeast Turkey said he did not see the PKK returning wholesale to more direct confrontations, which involve high rebel casualties. "Strategically they are focused on attacks that incur the fewest losses. Hence, they are resorting to remote-controlled bombs and hit-and-run attacks," the official said. Meanwhile, public opposition across Turkey in general to talks with the PKK or Kurdish autonomy is as strong as ever. Ocalan, unable to control the rebels on a tactical level but still a powerful influence in terms of their strategy, has not commented on the latest violence. His lawyers were last able to visit him a month ago, when they issued a statement in which Ocalan stuck to familiar themes of Marxism, democracy and plots against him.

Turkey Calls For Iraq To Hand Over All PKK Rebels

Source: Reuters, 26 Oct 07

Turkey wants Iraq to hand over all members of the separatist Kurdistan Workers Party (PKK) based in northern Iraq, Deputy Prime Minister Cemil Cicek said on Friday.

Cicek, speaking in a televised interview as Iraqi and U.S. officials met Turkish officials in Ankara in a bid to stop Turkey launching an incursion into northern Iraq to tackle the militants, also said Turkish air forces had hit targets in northern Iraq but there had been no full land incursion. "Everyone (PKK members in northern Iraq) there is guilty. They are criminals at least for being a member of a terrorist organisation," Cicek said. "We want all of them to be handed over," he said, adding that Ankara had given Iraq a list of PKK militants. The central government in Iraq has little clout in the mainly Kurdish autonomous north of Iraq, and the interior chief of the autonomous region was blocked from attending the talks by Ankara.

Village Guards Arrested in Turkey's Southeast for 'Aiding PKK'

Source: CNN TURK Online WWW-Text in Turkish 1613 GMT 26 Oct 07

Six provisional village guards have been arrested in the Cukurca district of Hakkari on charges of aiding and sheltering the terrorist organization. Acting on a tip, squads from the local gendarmerie command obtained information that some provisional village guards were helping and sheltering the terrorist organization PKK.

Security forces began to monitor the six village guards, and their phones were placed under surveillance.

After it was determined that the said guards were leaking information to terrorists in phone conversations with PKK members, squads affiliated with the Cukurca District Gendarmerie Command raided the homes of the guards in the district center and surrounding villages.

The six provisional village guards detained in the course of these raids were taken to court after they were interrogated at the gendarmerie command. The six men underwent a health check and were sent to the Hakkari Closed Prison after the court ordered them arrested on charges of "aiding and sheltering the terrorist organization."

Mine Injures One Person in Siirt

The Office of the Chief of the General Staff reported that one citizen was injured by a mine explosion in Siirt and that there were no casualties in the brief firefights that occurred between terrorists and security forces in Bitlis, Bingol, and Siirt.

According to the counterterrorism bulletin that appeared on the website of the Office of the Chief of the General Staff, one citizen was injured yesterday when an explosive device of unknown type and origin went off in a mountainous area of the Pervari district of Siirt.

Security forces encountered groups of terrorists in the mountainous countryside of Bitlis yesterday, the Karliova district of Bingol two days ago, and the Eruh district of Siirt on 23 October in the course of search and sweep operations.

Brief firefights ensued when the terrorists fired in response to orders to "surrender" by the security forces. There were no casualties in these incidents.

Explosive Device Found

An explosive device, crafted out of three kilograms of plastic explosive, was was found to have been planted by terrorists near the 2-kilometer marker of the Dargecit-Mardin highway yesterday. The device was subsequently destroyed.

Eleven Detained in Sirnak

Eleven persons were detained in the Silopi district of Sirnak on charges of being members of the terrorist organization PKK.

Acting on an intelligence tip, counterterrorism squads of the Security Directorate of Silopi raided a tea garden in the center of the district. In the course of this raid, 11 persons, two of them women, were detained and taken to the Security Directorate of Silopi on charges of being members of the PKK.

PKK Changes Battlefield Tactics to Force Turkey into Negotiations

<http://www.jamestown.org/news_details.php?news_id=282##>

Source: Gareth Jenkins, Jamestown Foundation from Terrorism Focus <http://jamestown.org/terrorism/> , October 24

Recent attacks by the Kurdistan Workers' Party (PKK) suggest that the organization is adopting new battlefield tactics in order to increase the psychological pressure on Turkey in the hope of forcing the Turkish authorities to enter into peace negotiations. Since it resumed its armed struggle in June 2004, the PKK has been pursuing a two-front strategy: an urban bombing campaign in western Turkey and a rural insurgency in the mountainous southeast of the country. During its first armed campaign, which lasted from 1984 to 1999, the PKK initially sought to control large swathes of territory in southeast Turkey, particularly at night. During the early 1990s, it also staged several large-scale attacks on military outposts. However, the practice was abandoned after the Turkish military began to inflict heavy casualties through the use of Cobra attack helicopters in hot pursuit operations. Gradually, through a combination of a scorched earth policy, aggressive search-and-destroy patrols and the development of a cadre of battle-hardened NCOs, the Turkish security forces gained the initiative. By the time that the PKK announced it was abandoning the armed struggle in 1999, it had already effectively been defeated on the battlefield, while political pressure had forced Syria, its main state sponsor, to withdraw its support.

The decision to return to violence in June 2004 was taken despite the opposition of many PKK field commanders, who argued that the organization was too weak militarily, lacked a state sponsor and had only around 4,000 militants under arms, which was down from a peak of around 8,000 in the early 1990s. When it resumed its insurgency, the PKK tacitly acknowledged its relative weakness through its choice of battlefield tactics. It reduced the average size of its active field units to around six to eight militants, compared to 15-20 in the 1990s, and avoided direct confrontations with the Turkish military. Although it staged small ambushes, it concentrated primarily on the use of mines, snipers and long-range strafing of military outposts, after which its units rapidly withdrew before the Turkish military could call up land reinforcements and air support.

The first sign of a change came in the October 7 ambush of a Turkish commando unit in the Gabar mountains in which 13 Turkish soldiers were killed (Eurasia Daily Monitor, October 10). Not only was it the highest Turkish death toll in more than a decade, but the ambush appears to have been laid by 45-50 PKK militants, the largest concentration of PKK forces in a single attack since the resumption of the armed campaign in June 2004.

At 12:20 AM on October 21, an estimated 150-200 militants attacked a 50-strong infantry battalion in a military outpost close to the village of Daglica, approximately five kilometers from Turkey's border with Iraq. The attack appears to have been planned well in advance (Eurasia Daily Monitor, October 22). Local villagers reported that first electricity and telephone lines were cut and then the only bridge to the outpost was blown up (Dogan Haber Ajansi, October 23). A total of 12 soldiers were killed and 17 wounded. One of the wounded later told Sabah daily newspaper that they were able to see the PKK militants taking up positions through night-vision binoculars and thermal imaging devices, while listening to their wireless communications. When the PKK attacked, they overran the outpost before reinforcements could arrive (Sabah, October 23). They then withdrew under fire into northern Iraq, taking with them eight Turkish soldiers as prisoners. On October 23, the PKK released photographs of the soldiers in captivity (Firat News Agency, October 23).

The PKK's decision to incur the operational burden of escorting the prisoners through difficult mountain terrain while under fire appears to indicate that it was part of a preconceived plan. It was the first time that the organization had seized a group of prisoners since the mid-1990s, and at the time they subsequently exploited them for propaganda purposes. It was only after a Turkish parliamentary delegation led by members of the Islamist Welfare Party (RP) traveled to northern

Iraq to negotiate with the PKK that the prisoners were finally released. Members of the pro-Kurdish Democratic Society Party (DTP), which is widely believed to be linked to the PKK, have already offered to negotiate the release of the eight soldiers seized on October 21 (NTV, CNNTurk, October 22).

The Turkish military claimed to have killed 32 PKK militants in hot pursuit operations following the attack on Daglica (NTV, CNNTurk, October 21). The claim, however, has been denied by the PKK and the Turkish authorities have yet to produce any corpses of slain PKK militants (Vatan, October 23). Nevertheless, given their experience in the 1990s, the PKK high command would have known that the attack of October 21 carried the risk of high casualties. It appears that they calculated that the cost would be more than offset by the propaganda benefits and the psychological impact on the Turkish public not only of the high death toll but also of the capture of the eight soldiers. The Turkish media has already begun publishing photographs of the prisoners' traumatized relatives (Sabah, NTV, October 23).

The seizure of the eight soldiers also appears to be part of a wider strategy of trying to force the Turkish authorities into negotiations. The staging of the attack on October 21, just days after the Turkish parliament approved a motion authorizing the deployment of Turkish troops in a cross-border operation against the PKK's presence in northern Iraq, seems to have been designed to try to provoke Turkey to threaten an incursion in the hopes that the international community would intervene and argue that a permanent solution to PKK violence could only come through the opening of negotiations (Eurasia Daily Monitor, October 22).
Gareth Jenkins is a writer and journalist based in Istanbul, who has written on Turkey for the past 20 years.

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(The Turkish information ministry reported the deaths of 15 Kurdish fighters on Sunday in the Southeastern province of Tundjeli. Turkey has deployed a 150,000 man force to the border area with a mandate to cross into Iraq to conduct operations against Kurdish fighters, thought to number approximately 3500.)

Uganda

Confusion Sets Into LRA Peace Process

Source: The Monitor, 28 Oct 07

After a difficult 16 months of going back and forth, the Juba peace process is now faced with yet another storm.

Garamba, where the Lord's Resistance Army (LRA) leadership is holed up, is dead silent and the news trickling out is deeply worrying: The two topmost rebel commanders, Joseph Kony and his deputy, Vincent Otti, have disagreed and a major split is feared. Otti's fate remains a mystery. Kony's signaller, Labal Piny, is in possession of Otti's satellite phone set. "Everyday for almost a month now, I have failed to talk to Otti. Kony is not taking my calls, I wonder what is happening, last night I went to Mega FM and personally asked Kony to quickly explain what is going on," Col. Walter Ochora, Gulu's resident district commissioner said. Col. Ochora has been an instrumental channel of communication between the rebels and the government but now finds himself in a vacuum. Kony and Otti, both indictees of the International Criminal Court for war crimes and crimes against humanity, have led the LRA during the best and worst of times for the shadowy organisation. It is now difficult to say what their reported disagreement will mean for the peace process, especially since up to 33 rebels are said to have died in a reported gun battle on October 10 that pitted Kony loyalists against Otti's people. If true, this is unprecedented even in the rebel's long history of dishing out harsh treatment to its members who fail or are suspected of disloyalty. So, attempts by the LRA's delegation to the peace talks to either downplay or vehemently deny that there is anything wrong within the rebel ranks only serves to further complicate the already unclear picture. No substantive or verifiable information as to what may have sparked the disagreement is currently available. Only rumours; first about an alleged dispute over how to spend the $600,000 ostensibly provided for consultations by the donor community, and then over claims that a power struggle was afoot between the top two rebel leaders.

"Kony was increasingly accusing Otti of doing things behind his back which he considered betrayal," a security source told Sunday Monitor. Otti had also reportedly sanctioned recruitment of 128 former rebels of the Uganda National Rescue Front (UNRF II) "to boost their numbers should things go wrong [with the peace talks]." It is not clear if Kony was aware of this. The UNRF II largely operated in West Nile region before it signed a peace agreement with the government in December 2002. Its leader, Maj. Gen. Ali Bamuze, is currently living in Kampala. The purported recruitment by a former senior member of the UNRF II in mid August, however, reportedly went bad with many of those said to have been recruited deserting upon realising that they had been duped. The men had reportedly been told that they were being hired to go and work on a huge bricklaying project.

Adding to the confusion was the strange decision by Sudanese People's Defence Forces (SPLA) troops to detain members of the LRA's negotiating team for almost one hour when they travelled to Maridi last Saturday (October 20). Mr Martin Ojul and Mr Yusuf Okwonga Adek were held as they travelled to Maridi on their way to Kony's base. "When our negotiators landed at Maridi and got into a convoy to Maridi Hotel they were quickly arrested by SPLA. We still wonder why and we are demanding an explanation," said LRA spokesman Godfrey Ayoo during an interview with Sunday Monitor during the week. Maridi is a small town near the border between south Sudan and the DR Congo through which the Garamba National Park, where the LRA are based, can be accessed. The search for answers continues after Kony snubbed the UN envoy for northern Uganda, Joacqim Chissano, who he was scheduled to meet on October 22.

A week to this appointment Mr Chissano lost contact with Kony. Desperate that the lack of contact was affecting the peace process, Mr Chissano decided to try to meet Kony face to face but he was only able to get as far as Maridi where he met the LRA negotiators, themselves stranded after they failed to meet their leader. Mr Chissano who flew back to Kampala on the same day, later told donors that he had been told that Otti was ill with cholera and could not travel for the meeting. The LRA also promised Mr Chissano that they would come to Uganda by this weekend for consultations. This has not happened either. Though there is speculation over the future of the peace process, Dr Ruhakana Rugunda, the government's chief negotiator and minister for Internal Affairs, is confident that the process is still on course.

"In peace talks we have hitches and corners but we are in touch with the LRA and the peace talks are still on course," Dr Rugunda said on Friday. Meanwhile, the issue of money is becoming a sticking point. The government delegation has expressed concern over what they perceive as indirect funding of the LRA through "exorbitant per diems."

Sunday Monitor obtained information, which we could not independently verify though, that there is an unwritten rule that every LRA delegate in Juba must hand over $50 of $120 they receive as allowances everyday to the LRA leadership. There are 15 LRA delegates participating in the Juba negotiations; 13 negotiators and two members who constitute the rebels' membership on the Cessation of Hostilities Team. If this allegation is true then the LRA leadership in Garamba would be receiving $750 (Shs1.3 million) daily and that translates to $5,250 (Shs9 million) in one week. "We have information that this is happening and we ask ourselves who is now bankrolling LRA? The donors?" said one government negotiator, who declined to be named in the interests of harmony. The government, according to our sources, has expressed this concern to the donor group, Partners for Development and Governance. The group includes European Union countries, the US, Norway and Canada that are contributing to the Juba Initiative Fund managed by the UN's Office for the Coordination of Humanitarian Assistance.

France, the European Union chair, which had earlier expressed concern over LRA's direct handling of large sums of money declined to comment on this development. But the LRA rubbished the claim saying its delegates are free to use their per diems as they wish. "What is it that the Uganda government is worrying about when [they] are stealing millions of dollars from impoverished tax payers?" asked Godfrey Ayoo, LRA's spokesman, in a telephone interview from the Kenyan capital, Nairobi. "No one is going to tell us how to run our affairs," he added. The peace talks are open-ended with no time table, a fact that is increasingly unsettling the government that has now resorted to applying pressure on the Congolese authorities to take action against LRA. But with the uncertainty of what is going inside the Garamba, especially in respect of Otti's fate, and no actual movement by Kinshasa on the rebels despite having made several commitments to do so, a sense of helplessness is beginning to set in.

Ex-LRA Chief Held Over Robbery

[One answer to the question, "How do terrorists end?". Legitimate occupations like farming lack luster after the thrill of being a terrorist.]

Source: Daily Monitor, 26 Oct 07

A former director of operations for the Lords Resistance Army and 10 others were on Wednesday arrested over allegations of armed robbery.

Onen Kamudulu, who surrendered to the government forces in 2004, was arrested with a pistol from his hideout in Maruzi farm in Apac District. Police detectives said that Kamudulu and his accomplices, who were armed with pistols and AK-47 riffles, came from Gulu and staged an ambush on Masindi Port Road and robbed cash, mobile phones and other personal belongings from local traders. "Police searched the farm and arrested the suspects with 180 rounds of ammunition, a pistol and four motorcycles which they have been using in the robberies," Police Spokesman Asan Kasingye said yesterday. The waylaid market vendors were returning by taxi from Bweyale Trading Center in Masindi District.

Mr Kasingye identified the other suspects as Joseph Okot, Thomas Opio, George Oola, Denis Okot and Richard Oloya, all residents of Gulu District. Police operatives also apprehended Christopher Ochaya, Justine Odom, Bitek Okot and Agiba

Anyingi. However, one of the suspects is reportedly at large after fleeing from security officers. By the time of his arrest, Kamudulu had enrolled into an Adult Literacy Education programme and was said to be in Form Five. Maj. Felix Kulayigye, the Defence and Army spokesman, yesterday said the military had armed the ex-insurgent boss over fears that former victims of LRA war would launch revenge attacks on him. "We gave him a pistol for self protection but if he has used it for robbery, the law will take its course and he will be punished," Maj. Kulayigye said. The 10 suspects have now been detained at Apac Police Station from where they will be taken to court.

United States of America

Americans More Confident On War On Terror

Source: Angus Reid Global Monitor, 28 Oct 07

More people in the United States express positive views on the global effort to fight terrorism, according to a poll by Rasmussen Reports.

43 per cent of respondents believe the U.S. and its allies are winning the war on terror, up four points since August. Conversely, 30 per cent of respondents think the terrorists are winning the war, while 22 per cent say neither side is emerging victorious. Afghanistan has been the main battleground in the war on terrorism. The conflict began in October 2001, after the Taliban regime refused to hand over Osama bin Laden, prime suspect in the 9/11 terrorist attacks in New York and Washington. Al-Qaeda operatives hijacked and crashed four airplanes on Sept. 11, 2001, killing nearly 3,000 people. At least 702 soldiers-including 447 Americans-have died in the war on terrorism, either in support of the U.S.-led Operation Enduring Freedom or as part of the International Security Assistance Force (ISAF) led by the North Atlantic Treaty Organization (NATO). In addition, 1,708 U.S. military personnel have been wounded in action, according to data provided by the Pentagon.

On Oct. 24, the Congressional Budget Office (CBO) said the conflicts in Iraq and Afghanistan-as well as other war on terror-related activities-are becoming unsustainable. The bipartisan group said such expenses have already amounted to more than $600 billion U.S. since September 2001, and could ultimately reach the $2 trillion U.S mark. Peter Orszag, head of the CBO, declared: "Including both past funding and projected funding under these two illustrative scenarios, total spending for U.S. operations in Iraq, Afghanistan and the rest of the war on terrorism would thus amount to between $1.2 trillion U.S. and $1.7 trillion U.S. through 2017. (...) The way I would put it is that we are on an unsustainable fiscal path and something has to give."

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(Michael McConnell, Director of National Intelligence, warned that Al Qaeda is recruiting Europeans specifically to infiltrate into the United States to conduct terrorist attacks. McConnell said that they are being recruited in Europe, trained in Pakistan and will be attempting entry into the United States due to the extra scrutiny U.S. security organs give to Arabs.)

From CIA Jails, Inmates Fade Into Obscurity

Source: Craig Whitlock, Washington Post Foreign Service,Saturday, October 27, 2007; A01

On Sept. 6, 2006, President Bush <http://www.washingtonpost.com/ac2/related/topic/George+W.+Bush?tid=informline> announced that the CIA <http://www.washingtonpost.com/ac2/related/topic/Central+Intelligence+Agency?tid=informline> 's overseas secret prisons had been temporarily emptied and 14 al-Qaeda <http://www.washingtonpost.com/ac2/related/topic/Al+Qaeda?tid=informline> leaders taken to Guantanamo Bay, Cuba <http://www.washingtonpost.com/wp-srv/world/countries/cuba.html?nav=el> . But since then, there has been no official accounting of what happened to about 30 other "ghost prisoners" who spent extended time in the custody of the CIA.

Some have been secretly transferred to their home countries, where they remain in detention and out of public view, according to interviews in Pakistan <http://www.washingtonpost.com/ac2/related/topic/Pakistan?tid=informline> and Europe <http://www.washingtonpost.com/ac2/related/topic/Europe?tid=informline> with government officials, human rights groups and lawyers for the detainees. Others have disappeared without a trace and may or may not still be under CIA control.

The bulk of the ghost prisoners were captured in Pakistan, where they scattered after the U.S. invasion of Afghanistan <http://www.washingtonpost.com/wp-srv/world/countries/afghanistan.html?nav=el> in 2001.

Among them is Mustafa Setmariam Nasar, a dual citizen of Syria <http://www.washingtonpost.com/ac2/related/topic/Syria?tid=informline> and Spain <http://www.washingtonpost.com/ac2/related/topic/Spain?tid=informline> and an influential al-Qaeda ideologue who was last seen two years ago. On Oct. 31, 2005, the red-bearded radical with a $5 million U.S. bounty on his head arrived in the Pakistani border city of Quetta, unaware he was being followed.

Nasar was cornered by police as he and a small group of followers stopped for dinner. Soon after, according to Pakistani officials, he was handed over to U.S. spies and vanished into the CIA's prison network. Since then, various reports have placed him in Syria, Afghanistan and India <http://www.washingtonpost.com/wp-srv/world/countries/india.html?nav=el> , though nobody has been able to confirm his whereabouts.

Nearly all the Arab members of al-Qaeda caught in Pakistan were given to the CIA,

Pakistani security officials said. But the fate of several Pakistani al-Qaeda operatives who were also captured remains murky; the Pakistani government has ignored a number of lawsuits filed by relatives seeking information. "You just don't know -- either these people are in the custody of the Pakistanis or the Americans," said Zafarullah Khan, human rights coordinator for the Pakistan Muslim League, an opposition political party.

Others have been handed over to governments that have kept their presence a secret.

Since 2004, for example, the CIA has handed five Libyan fighters to authorities in Tripoli <http://www.washingtonpost.com/ac2/related/topic/Tripoli?tid=informline> . Two had been covertly nabbed by the CIA in China <http://www.washingtonpost.com/wp-srv/world/countries/china.html?nav=el> and Thailand <http://www.washingtonpost.com/ac2/related/topic/Thailand?tid=informline> , while the others were caught in Pakistan and held in CIA prisons in Afghanistan, Eastern Europe <http://www.washingtonpost.com/ac2/related/topic/Eastern+Europe?tid=informline> and other locations, according to Libyan sources.

The Libyan government has kept silent about the cases. But Libyan political exiles said the men are kept in isolation with no prospect of an open trial.

Other ghost prisoners are believed to remain in U.S. custody after passing into and out of the CIA's hands, according to human rights groups.

Relatives of a Tunisian al-Qaeda suspect known as Retha al-Tunisi, captured in Karachi <http://www.washingtonpost.com/ac2/related/topic/Karachi?tid=informline> , Pakistan, in 2002, received notice recently from the International Committee of the Red Cross <http://www.icrc.org/> that he is detained at a U.S. military <http://www.washingtonpost.com/ac2/related/topic/U.S.+Armed+Forces?tid=informline> prison in Afghanistan, said Clara Gutteridge, an investigator for Reprieve <http://www.reprieve.org.uk/> , a London <http://www.washingtonpost.com/ac2/related/topic/London?tid=informline> -based legal rights group that represents many inmates at the U.S. prison at Guantanamo Bay. Other prisoners, since released, had previously reported seeing Tunisi at a secret CIA "black site" in Afghanistan.

At least one former CIA prisoner has been quietly freed. Ahmad Khalil Ibrahim Samir al-Ani, an Iraqi intelligence agent captured after the invasion of Iraq <http://www.washingtonpost.com/wp-srv/world/countries/iraq.html?nav=el> in 2003, was detained at a secret location until he was released last year.

Ani gained notoriety before the Iraq war when Bush administration officials said he had met in Prague <http://www.washingtonpost.com/ac2/related/topic/Prague?tid=informline> with Sept. 11, 2001, hijacker Mohamed Atta. Some officials, including Vice President Cheney <http://www.washingtonpost.com/ac2/related/topic/Dick+Cheney?tid=informline> , cited the rendezvous as evidence of an alliance between al-Qaeda and Saddam Hussein <http://www.washingtonpost.com/ac2/related/topic/Saddam+Hussein?tid=informline> . The theory was later debunked by U.S. intelligence agencies and the Sept. 11 commission, which revealed in 2004 that Ani was in U.S. custody.

The Iraqi spy resurfaced two months ago when Czech officials revealed that he had filed a multimillion-dollar compensation claim. His complaint: that unfounded Czech intelligence reports had prompted his imprisonment by the CIA.

Guantanamo Newcomers

When Bush confirmed the existence of the CIA's prisons in September 2006, he said they had been vacated for the time being. But he said the U.S. government would use them again, if necessary.

The CIA has resumed its detention program. Since March, five new terrorism suspects

have been transferred to Guantanamo. Although the Pentagon <http://www.washingtonpost.com/ac2/related/topic/The+Pentagon?tid=informline> has not disclosed details about how or precisely when they were captured, officials have said one of the prisoners, Abd al-Hadi al-Iraqi, had spent months in CIA custody overseas.

Details of the secret detention program remain classified. U.S. officials have offered only vague descriptions of its reach and scope.

Last month, in a speech in New York <http://www.cfr.org/publication/14158/> , CIA Director Michael V. Hayden <http://www.washingtonpost.com/ac2/related/topic/Michael+Hayden?tid=informline> said "fewer than 100 people" had been detained in the CIA's overseas prison network since the program's inception in early 2002.

In June, a coalition of human rights groups <http://hrw.org/backgrounder/usa/ct0607/> identified 39 people who may have been in CIA custody but are still missing. Many of those on the list, however, were identified by partial names or noms de guerre, such as one man described only as Mohammed the Afghan.

Joanne Mariner, director of terrorism and counterterrorism research for Human Rights Watch <http://www.washingtonpost.com/ac2/related/topic/Human+Rights+Watch?tid=informline> , said the CIA has moved many prisoners from country to country and relied on other spy services to take custody of suspects, sometimes temporarily and sometimes for good. "The large majority have gone to their countries of origin," she said. "But that doesn't mean all of them. There could be some that are still in proxy detention."

In a footnote to its 2004 report <http://www.9-11commission.gov/report/index.htm> , the Sept. 11 commission named nine al-Qaeda suspects who were in U.S. custody at black sites. Seven were later transferred to Guantanamo.

Still missing is Hassan Ghul, a Pakistani national captured in northern Iraq in January 2004. U.S. officials have described him as a high-level emissary between al-Qaeda's core command in Pakistan and its affiliates in Iraq.

Another prisoner on the commission's list was Ali Abd al-Rahman al-Faqasi al-Ghamdi, a Saudi accused of planning attacks in the Arabian Peninsula <http://www.washingtonpost.com/ac2/related/topic/Arabian+Peninsula?tid=informline> . He surrendered to Saudi authorities in June 2003.

Although the Sept. 11 commission reported that Ghamdi was in U.S. custody, Saudi officials said that was not the case. They said he remains in prison in Saudi Arabia <http://www.washingtonpost.com/wp-srv/world/countries/saudiarabia.html?nav=el> and has never left the country. "He was never, under no condition, in U.S. custody," said a Saudi security source who spoke on condition of anonymity.

Officials with the International Committee of the Red Cross said they have failed to find dozens of people once believed to have been in CIA custody, despite repeated queries to the U.S. government and other countries. "The ICRC remains gravely concerned by the fate of the persons previously held in the CIA detention program who remain unaccounted for," said Simon Schorno, a Red Cross spokesman in Washington. "The ICRC is concerned about any type of secret detention."

The CIA declined to comment on whether certain individuals were ever in its custody.

"Apart from detainees transferred to Guantanamo, the CIA does not, as a rule, comment publicly on lists of people alleged to have been in its custody -- even though those lists are often flawed," said Paul Gimigliano, a CIA spokesman.

Out in the Cold

When the Bush administration disclosed last year that 14 senior al-Qaeda leaders had been transferred to Guantanamo -- leaving the CIA prisons temporarily vacant -- some conspicuous names were missing from the list.

One was an al-Qaeda training camp leader known as Ibn al-Sheikh al-Libi. He was arrested in the Pakistani border town of Kohat in late 2001 and eventually taken to Cairo <http://www.washingtonpost.com/ac2/related/topic/Cairo?tid=informline> , where the CIA enlisted Egyptian intelligence agents to help with the interrogation.

Libi began to talk. Among his claims: that the Iraqi regime had provided training in poisons and mustard gas to al-Qaeda operatives.

His statements were cited by the Bush administration as part of the rationale for invading Iraq in 2003. He recanted after the war began, however, and his continued detention became a political liability for the CIA.

Although the CIA has since acknowledged that Libi was one of its prisoners, U.S. officials have not disclosed what happened to him. In interviews, however, political exiles from Libya <http://www.washingtonpost.com/ac2/related/topic/Libya?tid=informline> said he was flown by the CIA to Tripoli in early 2006 and imprisoned by the Libyan government.

Libi reported that the CIA had taken him from Egypt <http://www.washingtonpost.com/wp-srv/world/countries/egypt.html?nav=el> to several other covert sites, including in Jordan, Morocco <http://www.washingtonpost.com/ac2/related/topic/Morocco?tid=informline> and Afghanistan, according to a Libyan security source.

He also claimed that he had been kept someplace very cold and that his CIA captors had told him he was in Alaska <http://www.washingtonpost.com/ac2/related/topic/Alaska?tid=informline> , the source said. Human rights groups have suggested that Libi was part of a small group of senior al-Qaeda figures held in a CIA prison in northern Poland <http://www.washingtonpost.com/ac2/related/topic/Poland?tid=informline> .

In Tripoli, Libi joined several other Libyans who had spent time in the CIA's penal system. All were members of the Libyan Islamic Fighting Group, a network that had plotted for years from exile to overthrow Moammar Gaddafi.

After the U.S. invasion of Afghanistan in 2001, members of the Libyan network who had been staying there dispersed. The CIA helped Libya's spy agencies track down some of the leaders.

One of them, Abdallah al-Sadeq, was apprehended in a covert CIA operation in Thailand in the spring of 2004, according to Noman Benotman, a former member of the Libyan militant network.

Another, Abu Munder al-Saadi, the group's spiritual leader, was caught in the Hong Kong <http://www.washingtonpost.com/ac2/related/topic/Hong+Kong?tid=informline> airport. In both cases, Benotman said, the Libyans were held briefly by the CIA before U.S. agents flew them to Tripoli. "They realized very quickly that these guys had nothing to do with al-Qaeda," Benotman said in an interview in London. "They kept them for a few weeks, and that's it."

Benotman said he confirmed details of the CIA operations when he was allowed to see the men during a visit to a Tripoli prison this year. The trip was arranged by the Libyan government as part of an effort to persuade the Libyan prisoners to reconcile with the Gaddafi regime.

The CIA has transferred at least two other Libyans to Tripoli, Benotman said. Khaled al-Sharif and another Libyan known only as Rabai were captured in Peshawar <http://www.washingtonpost.com/ac2/related/topic/Peshawar?tid=informline> ,

Pakistan, in 2003 and spent time in a CIA prison in Afghanistan, he said.

The Libyan Embassy in Washington did not respond to a faxed letter seeking comment.

A Missing 'Gold Mine'

In Spain, prosecutors have been searching for Nasar, the redheaded al-Qaeda ideologue, for four years.

In 2003, he was indicted by an investigative magistrate in Madrid <http://www.washingtonpost.com/ac2/related/topic/Madrid?tid=informline> , accused of helping to build sleeper cells in Spain. A prolific writer and theoretician in the jihadi movement, Nasar had lived in several European countries as well as Afghanistan <http://www.washingtonpost.com/wp-dyn/content/article/2006/05/22/AR2006052201627.html> .

Spain has filed requests for information about Nasar with the Pakistani government, to no avail. Spanish Foreign Minister Miguel Angel Moratinos also raised the issue during a visit to Islamabad <http://www.washingtonpost.com/ac2/related/topic/Islamabad?tid=informline> last year. "We don't have any indication of where he is," said a source in the Spanish Foreign Ministry, who spoke on condition of anonymity.

Brynjar Lia, a Norwegian terrorism analyst and the author of a new book on Nasar, "Architect of Global Jihad," said the radical would know valuable details about the inner workings of al-Qaeda. "The Americans are probably the ones who want him the most because he was prominently involved in al-Qaeda in the 1990s," said Lia, a senior researcher at the Norwegian Defense Research Establishment <http://www.mil.no/felles/ffi/english/start/research/Analysis_Division/_TERRA/> . "He must be a gold mine of information."

Some Spanish media have speculated that Nasar is being held in Syria, his place of birth. The CIA has transferred other terrorism suspects to Syria despite tense diplomatic relations between Washington and Damascus <http://www.washingtonpost.com/ac2/related/topic/Damascus?tid=informline> .

Other Spanish press reports have claimed that Nasar remains in U.S. custody. Another rumor is that he's being held in a CIA-run prison in India, said Manuel Tuero, a Madrid lawyer who represents Nasar's wife.

Though Nasar would go on trial if he was brought back to Spain, that would be preferable to indefinite detention in a secret prison, Tuero said. "He's in a legal limbo," he said. "The Americans would never give him a fair trial. Spain would."

Special correspondents Munir Ladaa in Berlin and Cristina Mateo-Yanguas in Madrid contributed to this report.

General Counterterrorism News:

Current Trends in Jihadi Networks in Europe

Source: Lorenzo Vidino, Terrorism Monitor, Volume 5, Issue 20 (October 25, 2007)

The terrorist related events that took place during the summer in Europe—the doctors' plot in Great Britain, the dismantling of various cells in Italy, Austria and Spain, and, finally, the September arrests in Germany and Denmark—have confirmed that Europe is a key staging ground for jihadi activities. Although large differences exist from country to country and within various subgroups in the

ever-evolving underworld of jihadi networks in Europe, it is possible to identify some current trends that, in one way or another, are common to the whole continent.

Independent, or Part of a Network

During the last few years, commentators have been fascinated with homegrown networks in Europe and, clearly, small groups of European-born, self-radicalized, violence-prone Islamists have sprung up in most European countries. Yet, the panorama of jihadi networks in Europe is quite complex and, for a more accurate analysis, could be described on a continuum. At one extreme, one can identify quintessential homegrown groups such as the Hofstad Group in the Netherlands: small domestic clusters of radicals that have developed no ties to external groups and act in complete operational independence. At the opposite side of the spectrum are cells that respond to the traditional model used by al-Qaeda-affiliated groups in the 1990s: compartmentalized cells inserted in a well-structured network and subjected to a hierarchy whose heads are often outside Europe. That is the model to which various cells of the Algerian GSPC (today Al-Qaeda in the Islamic Maghreb) belong.

In between these two extremes, there is a whole spectrum of realities, positioned according to the level of autonomy of the group. The most recurring model seems to be that of the cell dismantled by Danish authorities on September 4, 2007: a small group of young men, most of them born and/or raised in Europe, who knew each other either from the neighborhood or from the mosque. Their radicalization took place in Europe and only one or two members of the group traveled out of the country (Pakistan, in this case) to link up with foreign-based, well-structured groups ideologically or operationally affiliated with al-Qaeda. The knowledge acquired by the cell after this linkage obviously makes it more dangerous.

Traveling for Jihad: Primary and Secondary Fields

In contrast to the situation before the September 11 attacks, today most European jihadis do not travel out of the continent for training or to fight. Nevertheless, a small but significant number of them still opt for short stints in places where they can join training camps or guerrilla units. Pakistan/Afghanistan and Iraq are the two primary destinations. The former seems to attract recruits mostly from Northern Europe (Great Britain, in particular), while militants from Spain, Italy and France seem to travel mostly to the latter (El Periodico, May 6; Le Monde, December 16, 2004).

Noteworthy is the presence of European militants in two lesser known fields of jihad: Somalia and Lebanon. A few dozen European volunteers have been arrested by Ethiopian and Somali governmental forces among the Islamic Courts Union's (ICU) fighters since December 2006. Several of these militants possess Scandinavian passports, and, according to intelligence sources, Sweden is considered the hub for the flow of money from Europe to the ICU (Sveriges Radio, January 30). Italian authorities have also monitored the visits of several ICU-linked preachers who are traveling to various Italian cities in order to fundraise and recruit among the country's Somali population (L'Espresso, February 5). Reportedly, Swedish and British fighters were killed by U.S. missiles and Somali army operations (BBC News, June 3). A smaller number of Western volunteers, mostly from Denmark and Australia, have allegedly fought with Fatah al-Islam in the Nahr al-Barid refugee camp in Lebanon (The Australian, September 13).

The Muslim Ghetto Subculture: Jihad and Rap

Europe today is witnessing the growth of a disturbing new subculture that mixes violent urban behaviors, nihilism and Islamic fundamentalism. Many young, often European-born Muslims feel a disturbingly intense sense of detachment from, if not sheer hatred for, their host societies and embrace various antagonistic messages. While some turn to Salafism, others adopt an indefinite blend of counter-cultures, ranging from hip hop to Islamic fundamentalism. Many youngsters from the Muslim-majority ghettoes of various European cities adopt several behaviors

typical of Western street culture, such as dressing like rappers, smoking marijuana and drinking alcohol, yet watching jihadi videos and having pictures of Osama bin Laden on the display of their cell phones [1]. Any individual who attacks mainstream society becomes a hero to these teens, be it Abu Musab al-Zarqawi or the late American rapper Tupac Shakur.

This hybrid street culture is particularly influenced by African-American gangster culture and music. Bands such as Fun-da-mental and Blakstone in the United Kingdom, Medine in France, and Zanka Flow (Moroccan-based, but hugely popular in the Netherlands) combine radical Islamic concepts with hip hop sounds, jargon and attitudes. An aspiring star in the jihadi rap underworld is Mohammed Kamel Mostafa, the son of former Finsbury Park imam Abu Hamza, who has recently formed a rap duo called Lionz of Da Dezert. Using the stage name of al-Ansary, Mostafa raps about jihad and killing infidels. "I was born to be a soldier," read the lyrics of one of his songs. "Kalashnikov on my shoulder, peace to Hamas and Hezbollah, that's the way of the lord Allah. We're jihad. I defend my religion with the holy sword" (Agence France-Presse, March 1, 2006).

While the phenomenon affects only a minority of European Muslims, its dimensions and repercussions are more than noteworthy. In London, city officials are worried about the growth of an extremely violent gang commonly known as the Muslim Boys. Operating in the southern areas of the British capital, the gang is composed of several hundreds of members and is active in criminal activities ranging from robberies to drug trafficking. The members of the gang are mostly British-born black youth originally from the Caribbean or Africa who converted to Islam in British penitentiaries and bond over their newfound faith (Evening Standard, February 3, 2005). Yet, their interpretation of Islam is perverted. The gang members do not respect the most basic tenets of Islam, and their appearance and slang more closely resemble that of American ghetto culture than that of practicing Muslims. Tellingly, a gang member admitted to a reporter from the Evening Standard: "I pray twice a day: before I do crime and after. I ask Allah for a blessing when I'm out on the streets. Afterwards, I apologize to Allah for what I done [sic]." The gang is also involved in "forced conversions," compelling black youth at gunpoint to convert to Islam and join them; two years ago, they executed a 24-year-old for refusing to convert.

The Expansion to the Countryside

Radical Islam in Europe has traditionally been an urban phenomenon. Muslim immigrants have historically settled in large and mid-size cities and, as a consequence, radical mosques and jihadi activities have also been largely confined to urban settings. Yet, during the past few years, there has been a noticeable expansion of radical activities to rural areas. The phenomenon is particularly evident in southern European countries, where large numbers of North African immigrants are employed, seasonally or permanently, in agriculture. Wandering imams, often linked to Tablighi Jamaat and small makeshift mosques run by radicals, have popped up in small country towns and villages in Spain, Italy and France, spreading Salafism among the local Muslim communities. Taking advantage of the absence of other mosques and the limited surveillance of the small local police forces, Salafists have managed to establish a presence in rural areas of Piedmont, Campania, Provence and southern Spain [2].

In some cases, Salafist networks have taken advantage of the isolation provided by the countryside to create small fundamentalist communes, as in Artigat, a bucolic village of less than 1,000 residents in the French Pyrenees. When French authorities dismantled a Toulouse-based network that was smuggling volunteers to Iraq, they uncovered links to a 60-year-old Syrian man who was leading an Islamist commune in Artigat (Le Parisien, February 15). Living completely isolated from the outside world, the commune's five families lived under a strict self-imposed Islamic code and preached a radical interpretation of Islam to their children and to the visitors who would come occasionally from the city (mostly Toulouse) to spend time in a "pure Islamic environment."

Eastern Europe?

While not already an established trend, there are indications showing that radical Islam is spreading, albeit at a slow pace and with significant differences from country to country, to Eastern Europe. The presence of radical networks in Bosnia, many of them leftovers from the conflict of the 1990s, is well known. Although less grave, Wahhabi influence, propagated mostly by a wide network of Saudi-sponsored mosques, is on the rise in other areas of the Balkans with significant Muslim populations such as Albania, Kosovo and Serbia's Sandzak region (B92 Radio Serbia, June 6, 2006).

Various Islamist groups have been reported to be actively spreading their propaganda to other Muslim populations throughout Eastern Europe. Hizb-ut-Tahrir, for example, organized a large conference in Ukraine in August, targeting mostly Crimean Tatars (Kommersant-Ukraina, August 13). Yet, even countries with little or no native Muslim population have seen a tiny, yet growing, presence of Islamist activities, particularly among their Arab and Pakistani student population. During the last few years, authorities in Hungary, Romania and Bulgaria have arrested individuals who were either promoting radical Islam through websites and publications or funneling money to terrorist organizations. Additionally, in October 2006, Czech authorities issued a terror alert after uncovering information of an alleged plot to kidnap and kill Jews in Prague (Der Spiegel, October 6, 2006).

The attractiveness of Eastern European countries for jihadis has increased significantly with the inclusion of many of them in the European Union. Some Eastern European countries, with their understaffed and often corrupt intelligence and law enforcement agencies, easy access to black market weapons and forged documents, and possibility of traveling to Western Europe without border controls, can constitute ideal bases of operation. An interesting related phenomenon is the suspicious spike in marriages between Bulgarian and Romanian women and North African men reported in Italy and Spain immediately after the entrance of the two Eastern European countries in the European Union. In all likelihood, the majority of these artificial marriages involve individuals with no connections to terrorism who simply want to acquire a European passport to stay and work in Western Europe. Nevertheless, the possibility that terrorists could use the same scheme should also be considered.

Conclusion

Jihadism is a global movement whose characteristics mutate rapidly. While today some of the abovementioned trends are still in a developing phase or can be noticed only in some European countries, it is likely that they will be replicated with greater intensity and in more countries in the near future.

Notes

1. The information is based on author's observations throughout Europe.

2. The information is derived from a variety of sources, including: the Indictment of Abdelillah El Kaflaoui, Tribunal of Turin, May 7, 2005; Libero, October 18, 2007; author's private intelligence sources.

http://www.jamestown.org/terrorism/news/article.php?articleid=2373743

NIC Associates Report: A Framework For Understanding Radical Islam's Challenge

Source: OSC Feature, 02 May 07

Synopsis. This Paper outlines the challenges facing Europe in integrating its Muslim citizens amidst radicalizing trends within segments of the Muslim community in European cities. The Paper describes the basic challenges facing Europe and five inadequate government responses to radicalization. It then elaborates on the

contrasting French and UK approaches to radicalism followed with some preliminary conclusions and observations.

Introduction: The Demographic Backdrop.

The challenges facing Europe are in large part demographic. A relatively high Muslim birthrate in Europe and an alarmingly low birthrate among indigenous Europeans, combined with the tendency of Muslims to live in urban areas, suggest that many European cities may have Muslim majorities by 2020 or 2025, even with government imposition of tighter immigration restrictions.

To take one city, Bradford, UK, one of the early destinations of Pakistani immigrants after the Second World War, the 1991 census recorded 64,000 Muslims representing 13 percent of the population. By 2001, there were 94,000 Muslims, a 50 percent increase from 1991. In 2001, Muslims represented nearly 20 percent of overall population but over 30 percent of students and 50 percent of toddlers. By 2011, Muslims will represent close to 30 percent of the population in Bradford and over 50 percent of its students. The high growth rates and youth bubble create a burgeoning pool of young Muslim males. The Muslim population surge is most apparent in the British Midlands and in the adjacent corridor across the channel from northern France through Belgium and Holland.

The growth of Muslim population is taking place in countries that until recently had a miniscule Muslim population. In Austria, the Muslim population was 1% in 1981 and only 4% in 2001. Yet, a study of the Vienna Institute for Demography projects that by 2051, the Muslim population in Austria will rise to 14-26%. Assuming current rates of fertility (italics added), Islam may be the majority population for those younger than 15 in Austria. If the Muslim population can rise so high from a near zero starting point in Austria, one can imagine the projections in other European countries with substantial Muslim populations. The other finding of the Austrian study is that the Muslim increase takes place simultaneously with a serious decline in membership among Roman Catholics in Austria so that among the religiously observant Austrians, Islam is growing even faster.

The concentration of Muslims in cities and towns is beginning to alarm authorities concerned with integration. Markus Kerber, the director of the new Deutsche Islam Konference set up in the German Ministry of Interior by Edmund Stoiber, pointed out that within two kilometers of his office in Berlin, there are separate Turkish (in one direction) and Lebanese (in the other direction) neighborhoods where someone rarely encounters a non-Turk, or non-Lebanese. Trevor Phillips, former chief of the Commission for Racial Equality, warns that Britain may be sleepwalking into segregation.

One can already see separate Muslim districts or millets emerging in cities like Antwerp where Salafist Imams are becoming more influential in the Moroccan neighborhoods that are mushrooming as indigenous Belgians move out to the countryside or to other countries. A worst case scenario could see the inner cities of several European cities eventually becoming no-go zones for non-Muslims beyond the control of the state.

Europe's challenge is thus one of integration. The question one must ask, given these trends and the worrisome manifestations of Islamic radicalism accompanying the rise of a new generation of European-born Muslims, is: what tools can Europe adopt to ensure a successful integration of this growing minority?

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<https://www.opensource.gov/portal/server.pt/gateway/PTARGS_0_0_4356_702_1481_43/http%3B/apps.opensource.gov%3B7011/opensource.gov/content/Display/7062817/EUP20070503374007001.pdf> to view the full report.

The Triborder Sea Area: Maritime Southeast Asia's Ungoverned Space

Source: Ian Storey, Terrorism Monitor, Volume 5, Issue 19 (October 11, 2007)

Since the al-Qaeda attacks of September 11, maritime security analysts in the Asia-Pacific region have focused their attention on the Strait of Malacca and the potential for a major terrorist strike in this vital artery of world trade. Preoccupation with the Strait of Malacca has meant, however, that another, perhaps equally serious, maritime black spot has been neglected, namely the Sulu and Celebes seas, a porous triborder sea area between the Philippines, Malaysia and Indonesia. Decades of poor governance, economic and political marginalization, lack of state capacity, and separatist conflict have turned this area into an "ungoverned space" and hence a haven for transnational criminals, including terrorists. Addressing transnational threats in this area not only requires greater security cooperation among the three countries, but also increased assistance from external powers who have much to offer in terms of capacity building.

The focus on the Strait of Malacca during the past six years is understandable given its importance to the global economy. The 550-mile strait, located between the Indonesian island of Sumatra and peninsular Malaysia, is the shortest route between the Pacific and Indian Oceans, and it is estimated that 25-30% of world trade and 50% of global energy supplies pass through it each year. Post-9/11, security analysts conflated piracy and terrorism, and posited several scenarios in which transnational terrorist groups such as al-Qaeda or its Southeast Asian affiliate Jemaah Islamiya (JI) link up with pirates to perpetrate a major attack in the Strait of Malacca with the goal of disrupting the global economy.

While these concerns were almost certainly overplayed, the international pressure generated galvanized the three littoral states (Indonesia, Malaysia and Singapore) into tightening sea lane security. In 2004-2005, the three countries launched the Malacca Straits Patrols (MSP), a cooperative security measure that comprises year-round coordinated naval patrols and combined air patrols. In addition, Indonesia-the locus of maritime crime in Southeast Asia-mustered the political will and resources to increase naval patrols in its territorial waters. As a result of these and other initiatives, cases of reported piratical attacks in Southeast Asia dropped 53% from 2003 to 2006.

Security Situation in Triborder Area Deteriorates

While international attention was focused on the Strait of Malacca, however, the security situation in the sea lanes linking the Philippines, Indonesia and Malaysia were allowed to deteriorate. This area-known as the triborder sea area-comprises two main sectors. The first is the Sulu Sea in the southwestern Philippines, a 100,000 square-mile body of water bounded to the northwest by Palawan Island, to the southeast by the Sulu Archipelago, and in the southwest by the eastern Malaysian state of Sabah. The second sector is the Celebes Sea (also known as the Sulawesi Sea), 110,000 square miles of water bordered by the Sulu Archipelago and Mindanao to the north, Sabah and the Indonesian province of Kalimantan to the west, and Indonesia's Sulawesi Island to the south. The Celebes Sea opens southwest through the Makassar Strait, which is increasingly used by large crude oil tankers unable to use the shallower Strait of Malacca.

The Sulu Archipelago (comprising the islands of Basilan, Jolo and Tawi-Tawi), Mindanao and Sulawesi have all been neglected by the central governments in Manila and Jakarta for decades, resulting in poor governance, corruption and high levels of poverty and unemployment. In addition, Mindanao has been wracked by over three decades of insurgency and separatist conflict. As a result, the Sulu and Celebes Seas have become notorious for illegal maritime activities such as smuggling, piracy, and trafficking in illegal narcotics, guns and people; in short, it is an ungoverned space. What most concerns security analysts is the utilization of the maritime domain in this area by terrorist organizations as a base of operations.

The locus of the problem is the southern Philippines, home to the

terrorist organization the Abu Sayyaf Group (ASG) and the separatist group the Moro Islamic Liberation Front (MILF). The ASG has been based on the islands of Basilan and Jolo since its foundation in the early 1990s, and is very familiar with the surrounding maritime area. It was from these islands that the ASG launched raids against tourist resorts in Malaysia and Palawan Island in 2000 and 2001, receiving large ransoms in return. The ASG was also responsible for the world's deadliest act of maritime terrorism to date, the sinking of the MV Superferry 14 in February 2004 in Manila Bay, which killed 116 people and injured 300.

Both the ASG and MILF have been accused of conducting piratical attacks in the Sulu and Celebes Seas as a means of generating income for their causes. The full extent of this problem, however, remains unclear as accurate statistics are not available. Piracy in the southern Philippines has been a perennial problem—indeed a way of life—for many centuries. Ships' masters are often unwilling or unable to report attacks to the International Maritime Bureau's (IMB) Piracy Reporting Center in Kuala Lumpur because it only receives reports in English via high frequency radio or fax, and language skills and equipment are often lacking in the rich fishing grounds of the triborder sea area. As a result, the vast majority of maritime depredations in this area go unreported to the IMB. For instance, in early January 2007, the Philippine authorities rescued dozens of fishermen who had been held for ransom off Tawi-Tawi, and in March suspected MILF operatives held 20 fishermen hostage off Mindanao—neither incident was reported to the IMB. The IMB received just six reports of maritime crime in Philippine waters in 2006, a grossly inaccurate figure.

Both the ASG and MILF have established linkages with JI, and a recent RAND study noted that the Sulawesi-Mindanao arc provides the terrorist organization with a "key logistical corridor" and "theater for jihadist operations" [1]. JI members Umar Patek and Dulmatin, both suspected of planning the 2002 Bali bombings, are believed to be in the Sulu Archipelago after escaping from Indonesian authorities. JI operatives are known to undertake training in camps in the southern Philippines, and travel from Sulawesi to Mindanao via Sabah which is just a short boat ride from the Sulu Archipelago. Sulawesi itself constitutes an important base of operations for JI as the organization has grafted itself on to sectarian and communal violence in Poso over the past few years. Sabah is also important to JI and the ASG for another reason: it provides a place of sanctuary. Sabah is home to more than half a million illegal immigrants from the Philippines and Indonesia, allowing operatives from both groups to blend in and lie low.

States Lack Capacity to Handle Threat

Tackling transnational security threats in the triborder sea area is hindered by the lack of state capacity, especially in the Philippines and Indonesia.

Starved of funding for years, the Armed Forces of the Philippines (AFP) is one of the weakest military forces in Southeast Asia. As the country's primary security threats are land-based-separatist, communist insurgent and terrorist groups—the army has received priority funding. The operational effectiveness of the Philippine Navy (PN) and Philippine Coast Guard (PCG) has suffered accordingly, leaving the country's sea lanes largely unprotected. In October 2006, Philippine National Security Adviser Norberto Gonzales summed up the situation: "We cannot check every boat that travels between Indonesia and Mindanao. Over 26,000 trips are made by these boats [every year] and it is impossible to monitor each of them given the government's meager resources" (The Philippine Star, October 16, 2006). The PN's inability to effectively monitor the sea lanes in the Sulu Sea enabled ASG and JI operatives to flee from Jolo and Basilan in the wake of a major U.S.-backed AFP offensive earlier this year. In early September, for instance, Philippine authorities arrested six alleged ASG members on Palawan Island, who were believed to have escaped the dragnet around Jolo.

The Indonesian Navy faces similar problems. In the wake of the 1997 Asian financial crisis, Indonesia's defense budget was slashed, and by 2003 it was estimated that less than 30% of the Navy's 113 vessels were operational. Since 2004,

improved economic conditions have enabled the navy to purchase new corvettes and patrol boats, but it is still significantly below strength and incapable of monitoring the country's 34,000 miles of coastline and 4.9 million square miles of territorial waters and exclusive economic zones. The navy estimates it needs another 262 warships to adequately patrol the country's vast maritime domain (Antara, September 18). Moreover, due to international pressure, the navy has been required to concentrate its limited resources on the Strait of Malacca. Indonesia's participation in the MSP, and increased naval patrols in its territorial waters adjoining the strait, have put severe pressure on the navy's aging and fuel-thirsty vessels.

Malaysia is in a better position to deal with the problem. The Royal Malaysian Navy (RMN) is more professional and better equipped than its Philippine or Indonesian counterparts, and after the 2001 raid on Sipidan its presence on Sabah was beefed up. In 2005, Malaysia launched its national coast guard, the Malaysian Maritime Enforcement Agency (MMEA), which is responsible for enforcing maritime law in both east and west Malaysia. However, both the RMN and MMEA have focused their efforts on the Strait of Malacca for the past several years to the detriment of security in the waters around Sabah.

Security cooperation among the three countries is very limited. The naval forces of Indonesia, the Philippines and Malaysia conduct coordinated patrols but their effectiveness is limited by infrequency and lack of available assets. Indonesia and the Philippines conduct CORPAT PHILINDO four times a year, but each patrol involves only one vessel from each country and lasts for only 10 days. Nevertheless, Manila and Jakarta have agreed to strengthen the patrols in an effort to stem arms trafficking into Poso, but resources are very limited. Malaysia and the Philippines conduct just two coordinated patrols (OPS PHIMAL) each year. In 2006, the Philippines proposed year-round coordinated naval patrols like the MSP, as well as designated sea lanes for all maritime traffic to facilitate easier monitoring and inspection by the three navies, but so far no agreement has been reached (Associated Press, March 13, 2006). The Philippines has, however, recently announced a program designed to enhance the PN's ability to conduct surveillance and interdiction of security threats in the country's "southern backdoor" called Coast Watch South. The concept, developed with help from Australia, envisages the establishment of 17 Coast Watch Stations from Palawan to Davao provinces, equipped with fast patrol boats and helicopters. Funding the $380 million program, however, will be a challenge.

Conclusion

If maritime security threats in the triborder sea area are to be effectively addressed, Indonesia, the Philippines and Malaysia will require sustained assistance from external powers in the form of capacity building. Capacity building efforts need to focus on improving the communication, surveillance, and interdiction capabilities of regional maritime law enforcement agencies such as the navy, coast guard and marine police. So far, the focus has been on the Strait of Malacca, but this is gradually changing. The United States has agreed to supply Indonesia with 12 radar stations, some of which will be situated in North Sulawesi, as well as 30 patrol boats for the Marine Police. Australia, meanwhile, has agreed to supply the Philippines with 28 high-speed boats for Coast Watch South. This is a good start, but much more needs to be done in the coming years to undo decades of neglect and rein in this ungoverned space.

Notes

1. Angel Rabasa, "Case Study: The Sulawesi-Mindanao Arc," in Angel Rabasa et al, Ungoverned Territories: Understanding and Reducing Terrorism Risks (Santa Monica: RAND, 2007), p. 116.

http://www.jamestown.org/terrorism/news/article.php?articleid=2373708

Terrorism: Forum Debates Bin Ladin's Remarks, Criticizes Al-Jazirah

Source: OSC Feature - Iraq -- OSC Report 26 Oct 07

Capture of Bin Ladin's Statement

In the wake of the 22 October release by the Qatari Government-financed Al-Jazirah satellite channel of excerpts from Usama Bin Ladin's statement on Iraq, some jihadist forum participants claimed the statement singled out the Al-Qa'ida-affiliated Islamic State of Iraq (ISI) for criticism. However, after Al-Sahab, the media arm of Al-Qa'ida, released the full statement on 23 October, forum participants argued his comments applied to other insurgent groups in Iraq and not just ISI. By 25 October, many postings suggesting Bin Ladin criticized ISI had disappeared. Al-Sahab and many website participants sharply accused Al-Jazirah of intentionally distorting Bin Ladin's message.

After Al-Jazirah aired short segments of the statement on 22 October, some forum participants asserted that Usama Bin Ladin's references to "mistakes" were directed specifically at ISI. Some also speculated Bin Ladin may be preparing to replace ISI's alleged leader, Abu-Umar al-Baghdadi.

* On 22 October, "Al-Nafir," a participant of the Ana al-Muslim forum, argued Bin Ladin did not "recognize" ISA and that Al-Baghdadi needed to "relinquish his rule" to preserve unity.

* On 23 October, "Sami al-Hataq" argued Bin Ladin's statement was in "preparation" for al-Baghdadi's removal, which would be "to the advantage of everyone" (Ana al-Muslim).

After Al-Sahab released the entire statement on 23 October, forum participants generally agreed Bin Ladin's references to "mistakes" applied to the Mujahidin in general and not specifically to ISI.

* On 24 October, "Jami'-al-Shaml" said on the Al-Boraq forum that Bin Ladin "addressed his speech to all jihadist groups," calling on them to "unite under one banner."

* On Al-Fallujah Net, "Mawsu'at al-Jihad" argued Bin Ladin's comments were "a set of general instructions" to remind all Muslims of the "fundamental objectives of Al-Qa'ida" (23 October).

By 25 October, many of the postings suggesting Usama Bin Ladin had been critical of ISI had been removed from prominent forums. Participants in the Ana al-Muslim forum argued that member "Al-Nafir" should be suspended from the forum for supporting this view.

After the full statement was released on 23 October, both Al-Sahab and a number of forum participants attacked Al-Jazirah, which jihadists have historically accused of hostility to the jihadist movement. A minority of participants defended the satellite news network.

* Upon releasing the full video, Al-Sahab issued a statement accusing Al-Jazirah of "counterfeiting" facts, altering "the purposes and objectives of the speech," and ignoring "all the pillars of honor" for professional media.

* On the Al-Boraq forum, "Al-Mu'min-bel-Nasr" said that prior to this incident his belief in the truthfulness Al-Jazirah's was "forty percent" and that now it is "zero-percent" (24 October).

* "Jami'-al-Shaml," on the other hand, noted on the Al-Boraq forum that many were talking as if "Al-Jazirah had broadcasted a speech" by someone other than Bin Ladin, when in fact it had summarized the content of his speech accurately (24 October).

Pakistan: Writer Calls for Differentiation Between 'Martyr and Terrorist'

Source: Rafia Zakria, Daily Times (Internet Version-WWW) in English 27 Oct 07

It is important ideologically to refine our definitions of who constitutes an enemy to Pakistan. In the past, for a variety of reasons, such definitions have pivoted on our identity as Muslims and the identity of our enemies as non-Muslims. We are a nation bred on war. Not simply because we have been ruled by the military for much of our sixty-year existence, but also in terms of the national myths that sustain our national identity.

Every Pakistani child learns early to venerate the army and to idolise the martyrs that have sacrificed their lives for the country. We name streets after them and commemorate their birthdays. Even those of us who were born decades after the wars fought against India in the sixties and seventies, learn of heroic acts by our soldiers.

These images and practices of nationhood that sustain and create our identity through textbooks, the celebration of Defence Days and the commemoration of martyrs are all pivoted against fighting the non-Muslim and usually Indian enemy. In this war, Pakistani forces fight against enemies of Islam that are threatening our national integrity. Parallels are often drawn between those fighting and dying for Pakistan and the early Muslim fighters who were martyred in the name of Islam in the Battles of Badr, Uhud and Karbala. Undeniably, the "shaheed" who put the sanctity of his faith, and hence the interests of his nation, above his own life is the ultimate Pakistani hero.

But now Pakistan faces a new battle, and a new enemy. The national myth of a valiant Muslim army fighting against the enemies of Islam that has sustained us in interminable wars and hostilities against India can no longer serve us. This is because the new enemy, which has claimed over two hundred innocent Pakistani lives and left more than 600 injured and maimed since September, is not an "other" defined by religious and national difference; he is situated within our own territorial boundaries, connected to us by culture, ethnicity and language, and making claims to the same concept of martyrdom in the name of Islam as our own army.

More worryingly, today's enemy was the vanguard in our battles against the infidels and while the state might have chosen to redefine some parameters of Pakistani nationalism, he holds the ideals aloft and considers the state and its functionaries treacherous -- not only because the state that sacralised itself by making the narrative religion-heavy is now reneging on those parameters but because by doing so it is also undermining the bigger ideal of pan-Islamism.

It is this final fact that poses the biggest challenge to Pakistanis in facing down and defeating the new extremism that has led to us to be entitled by Newsweek magazine as "the most dangerous nation in the world".

The increasing death toll from suicide bombings, the burning down of music and video shops, the overt threats of more violence by the likes of rebel cleric Maulana Fazlullah and Taliban commander Baitullah Mehsud are all desperate signs of the urgent need to reassess how we will redefine our ideologies and our sense of national identity to truly understand that those who commit acts of aggression against innocent civilians are our greatest enemies.

Most crucially, it requires us to define clearly the difference between a "shaheed' and a "terrorist, such that the confusion that currently pervades our understanding of this distinction does not drag us deeper into the morass of senseless violence.

In other words, how do we turn into the "other" what belonged to us, indeed defined us?

The first task in delineating this crucial distinction is to recognise the battle being fought against extremism as our own distinctly Pakistani struggle. Much rhetoric has been expended on how the battles being fought in the tribal areas are being fought at the behest of the United States and have little do with Pakistani national interests. This ignores the blatant and glaring reality that the 222 dead in the past two months have been innocent Pakistani citizens who had no stake in the US or its strategic interests.

While the imperialist influence of the United States is certainly worth denouncing and resisting, it should not dull us into supporting the scourge that is condemning our nation to a grisly reality. If we fall into the illogical and self-sabotaging trap of denouncing the war against extremism and suicide terror simply because of our opposition to the imperialist actions of the US, we would be doing our nation a great disservice.

Secondly, it is important ideologically to refine our definitions of who constitutes an enemy to Pakistan. In the past, for a variety of reasons, such definitions have pivoted on our identity as Muslims and the identity of our enemies as non-Muslims. Since this is no longer the case, we must create the ideological iterations that see the misuse of Islam and the use of its doctrines to justify violence as something unequivocally intolerable and reprehensible.

This is a complicated task. How indeed must an army and a nation raised on sixty years of fighting a non-Muslim enemy now re-conceptualise the meanings of "enemy" to fit a foe that claims to still practice the ideals the state has abandoned? Recognising this perversion of Islam that our new enemy represents is a goal that will require much work and soul-searching by a Pakistani population used to looking at religion as a panacea.

I began by arguing that every Pakistani child is taught to venerate and respect the shaheeds who gave their lives for their nation. This fact bears important clues regarding how the future of Pakistan must be shaped. The new enemy, the Al Qaeda and Taliban leaders that have unleashed a spate of bombings on innocent civilians across the country, are adept at using our own identity and our national veneration of death and martyrdom as a weapon against us.

Unless we, as a nation, can define clearly the difference between a shaheed that dies for his nation as part of armed combat, and a terrorist who misuses religion to justify an act of aggression against innocent civilians, our future generations will fall into the deceptive trap of believing that the distinction between a shaheed and a terrorist is perhaps just a matter of opinion.

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<https://www.opensource.gov/portal/server.pt/gateway/PTARGS_0_0_266_207_0_43/http%3B/apps.opensource.gov%3B7011/opensource.gov/content/Display/7982842/mailto:rafia.zakaria@gmail.com>

A Mountain Meeting With The PKK

Source: BBC, Crispin Thorold, 27 Oct 07

The soldiers at the final Iraqi border patrol checkpoint were reluctant to let us through.

"If you want to continue, you do so at your own risk," one warned. The writ of the local authorities ended at this point and after the checkpoint we would enter Kurdistan Worker's Party (PKK) territory. For the next 10 miles or so the road was

paved. As it hugged the rugged mountains, it wound deeper into the territories bordering Turkey. Abruptly we turned off onto a dirt track which local people had told us would lead us to the PKK. The dusty track was bumpy and was only accessible on foot or in a four-wheel-drive car.

The path descended into a valley and as we drove next to a stream, we were often in full view of the surrounding hills. An invading army travelling on the same route could face an ambush at any turn. The mountains in this part of northern Iraq are a rebel's paradise. The steep, jagged peaks are covered in trees and caves dot the hillsides. The rivers that flow through the valleys are hidden by woods. When we reached the PKK we nearly missed them. They were in a little copse across a stream and it was only the light of their campfire that caught our attention. Two men dressed in military fatigues with Kalashnikovs slung across their shoulders immediately jumped up. They said that they would talk but first the elder man had a question for us. "Why does everyone call us terrorists?" he asked. The rebel, who said that his name was Yezdin Sher, was puzzled. "The British government call us terrorists. The BBC call us terrorists."

He said: "They only call us terrorists because there are good relations between them and the Turkish government. That's why they call us terrorists." The PKK is considered a terrorist organisation by Turkey, the United States and the European Union. It is believed to have been responsible for the deaths of thousands of civilians - Turks and Kurds - in south-eastern Turkey. Yezdin Sher was adamant. "We have a right to defend our nationality," he said. "The Turkish government has for many years stood against the Kurds. [In Turkey] There are no schools, no Kurdish language and no rights for the Kurds. "We have a right to be free like the Kurds of Iraq who for 50 years stood against Saddam's regime and the previous regimes. We also want freedom and we don't target any civilians," he added.

That claim would be ridiculed by the Turkish government, as well as by much of the international community. Last Sunday the PKK was blamed by the Turkish military for a bomb explosion which injured 17 people who were part of a wedding party. Human rights groups say that during the course of the conflict between the PKK and the Turkish military, some 35,000 people have been killed - the vast majority of them civilians. They [the Turkish government] have special units who dress in our uniforms and kill civilians PKK fighter Yilmaz Sardar However, the PKK men refused to acknowledge that they were responsible for the deaths of civilians, instead blaming the government. At this stage the younger and quieter of the two men spoke up. "They [the Turkish government] have special units who dress in our uniforms and kill civilians," Yilmaz Sardar said. "Then they blame us."

The fighters claimed that they had no support in the mountains from the Kurdish authorities in northern Iraq. Instead, they said that they relied on the help of local people and smugglers. The elder man, Yezdin Sher, said that he had been living in the mountains for 19 years and neither of the rebels had any intention of leaving before they had won rights for the Kurds in south-eastern Turkey. "If the Turks cross the border we will fight them," said Yezdin Sher. "We are guerrillas. They can't do anything against guerrillas." The afternoon was drawing to a close and the light was beginning to fall. Before we left the elder man wanted to make it clear that in his view war did not have to be inevitable. "It is better to resolve the Kurdish problem peacefully," said Yezdin Sher. "We are ready to make a ceasefire with the Turkish government if the Turkish government accepts that. We are ready."

Arab Public Support for Hizballah, Iran, Syria Wanes

Source: OSC Feature - State INR 10 Oct 07

Last year, Hizballah's strong showing against Israeli forces, Iran's defiance in halting uranium enrichment, and its overt hostility toward Israel were met with high levels of public support in the Arab world. But recent Office of Research nationwide polls indicate that these gains have been largely overturned. Favorable ratings

toward Hizballah and its leader, Sayyid Hassan Nasrallah, among publics in Egypt, Jordan, Lebanon, and Saudi Arabia have fallen significantly since last winter.

To Fight Insurgents, Armies Need More Brains, and Money

Source: The Economist, 29 Oct 07 Issue

The Economist says western militaries must be able to fight both traditional and insurgent threats.

Summary:

The Economist has some tough news for the U.S. government and its Western allies: If they want their militaries to be able to grapple with dangerous insurgencies around the world, it is going to cost them. That is one of several messages that the British newsweekly seeks to convey in a cover story on how best to reshape the armed forces to deal with modern threats. To successfully wage a fight against terrorists and insurgents, Western armies will need more "boots on the ground," but also different types of soldiers wearing them. And since more traditional threats from big powers like Russia and China can't be entirely discounted, the U.S. military in particular will have to continue funding its investment in hardware -- aircraft, ships and advanced weapons. Addressing both sets of challenges will require more contributions from taxpayers.

But that burden needs to be put in perspective, the Economist says. At 4% of gross domestic product, U.S. defense spending is low by historical standards (it hovered around 9% during the Vietnam War). Europeans are even less committed -- some U.S. allies spend less on defense than the 2% minimum target set by the North Atlantic Treaty Organization. More money certainly will be needed to be spent to fight "protracted, enervating counterinsurgency wars" like the ones the U.S. and its allies are waging in Iraq and Afghanistan that offer no clear-cut victories and risk the prospect of humiliation. But to cope with new threats, armies need more brains than bullets, says the newsweekly. That means more linguists, civil-affairs officers, engineers and other skilled advisers who can help Western militaries do as good a job at building things as they do in destroying them.

Source: Reuters, 28 Oct 07

U.S.-led coalition and Afghan troops killed about 80 Taliban fighters in a six-hour battle following an ambush in southern Afghanistan, the U.S. military said on Sunday.

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(Head of the Russian National Anti-terrorism Center, Nikolai Sintsov, said that terrorists more than ever are using the internet to spread their extremist ideas due to the practically unrestricted possibilities of spreading their propaganda around the world. He said that today, practically all extremists, terrorists, insurgents and various other groups have their own web sites. In 1998 there were 12 such websites, according to Sintsov, while today there are over 5000.)

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July 15, 2004

The Honorable Donald H. Rumsfeld
Secretary of Defense
1000 Defense Pentagon
Washington, DC 20301-1000

Dear Secretary Rumsfeld:

I am writing to inform you of our recent report *Ending Secret Detentions*, a copy of which is enclosed, and to urge that you to take steps immediately to allow regular, unrestricted access by the International Committee of the Red Cross (ICRC) to all US-held prisoners being detained abroad, including those being held at undisclosed locations. In addition, we urge that you report to Congress on the numbers and locations of these prisoners, and inform their families as to their whereabouts and legal status.

As our report details, there are credible reports dating as far back as December 2002 that the United States is holding prisoners not only at the military bases in Guantanamo Bay, Cuba, and Bagram, Afghanistan, but also in: Jalabad, Asadabad and Kabul in Afghanistan; Kohat and Alizai in Pakistan; the U.S. Naval Base on Diego Garcia; on U.S. military ships, including the USS Bataan and the USS Peleliu; and at other undisclosed locations.

The U.S. Government has refused to confirm or deny whether it is holding individuals secretly and without disclosure in these locations. But your recent admission that on October 31, 2003, you ordered a prisoner to be secretly detained without providing notification of his detention to the ICRC, along with the acknowledged practice of holding certain detainees in "undisclosed locations," reinforces concerns that there are many other prisoners being held secretly in U.S. custody around the world.

In January, the ICRC formally requested that it be given access to all US-held detainees abroad, including those held at undisclosed locations. Today, more than six months later, the United States has still failed to provide ICRC access to these prisoners.

Secret detentions and disappearances facilitate torture and have long been the hallmark of despotic regimes. These practices are illegal and unworthy of the United States. I urge that you grant immediate and unfettered access by the ICRC to all US-held

prisoners, inform the families of those being held of their whereabouts and their legal status, and report to Congress on the numbers and locations of all US-held prisoners being detained abroad.

I appreciate your prompt attention to this matter and look forward to hearing your response to this letter and our report.

Sincerely,

Elisa Massimino

Elisa Massimino
Washington Director

Enclosures

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July 16, 2004

Deputy Secretary Paul D. Wolfowitz
Office of the Secretary of Defense
1000 Defense Pentagon
Room 3E944
Washington, DC 20301

Dear Deputy Secretary Wolfowitz:

I am writing to inform you of our recent report *Ending Secret Detentions*, a copy of which is enclosed. Human Rights First urges that you do all you can to ensure to regular, unrestricted access by the International Committee of the Red Cross (ICRC) to all US-held prisoners being detained abroad, including those being held at undisclosed locations. In addition, we urge that the Administration report to Congress on the numbers and locations of these prisoners, and inform their families as to their whereabouts and legal status.

As our report details, there are credible reports dating as far back as December 2002 that the United States is holding prisoners not only at the military bases in Guantanamo Bay, Cuba, and Bagram, Afghanistan, but also in: Jalabad, Asadabad and Kabul in Afghanistan; Kohat and Alizai in Pakistan; the U.S. Naval Base on Diego Garcia; on U.S. military ships, including the USS Bataan and the USS Peleliu; and at other undisclosed locations.

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In January, the ICRC formally requested that it be given access to all US-held detainees abroad, including those held at undisclosed locations. Today, more than six months later, the United States has still failed to provide ICRC access to these prisoners.

Secret detentions and disappearances facilitate torture and have long been the hallmark of despotic regimes. These practices are illegal and unworthy of the United States. I urge you to support granting immediate and unfettered access by the ICRC to all US-held prisoners, ensuring that the families of those being held are informed of their whereabouts and their legal status, and submission of a report to Congress on the numbers and locations of all US-held prisoners being detained abroad.

I appreciate your prompt attention to this matter and look forward to hearing your response to this letter and our report.

Sincerely,

Elisa Massimino

Elisa Massimino
Washington Director

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www.HumanRightsFirst.org

July 26, 2004

The Honorable Paul Wolfowitz
Deputy Secretary of Defense
Department of Defense
Washington, D.C. 20301

Dear Mr. Secretary:

Thank you for meeting with the human rights executive directors on Wednesday. I am writing to summarize the points I raised with respect to current U.S. military detention and interrogation practices, and look forward to receiving your responses to our proposals. At the request of your staff, we also have provided 20 additional copies of Human Rights First's recently issued report, *Ending Secret Detentions*, which addresses many of the issues I summarized at the meeting.

Given the very serious nature of the abuses that have already been disclosed, at Abu Ghraib prison and elsewhere, it is clear that there is a systemic problem at U.S.-controlled detention and interrogation facilities that needs to be addressed. General Mikolashek's report further underscores this need for broad-based corrective actions.

When we met, I outlined three specific actions that we urge you to adopt quickly. The first is that you, Secretary Rumsfeld, and ideally the President make strong public statements clarifying current U.S. interrogation policy. Specifically, you should state in detail that torture and all other forms of cruel, inhuman and degrading treatment or punishment are strictly forbidden. You should make clear that all coercive interrogation techniques that cause pain, suffering, or humiliation are strictly prohibited. Military JAG officers should be present in each detention facility to provide legal guidance and to ensure that these rules are followed. And you should communicate throughout the system that anyone who violates these rules will be strictly disciplined and subject to prosecution.

Second, beginning immediately you should end secret or incommunicado detentions of the type described in our report. The International Committee of the Red Cross (ICRC) should be given unrestricted access to every detainee in U.S.

custody or control. The ICRC should be allowed to communicate the fact of these detentions to the family members of the detainees. And you should communicate to appropriate committees of Congress the locations of all detention facilities and other relevant information they may request about current detention practices and policies.

Finally, we urge you to call for and support the establishment of an independent, comprehensive investigation of all U.S. military and intelligence detention and interrogation policies and practices in Iraq, Afghanistan, Guantanamo Bay, and elsewhere in the world. As I stressed at our meeting, there are now close to 100 Executive Branch and Congressional investigations and inquiries underway on these topics. While many of these investigations are useful, there is a compelling need for a single, independent entity to piece together all of the elements, to present a full picture of what has happened, to identify the systemic problems that have emerged, and to issue recommendations to ensure such systemic abuse cannot easily recur. Nothing short of this type of comprehensive inquiry will satisfy public skepticism or, in our judgment, go far enough to correct the serious problems that exist.

I look forward to hearing your response to this proposal. We reiterate our willingness to meet with your staff to discuss any of these points in greater detail.

Sincerely,

Mike Posner

Michael Posner
Executive Director

human rights *first*

THE NEW NAME OF LAWYERS COMMITTEE FOR HUMAN RIGHTS

Ending Secret Detentions

June 2004

About Us

For the past quarter century, Human Rights First (the new name of Lawyers Committee for Human Rights) has worked in the United States and abroad to create a secure and humane world by advancing justice, human dignity and respect for the rule of law. We support human rights activists who fight for basic freedoms and peaceful change at the local level; protect refugees in flight from persecution and repression; help build a strong international system of justice and accountability; and make sure human rights laws and principles are enforced in the United States and abroad.

Acknowledgements

This report was written by Deborah Pearlstein and edited by Michael Posner.

Others who contributed to the report are Michael McClintock, Elisa Massimino, Avi Cover, Ken Hurwitz, Priti Patel, Aziz Rana, Benjamin Hensler and Stephen Townley.

This report is available online at www.HumanRightsFirst.org.

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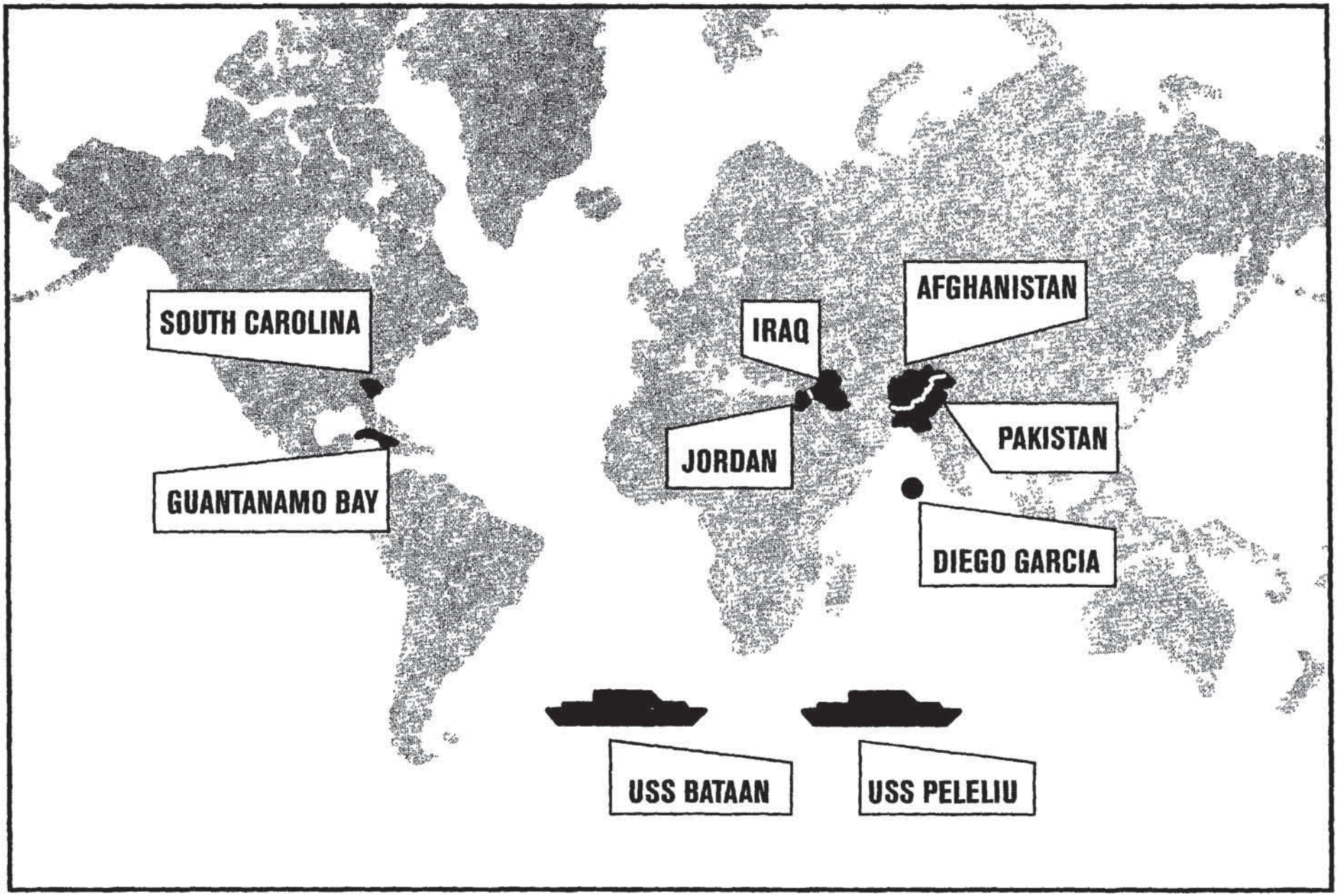
Reported U.S. Detention Facilities in the "War on Terror"



U.S. Operated Detention Facilities in the "War on Terror"

Afghanistan

Disclosed

- Collection Center at the U.S. Air Force Base in Bagram.
- Detention facility in Kandahar (an "intermediate" site, where detainees await transport to Bagram).
- Approximately 20 "outlying transient sites" (used to hold detainees until they may be evacuated either to Kandahar or Bagram).

Suspected

Detention facilities in:

- Asadabad*
- Kabul*
- Jalalabad*
- Gardez*
- Khost*
- CIA interrogation facility at Bagram
- CIA interrogation facility in Kabul (known as "the Pit")

*These sites may be part of the approximately 20 "outlying transient sites."

Guantanamo Bay, Cuba

Disclosed

- U.S. Naval Base at Guantanamo Bay

Iraq

Disclosed

- Abu Ghraib (near Baghdad)
- Camp Cropper (near the Baghdad Airport)
- Camp Bucca (near Basra)
- Nine facilities under division or brigade command
- Facilities run by military divisions:
    - 1st Infantry Division DIF (Tikrit)

Legal issues in cases of both disclosed and undisclosed locations:

Disclosed

In the cases where detention facilities are well known, there is no information or only conflicting information about how many individuals are held there, troubling information about inadequate provision of notice to families about the fact of detainees' capture and condition, and unclear or conflicting statements about detainees' legal status and rights. While the ICRC has visited these facilities, their visits have been undermined in ways contrary to the letter and spirit of binding law.

In other cases, the existence of the detention facility is acknowledged by the United States (as in the case of more than a dozen detention facilities in Iraq) but very little else is known, particularly the nature of the detainees' legal status and rights.

Suspected

These are cases where the detention facility itself is not officially acknowledged but has been reported by multiple sources. In the absence of official acknowledgment, there is of course no information on how many might be held at such facilities, whether their families have been notified, why they are held, or whether the ICRC has access to them (indeed, the ICRC has stated publicly that they do not).

    - 1st Marine Expeditionary Force DIF (Al Fallujah)
    - 1st Cavalry Division DIF (Baghdad)
    - 1st Armored Division DIF (Baghdad)
    - Multi-National Division-South East (Az Zubayr)
- Facilities run by military brigades:
    - Dayyarah West (Multi-National Brigade - North)
    - Tal Afar (Multi-National Brigade - North)
    - Al Hillah (Multi-National Division - Center South)
    - Wasit (Multi-National Division - Center South)
- In addition, there are a number of "brigade holding areas in division sectors" where detainees may be held up to 72 hours before transfer to Division facilities.
- Ashraf Camp. Ashraf Camp is a detention facility for Mujahideen-E-Khalq (MEK), an Iraqi based organization seeking to overthrow the government in Iran. Ashraf Camp was disclosed as a detention site for MEK detainees in February 2004, but as of June 11, 2004, the Coalition Press Information Center (CPIC) refused to discuss the status or location of the MEK detainees.

Pakistan

Suspected

- Kohat (near the border of Afghanistan)
- Alizai

Diego Garcia

Suspected

- United States and United Kingdom officials deny repeated press reports indicating that at least some individuals are being detained on the British possession of Diego Garcia, including, at one time, Hambali (Riduan Isamuddin), the leader of the Jemaah Islamiyah.

Jordan

Suspected

- Al Jafr Prison (CIA interrogation facility)

United States

Disclosed

- Naval Consolidated Brig (Charleston, South Carolina). This is where the U.S. Government is detaining at least three individuals as "enemy combatants": two U.S. citizens, Jose Padilla and Yaser Hamdi, as well as Ali Saleh Kahlah al-Marri, a Qatari national residing in the United States.

Suspected

- U.S. Naval Ships: USS Bataan and USS Peleliu.

Table of Contents

I. Introduction

More than 3,000 suspected terrorists have been arrested in many countries. Many others have met a different fate. Put it this way, they're no longer a problem to the United States and our friends and allies.

President George W. Bush
State of the Union Address
February 4, 2003

In April, the U.S. Supreme Court heard oral arguments in the cases of Jose Padilla and Yaser Hamdi – both U.S. citizens who have been held in military detention facilities for more than two years. One Justice wondered aloud how the Court could be sure that government interrogators were not abusing these detainees. You just have to "trust the executive to make the kind of quintessential military judgments that are involved in things like that," said Deputy Solicitor General Paul Clement.[1] Later that evening, CBS's *60 Minutes* broadcast the first shocking photographs of U.S. troops torturing Iraqi prisoners at the Abu Ghraib detention center in Iraq.

The photos from Abu Ghraib have made a policy of "trust us" obsolete. But they are only the most visible symptoms of a much larger and more disturbing systemic illness. Since the attacks of September 11, the United States has established a network of detention facilities around the world used to detain thousands of individuals captured in the "war on terrorism." Information about this system – particularly the location of U.S. detention facilities, how many are held within them, on what legal basis they are held, and who has access to the prisoners – emerges in a piecemeal way, if at all, and then largely as a result of the work of investigative reporters and other non-governmental sources. The official secrecy surrounding U.S. practices has made conditions ripe for illegality and abuse.

Several of these facilities, including the U.S. military bases at Guantanamo Bay, Cuba, and at Bagram Air Force Base in Afghanistan, are well known. The existence of these facilities – and the fact of unlawful conduct within them – have been widely publicized and well documented.[2] Nonetheless, there is still no or only conflicting information about how many individuals are held there, troubling information about inadequate provision of notice to families about the fact of detainees' capture and condition, and unclear or conflicting statements about detainees' legal status and rights. While the International Committee of the Red Cross (ICRC) has visited these facilities, their visits have been undermined in ways contrary to the letter and spirit of binding law.

In addition, there are detention facilities that multiple sources have reported are maintained by the United States in various officially undisclosed locations, including facilities in Iraq, Afghanistan, Pakistan, Jordan, on the British possession of Diego Garcia, and on U.S. war ships at sea. U.S. Government officials have alluded to detention facilities in undisclosed locations, declining to deny their existence or refusing to comment on reports of their existence.[3] A Department of Defense official told Human Rights First in June 2004 that while Abu Ghraib and Guantanamo's Camp Echo were open to discussion, "as a matter of policy, we don't comment on other facilities."[4] Similarly, Captain Bruce Frame, a U.S. army spokesman from CENTCOM, the unified military command that covers Africa, the Middle East, and Central Asia, told Human Rights First only that there "may or may not" be detention centers in countries other than Iraq and Afghanistan in CENTCOM's area of responsibility.[5]

The Known Unknowns

What is unknown about this detention system still outweighs what is known about it. But facilities within it share in common key features that – while having unclear benefits in the nation's struggle against terrorism – make inappropriate detention and abuse not only likely, but virtually inevitable.

First, each of these facilities is maintained in either partial or total secrecy. For the past half-century, the United States has considered itself bound by international treaties and U.S. military regulations that prohibit such blanket operating secrecy. Yet in this conflict, the ICRC – which the United States has long respected as a positive force in upholding international humanitarian law – has repeatedly sought and been denied access to these facilities.[6] As the ICRC recently noted in a public statement:

> Beyond Bagram and Guantanamo Bay, the ICRC is increasingly concerned about the fate of an unknown number of people captured as part of the so-called global war on terror and held in undisclosed locations. For the ICRC, obtaining information on these detainees and access to them is an important humanitarian priority and a logical continuation of its current detention work in Bagram and Guantanamo Bay.[7]

Indeed, Human Rights First has been unable to identify any official list of U.S. detention facilities abroad employed in the course of the "war on terrorism." There is likewise no public accounting of how many are detained or for what reason they are held. And there has been a disturbing absence of serious congressional oversight of both known and undisclosed detention facilities.[8]

Second, these facilities have thrived in an environment in which the highest levels of U.S. civilian leadership have sought legal opinions aimed at circumventing the application of domestic and international rules governing arrest and detention. Where it would have once seemed crystal clear to military commanders and on-the-ground military custodians alike that the Geneva Conventions governed the arrest and detention of individuals caught up in the conflicts in Iraq and Afghanistan, this Administration has challenged the applicability of those rules. In several recently leaked legal opinions from White House Counsel, and the Departments of Defense and Justice, it has become clear that some in the Administration have given a green light to the wholesale violation of these rules.[9]

As a result, it remains unclear what legal status has been assigned to those being detained at these U.S.-controlled facilities. Are they prisoners of war, civilians who took a direct part in hostilities (who the Administration calls "unlawful combatants"), or are they suspected of criminal violations under civilian law? The Administration has applied no clear system for defining their status. It also is unclear under many circumstances which U.S. agency is ultimately responsible for their arrest or the conditions of their confinement. And it now seems that U.S. military and intelligence agencies are involved in their interrogation, as well as civilian or foreign government contractors to whom aspects of detention and interrogation has been outsourced. It is likewise unclear to whom a family member or legal representative can appeal to challenge the basis for their continued detention.

Finally, the U.S. government has failed to provide prompt notice to families of those captured that their family member is in custody, much less information about their health or whereabouts. In such cases, the families of individuals removed to such unknown locations have had no opportunity to challenge detentions that may continue for extended periods.[10] For example, Saifullah Paracha, according to information his family received from the ICRC, has been detained at Bagram Air Force Base for more than 11 months. His wife and children remain in the dark, not only of the reason for his detention, but also when they can expect Mr. Paracha to be released or tried.[11] Other individuals captured more than a year ago remain in detention at other undisclosed locations.[12] The lack of information to family members about these detainees violates U.S. legal obligations and sets a negative precedent for treatment that may directed at U.S. soldiers in the future. It also engenders great anguish and suffering on the part of the families of detainees – no less than did the practice of "forcible disappearance" in past decades – while engendering enormous hostility toward the United States.

In the Interest of National Security

The Administration has argued that, faced with the unprecedented security threat posed by terrorist groups "of global reach,"[13] it has had to resort to preventive detention and interrogation of those suspected to have information about possible terrorist attacks. According to the Defense and Justice Departments, a key purpose of these indefinite detentions is to promote national security by developing detainees as sources of intelligence. And while much of what goes on at these detention facilities is steeped in secrecy, intelligence agents insist that "[w]e're getting great info almost every day."[14]

Whatever the value of intelligence information obtained in these facilities – and there is reason to doubt the reliability of intelligence information gained only in the course of prolonged incommunicado detention[15] – there is no legal or practical justification for refusing to report comprehensively on the number and location of these detainees – or to fail to provide the identities of detainees to the ICRC, detainees' families, their counsel, or to others having a legitimate interest in the information (unless a wish to the contrary has been manifested by the persons concerned).

The United States is of course within its power to ask questions and to cultivate local sources of information. And the United States certainly has the power to detain – in keeping with its authority under the Constitution and applicable international law – those who are actively engaged in hostilities against the United States, or those suspected of committing or conspiring

to commit acts against the law. But it does not have the power to establish a secret system of off-shore prisons beyond the reach of supervision, accountability, or law.

Finally, even if some valuable information is being obtained, there are standards on the treatment of prisoners that cannot be set aside. The United States was founded on a core set of beliefs that have served the nation very well over two centuries. Among the most basic of these beliefs is that torture and other cruel, inhuman or degrading treatment is wrong; arbitrary detention is an instrument of tyranny; and no use of government power should go unchecked. The refusal to disclose the identity of detainees, prolonged incommunicado detention, the use of secret detention centers, and the exclusion of judicial or ICRC oversight combine to remove fundamental safeguards against torture and ill-treatment and arbitrary detention. Current practices which violate these principles must be stopped immediately.

The abuses at Abu Ghraib underscore the reason why, since the United States' founding, Americans have rejected the idea of a government left to its own devices and acting on good faith in favor of a government based on checks and balances and anchored to the rule of law. As James Madison noted, "[a] popular Government without popular information, or the means of acquiring it, is but a Prologue to a Farce or Tragedy."[16] This nation's history has repeatedly taught the value of public debate and discourse. To cite one example, the United States learned this 30 years ago when a series of congressional investigations uncovered widespread, secret domestic spying by the CIA, NSA, FBI, and the Army – revelations whose impact on the intelligence agencies was, in former CIA Director Stansfield Turner's words, "devastating."[17]

We should be clear – the United States has important and legitimate interests in gathering intelligence information and in keeping some of this information secret. But we are not demanding the public release of any information that would compromise these interests. What we are calling for is an official accounting – to Congress and to the ICRC – of the number, nationality, legal status, and place of detention of all those the United States currently holds. We ask that all of these places of detention be acknowledged and open to inspection by the ICRC, and that the names of all detainees by made available promptly to the ICRC and to others with a legitimate interest in this information. Neither logic nor law supports the continued withholding of the most basic information about the United States' global system of secret detention. Trust is plainly no longer enough.

Michael Posner and Deborah Pearlstein
New York
June 17, 2004

II. The Known Unknowns

[A] large number of terrorist suspects were not able to launch an attack last year because they are in prison. More than 3,000 of them are al-Qaida terrorists and they were arrested in over 100 countries.

Coordinator for Counterterrorism Cofer Black
Remarks on the Release of the Annual Patterns of Global Terrorism 2002 Report
April 30, 2003

While the United States has made it clear that it has arrested and detained thousands of individuals in the "war on terrorism" since September 11, 2001, it has provided scant information about the nature of this global detention system – information that is critical to preventing incidents of illegality and abuse.

In some cases, the detention facility itself is well known – as in the case of the U.S. Naval Base at Guantanamo Bay, Abu Ghraib prison in Iraq, or the U.S. Air Force Base at Bagram, Afghanistan – but there is no or only conflicting information about how many individuals are held there, troubling information about inadequate provision of notice to families about the fact of detainees' capture and condition, and unclear or conflicting statements about detainees' legal status and rights. While the ICRC has visited these facilities, their visits have been undermined in ways contrary to the letter and spirit of binding law.

In other cases, the existence of the detention facility is acknowledged by the United States – as in the case of more than a dozen detention facilities in Iraq – but very little else is known, particularly the nature of the detainees' legal status and rights. And families in Iraq tell too many stories about loved ones arrested by coalition forces there without families understanding why – family members who then effectively disappear.

Finally, there are cases in which the existence of the detention facility itself is not officially acknowledged but has been reported by multiple sources – for example, Kohat and Alizai in Pakistan; Jalalabad, Asadabad, and Kabul in Afghanistan;[18] the U.S. Naval Base on Diego Garcia; and U.S. military ships, particularly the USS Bataan and the USS Peleliu.[19] In the absence of official acknowledgment of such undisclosed locations, there is of course no information on how many might be held at such facilities, whether their families have been notified, why they are held, or whether the ICRC has access to them (indeed, as noted above, the ICRC has stated publicly that it does).

U.S. concerns for the security of lawful detention facilities and for force protection are of course appropriate. But it is contrary to U.S. law and policy that information be withheld or classified without a basis in law. As the Federation of American Scientists recently emphasized in a letter to the Information Security Oversight Office expressing concern that General Taguba's Abu Ghraib report had been inappropriately classified: "[T]he executive order that governs national security classification states that 'In no case shall information be classified in order to... conceal violations of law.'"[21] More to the point, it is unclear either how disclosing, in a comprehensive and regular manner, the following basic information endangers legitimate U.S. missions abroad:

Mohammed Ismail Agha

Mohammed Ismail Agha, now 15 years old, spent 14 months of his life in U.S. custody, first in Afghanistan and later in Camp Iguana at the U.S. Naval Base at Guantanamo Bay. Mr. Agha comes from Durabin, an isolated agricultural village in Afghanistan. According to Mr. Agha, Afghan soldiers captured him and turned him over to U.S. soldiers, who flew him to Bagram Air Force Base, where he spent more than six weeks. Mr. Agha described Bagram as a "very bad place." Guards prevented him from sleeping by yelling and kicking his door. At Bagram, Mr. Agha was interrogated every day and questioned about his affiliation with the Taliban or other Islamic groups. During his interrogations, he stated his interrogators "made me stand partway, with my knees bent, for one or two hours. Sometimes I couldn't bear it any more and I fell down, but they made me stand that way some more." He was told if he did not confess he would be taken to Guantanamo Bay. After six weeks at Bagram, Mr. Agha was hooded, his wrists and ankles chained, and flown to Guantanamo Bay where he spent more than a year. While in Guantanamo, Mr. Agha, being the eldest son and major support for his family, was worried about them Despite writing a few letters home, his family was unaware of his whereabouts for almost a year. His father "went to all the work sites in the towns" to no avail, eventually concluding his son "must be dead." Mr. Agha was finally released on January 29, 2004. [20]

- How many individuals are currently held by the United States at military or intelligence detention facilities;
- What legal status these detainees have been accorded (e.g. as prisoners of war, "unlawful combatants," or some other status) and what process is followed to determine this status;
- Whether the detainees have received unrestricted visits from the ICRC;
- Whether the immediate families of the detainees have been notified of their loved ones' location, status, and condition of health.[22]

Afghanistan

According to CENTCOM, the U.S. unified military command with operational control of U.S. combat forces in the region, coalition forces have only one general detention facility in Afghanistan: the Collection Center at the U.S. Air Force Base in Bagram. An acknowledged U.S. detention facility in Kandahar is considered an "intermediate" site, where detainees await transportation to Bagram.[24] In addition, CENTCOM acknowledges a series of "outlying transient sites" that are used to hold detainees until they may be evacuated either to Kandahar on their way to the detention facility at Bagram, or directly to the detention facility at Bagram.[25] Some reports put the total number of these facilities at 20.[26]

Non-governmental organizations and press have reported the existence of detention facilities in Asadabad,[27] Kabul, and Jalalabad, and two under the command of Special Forces in Gardez and Khost.[28] In addition to the detention facility under military command at Bagram Air Force Base, numerous sources cite an interrogation facility under CIA control at Bagram as well.[29] A recent press report revealed a primary CIA interrogation facility to be in Kabul, known as the Pit.[30]

Until the events of the past few months, the Department of Defense had taken the position that even the number of people detained by the United States in Afghanistan was classified. In response to a request by Human Rights First on March 27, 2004, the Department of Defense answered that "[t]he number of detainees within Afghanistan is classified due to ongoing military operations and force protection concerns."[31]

Saifullah Paracha

Saifullah Paracha's family understands that he was brought to Bagram Air Force Base in July 2003. Mr. Paracha is a U.S. permanent resident. He is a Pakistani citizen who came to the United States for his post-college studies in 1971. He lived in the U.S. until the mid-1980s, when he and his family decided to move back to Pakistan. Along with an American partner, Charles Anteby, he maintained an import/export company dealing in exporting clothing to the United States from Pakistan. According to Mr. Paracha's wife, Mr. Anteby set up a meeting with Kmart in Bangkok and asked Mr. Paracha to fly down for the meeting. Mr. Paracha boarded the Air Thai plane to Bangkok, but the driver sent to collect Mr. Paracha at the Bangkok airport reported that Mr. Paracha had not deplaned. Air Thai confirmed that Mr. Paracha boarded the plane. Mr. Paracha's family received a letter from the ICRC in August 2003, more than six weeks after he went missing, informing them that he was in Bagram Air Force Base. The family was given his prisoner number. They have since received additional letters.[23]

My most dearest Ammi, Farhat, Muneeza, Mustafa and Zahra,

Assalam-o-Alaikum

I pray to Almighty for your welfare, health and happiness. May Allah keep you in His safe custody. Today after a while I received two of your letters dated 24th September and October 01, 03 and am replying immediately. I can only write letters when the ICRC people are here, and in their presence, and as fast as possible. Their visits are their own planning and then the letters are being examined by the US Authority. This is why it takes time to reach you or me. I am very happy, satisfied and proud of you that you're going to the office and taking care of the family – Allah bless you and reward you here and Thereafter. Also my worries are over when I received your letters about the family, Uzair and business details. I am very happy to hear about Muniza. Please give her my love also. Mustafa did not reply on the issue of exercise. Please remind him and tell him not to fight with Zahra.

Letter of November 17, 2003 from Saif Paracha to his family, as transmitted through the International Committee of the Red Cross, and translated by his family.

Despite these stated classification restrictions, the Defense Department more recently offered that there are currently 358 individuals detained by the United States in Afghanistan.[32] Other reports put the number at about 380.[33] The ICRC has counted "some 300" detainees at Bagram as of May 2004.[34]

The ICRC has expressed its concern as the periods of detention at Bagram increase that "the U.S. authorities have not resolved the questions of [the detainees'] legal status and of the applicable legal framework."[35] Indeed, the ICRC has had limited access to the Bagram facility, and has been able to meet with certain detainees after they have been held in Bagram for a few weeks.[36] The ICRC also reportedly visited Kandahar between December 2001 and June 2002, when it understood that the Kandahar detention center was only a transit post on the way to Bagram.[37] However, evidence emerged more recently that the United States continued to hold some suspects for longer periods at Kandahar, and the ICRC asked to be allowed to visit the center again. After considering the ICRC's request for three weeks, the Pentagon recently agreed to begin making arrangements to allow ICRC access again.[38] It is still unclear whether the ICRC will have access to other detention centers (transient or otherwise) in Afghanistan.

From published interviews with those released from detention facilities in Afghanistan, and discussions with family members of a detainee held at Bagram, there does not appear to be a family notification policy.[39] For example, Abdul Gehafouz Akhundzada was arrested in February 2003, and reportedly taken to Bagram Air Force Base. Despite appeals to the United States and local government officials, as of late 2003, no further information of Mr. Akhundzada was available.[40] The family of another detainee at Bagram Air Force Base, Saifullah Paracha, was notified of his detention at Bagram not by the United States, but by the ICRC.[41] Despite repeated attempts, Human Rights First was unable to discern whether the Department of Defense had a family notification policy for detainees in Afghanistan.

Iraq

Despite some improvement, hundreds of families have had to wait anxiously for weeks and sometimes months before learning the whereabouts of their arrested family members. Many families travel for weeks throughout the country from one place of internment to another in search of their relatives and often come to learn about their whereabouts informally (through released detainees) or when the person deprived of his liberty is released and returns home.

Report of the International Committee of the Red Cross on Iraq
February 2004

The Coalition Press Information Center (CPIC) confirms three main detention facilities in Iraq for security detainees: Abu Ghraib near Baghdad, Camp Cropper near the Baghdad Airport, and Camp Bucca near Basra in southern Iraq.[42] In addition, the CPIC Press Office detailed 9 additional facilities under division or brigade command.[43] Additional facilities run by military divisions are :

- 1st Infantry Division DIF (Tikrit)
- 1st Marine Expeditionary Force DIF (Al Fallujah)

- 1st Cavalry Division DIF (Baghdad)
- 1st Armored Division DIF (Baghdad)
- Multi-National Division-South East (Az Zubayr)

In areas without division internment facilities, military brigades oversee the detention facilities. These facilities are in or near the towns of:

- Dayyarah West (Multi-National Brigade - North)
- Tal Afar (Multi-National Brigade - North)
- Al Hillah (Multi-National Division - Center South)
- Wasit (Multi-National Division - Center South)[44]

In addition, there are "brigade holding areas in division sectors...where detainees may be held up to 72 hours before transfer to Division facilities."[48]

The twelve facilities listed by CPIC conflict with remarks made by General Geoffrey Miller, Deputy Commanding General, Detention Operations in Iraq, who stated in May 2004 that there were 14 detention facilities in Iraq.[49] Indeed, lists of detention facilities in Iraq disclosed by non-governmental organizations identify additional facilities to the ones provided by the CPIC.[50]

The U.S. Government's account of the nature of the legal status of detainees in Iraq has varied substantially. In April 2003, the Department of Defense, appropriately, stated that it was holding detainees either as prisoners of war under the Third Geneva Convention, or as civilian internees under the Fourth Geneva Convention.[51] By May 2003, the U.S. Government seemed to introduce a new category of detainees—"unlawful combatants."[52] The category of unlawful combatants seems to have eventually been dropped, and on September 16, 2003, General Janis

Saddam Saleh Al Rawi

Saddam Saleh Al Rawi, a former political prisoner under Saddam Hussein, was detained for almost four months in Abu Ghraib by U.S.-led Coalition Forces until he was released on March 28, 2004. He reports that he was arrested without being given an explanation of the charges against him. According to Mr. Al Rawi's testimony,[45] he spent the first few days of his detention in solitary confinement. Following that, he was removed to another location within the prison where he was interrogated and tortured for 18 consecutive days. During this time, he was repeatedly kicked, beaten, and had two of his teeth knocked out. He received one meal every 12 hours. Prison guards threatened him with dogs and stood on his hands.[46] The soldiers threatened to rape him if he did not provide the soldiers with information. At other times, they threatened to send him to Guantanamo Bay if he did not comply. His interrogation and torture often lasted for up to 23 hours. Following his interrogation sessions, he was often prevented from sleeping due to loud music. Before a visit by the ICRC in January 2004, he reports that he was warned that if he said anything to the ICRC that the prison guards did not like, "he would never live to regret it."[47] When the ICRC arrived, he did not say anything to them of the conditions of his confinement, answering most questions, "I don't know." He was kept in solitary confinement for approximately three months before he was released.

Karpinski, commander of the 800th Military Police Brigade announced that more than 4,000 detainees in Iraq were being held as "security detainees," separate from prisoners of war and criminal detainees;[53] in contrast, security detainees were those who had attacked U.S. forces or were suspected of involvement in or planning of such attacks.[54] It was the first time the term was used to describe Iraqi prisoners.[55]

The U.S. Government's accounting of detainees in Iraq has significantly increased over time, while the number of those held under recognized lawful categories has drastically diminished. In May 2003, the U.S. Government indicated it was holding 2000 detainees, of which most were prisoners of war, along with 500 unlawful combatants.[56] In late July 2003, 1100 detainees were held as prisoners of war and "high value detainees."[57] With the introduction of the security detainee category in September 2003, the number of prisoners of war plummeted to 300, while the number of total detainees increased to 10,000 with 4400 security detainees and 5300 criminal detainees.[58] In early January 2004, the total number of detainees was approximately 12,000, while the number of prisoners of war dropped to 20.[59] The number of security detainees ballooned as of June 2004, when the Coalition Authority confirmed it was detaining over 6300 security detainees.[60] Of the more than 6300 security detainees, more than 3000 are detained in Abu Ghraib, the largest detention facility under Coalition authority in Iraq.[61]

On June 13, 2004, the Coalition Authority pledged to release or transfer to Iraqi control as many as 1,400 prisoners throughout the country, but would continue to hold between 4,000 and 5,000 people as security detainees.[63] While the reduction in numbers is a positive step, handing over detainees to Iraqi control without adequate disclosure or certainty of legal process simply replicates the secrecy and prisoner vulnerability marking present detention practices.

Wisam Adnan Hameed Ismaeel Hussain

The Christian Peacemakers Team, a religious organization working in Iraq since 2002, reports that Wisam Hussain, a 22-year-old taxi driver from Al Dhoura near Baghdad, disappeared August 7, 2003. When he failed to return home, his family searched a number of hospitals and Abu Ghraib prison. They were assured he was not at Abu Ghraib because though his name was in the prison files, it was not in the computer database. They returned to Abu Ghraib in October 2003, and the officials they spoke to at the prison informed the family they needed Wisam's identification number to confirm whether he was in the prison. Wisam is the sole breadwinner in his family, which consists of his father, mother, four sisters and 2 brothers. His siblings are all under 18 years old. It is believed he may have been seized because he drove a red Volkswagen. The U.S.-led coalition believed that a red Volkswagen was connected to a bombing in August 2003, and subsequently all red Volkswagens and their drivers were rounded up.[62]

In addition to security detainees, prisoners of war, and criminal detainees, the Coalition Authority separately detains members of the Mujahideen-E-Khalq (MEK), an Iraqi based organization seeking to overthrow the government in Iran. Brigadier General Mark Kimmitt, Deputy Director for Coalition Operations, in a press briefing in early January 2004 commented that the status of almost 3500 MEK detainees was being determined.[64] There was no mention of their legal status or under what authority the United States was detaining them. The Administration then confirmed the detention of the MEK in a separate detention facility, Ashraf Camp.[65] In June 2004, the CPIC

Press Office refused to discuss the situation of the MEK detainees.[66] No information regarding the policy basis for their segregation and the legal basis on which the MEK are being detained was provided.[67]

From the outset of the war in Iraq into the occupation, the Administration has asserted the application of the Geneva Conventions to the conflict, but has failed to properly follow the Conventions.[68] The Geneva Conventions, codifying the laws of war, apply in all international armed conflicts. Under the Geneva Conventions, there are two categories of individuals who can be detained by an occupying power: prisoners of war and civilians.[69] Generally, prisoners of war are to be released at the end of active hostilities.[70]

There are two narrow bases on which an occupying power can detain civilians: (1) if it is "necessary, for *imperative* reasons of security," and (2) for penal prosecutions.[71] The Conventions do not mention a separate category of "security detainees." In addition, Article 5 of the Fourth Geneva Convention permits detaining powers to deny persons rights of communication under the Convention where there is a "definite suspicion" of activities that are "hostile to the security" of the occupying power. The burden of *definite* suspicion is a high burden that must be individualized and not of a general nature.[72] And the power to detain such persons is restricted to cases where "absolute military security so requires."[73] Even under these circumstances, all other protections under the Fourth Geneva Convention apply. In particular, Article 5 requires that such individuals "shall nevertheless be treated with humanity...[and] be granted the full rights and privileges of a protected person under the present Convention at the earliest date" possible. The security of the occupying power does not empower the occupier to deprive such individuals of other protections under the Fourth Geneva Convention, such as the right to receive medical attention if necessary, the right to see a chaplain if the detainee was seriously ill, and the protection against torture.[74]

The comprehensiveness of the ICRC's access to all detention facilities is unclear. According to the ICRC's 2004 report on Iraq, the ICRC has access to some of the detention facilities in Iraq, including Camp Cropper, Al Russafa, Abu Ghraib, Camp Bucca, as well as several temporary internment places such as Talil Airforce Base and detention facilities in Tikrit and Mosul.[75] It is unclear whether the ICRC has access to additional facilities. Moreover, despite having granted the ICRC access to some facilities, the United States has denied the ICRC access to particular prisoners within those facilities. Indeed, some detainees have been moved in order to evade ICRC monitoring.[76]

Finally, the system created by the Coalition Provisional Authority (CPA) to inform families of detainees of their loved ones' capture remains inadequate. As the *New York Times* reported in March on Iraqi experiences:

> Often they were led away in the middle of the night, with bags over their heads and no explanation. Many people have said that when they asked soldiers where their family members were being taken, they were told to shut up. A few hundred women have also been detained. And complicating the families' searches, there are several major prisons and hundreds of smaller jails and bases across Iraq.[77]

U.S. forces in conjunction with the CPA maintain a list of detainees in U.S. custody and provide the list to the ICRC.[78] In addition, there is an Iraqi Assistance Center and nine General

Information Centers in Baghdad where lists are accessible.[79] Those with an internet connection can access detainee information via the CPA website.[80]

However, the list is not comprehensive in that it does not include detainees held at Mosul or Tikrit.[81] It often does not contain full names of detainees; translation renders some names unrecognizable to family members; or the identification numbers for detainees do not correspond with the list.[82] Many families are not in a position to travel to one of the centers in Baghdad to locate information.[83] Moreover, the ICRC reports that capture cards, required for prisoners of war under the Third Geneva Convention, containing biographical information were often incomplete, making it difficult for the ICRC to effectively notify families.[84] Even when families are able to locate their loved ones in detention, military personnel cite the average wait time for obtaining a visit to be one month.[85] In some cases obtaining a visit can take more than three months.[86]

Guantanamo Bay

More is known about the detention facility at the U.S. Naval Base at Guantanamo Bay than virtually all other facilities. The detention facility there was opened in early 2002, when the U.S. military removed several hundred individuals from Afghanistan.[88] As of April 2004, Guantanamo Bay housed 595 detainees, from approximately 40 countries.[89] According to the Defense Department, 134 detainees have been released since the detention facility opened, and 12 others have been returned for continued detention in their home country.[90]

Nonetheless, the numbers provided by the Administration raise concerns that the information regarding the number of detainees provided by the U.S. Government does not reveal the whole picture. For example, on July 18, 2003, the Department of Defense announced there were "approximately 660" detainees in Guantanamo, representing the net figure resulting from the release of 27 detainees and the new arrival of 10.[91] From then until April 2, 2004, the Pentagon made eight additional official announcements, advising of further releases aggregating 78, and 20 new arrivals.[92] Mathematically, this should have resulted in a net decrease of 58, leaving a total detainee population of 602. In fact, on that date, there were only 595 detainees on the base, according to the Department of Defense,[93] leaving seven unaccounted for. While the releases of one Spaniard (on February 13,

Hayder Thamer Salman

Hayder Thamer Salman, a 23-year-old computer scientist working at the Pharmaceutical College of Baghdad, is believed to have been seized by U.S.-led coalition forces on January 22, 2004, while he was driving his car near Al-Yarmuk Hospital. While he was driving, a U.S. convoy ahead of him was attacked. Fire from both sides ensued and Hayder was hurt by the crossfire. Hayder and his friend who was a passenger were both detained. His friend was interrogated and held for almost two weeks and then released. Hayder's location remains unknown. Hayder's father was executed under Saddam's regime. His mother, a lecturer at the Medical College in Baghdad, has searched for him since his seizure. She went to see an officer in charge of the Yarmuk area. She received numerous emails informing her that her son was at different hospitals, but each hospital told her he was not there. She has been unable to locate him and believes he is being held at a hospital as a security detainee.[87]

2004) or one Dane (on February 25) or five Britons (on March 9) were publicly announced,[94] there were seven other detainees whose release or transfer apparently did not merit official mention.

The uncertain status of those held at Guantanamo has also been the subject of widespread international concern.[95] The President designated those detained at Guantanamo as "enemy" or "unlawful combatants,"[96] a status with unclear legal meaning as it has been used by the Administration. A number of the detainees' family members filed *habeas corpus* petitions in U.S. courts challenging the government's authority to indefinitely detain prisoners without charge, and the U.S. Supreme Court is expected to issue a decision on the matter in late June.

In the meantime, the legal status of the Guantanamo detainees remains obscure. Under the Geneva Conventions, persons captured during an international armed conflict are either prisoners of war or civilians; both categories come with specific protections delineated in the Geneva Conventions.[97] Prisoners of war are entitled, for example, to be treated humanely at all times, send and receive letters, and be free from physical or mental torture in the course of interrogations.[98] Civilians who engage directly in combat are not entitled to prisoner-of-war protections, but are entitled to basic protections such as the right to be treated with humanity; unlike prisoners of war, they may also be prosecuted for the act of having taken up arms.[99] If there is any doubt as to the status to which a detainee is entitled, he must be afforded a so-called Article 5 hearing to determine, on an individual basis, the rights to which he is entitled.[100] None of the detainees currently held at Guantanamo has been afforded a standard Article 5 hearing.[101] Indeed, as "unlawful combatants," Guantanamo detainees have been afforded neither the protections under the Geneva Conventions, nor the protections of the U.S. criminal justice system, nor has any of the nearly 600 detainees yet been tried for crimes under the law of war.

Pakistan

Joint Pakistan and U.S. operations in the "war on terrorism" and the capture of suspects in Pakistan have raised suspicion of U.S. detention locations in Pakistan, particularly at Kohat and Alizai. In Spring 2002, U.S. military and law enforcement officials began aiding Pakistani officials in tracking Al-Qaeda and Taliban members within Pakistan.[102] Press reports indicate that as of July 2003, Pakistani authorities detained and transferred to U.S. custody almost 500 individuals.[103]

A number of press reports have indicated the use by the United States of a prison in Kohat, Pakistan, near the border of Afghanistan. Immediately following the war in Afghanistan, Pakistani authorities moved all "civilian" prisoners from the prison in Kohat, along with all prison records and staff. The prison in Kohat came to be used to hold suspected terrorists and Taliban members. In the first half of 2002, over 140 suspected Al-Qaeda and Taliban members were moved to the Kohat prison.[104] According to press reports, the Pakistani army maintained the external security of the prison, while U.S. officials were responsible for the internal security.[105] U.S. interrogators questioned prisoners freely in Kohat and determined which among them to move to Guantanamo Bay.[106] A number of people raised concerns at the treatment of the prisoners, including a local leader, Javed Ibrahim Paracha of the Pakistan Muslim League-Nawaz (PML-N), who described prisoners, shackled and only in their shorts, being whisked onto military planes in the middle of the night.[107]

In September 2003, the Pakistani press reported that U.S. officials were given authority over Kohat airport and that construction was planned for a special facility to house Taliban and Al Qaeda prisoners. When questioned about this development, Director-General of Inter Services Public Relations (ISPR) Major General Shaukat Sultan denied that the Kohat airport was being handed over to the United States.[108] The Department of Defense and the CIA refuse to confirm or deny the existence of detention facilities in Pakistan.[109]

Diego Garcia

The U.S. Naval Base on the island of Diego Garcia is located in the Indian Ocean, 3,000 miles south of Iraq. Diego Garcia was established as part of the British Indian Ocean Territories. The United States leased the territory from the United Kingdom in 1966 for an initial period of 50 years.[110] It was developed as a joint U.S. and U.K. air and naval refueling and support station during the Cold War and has since been used during the Persian Gulf War, Afghan War, and the recent war in Iraq.[111] There are approximately 1,700 military personnel and 2,000 civilian contractors on the island.[112] No one is allowed on the island unless they are military personnel or supporting military operations.[113]

Pentagon officials have denied the existence of detention facilities at Diego Garcia housing individuals detained in the context of the "war on terrorism."[114] The CIA has refused to comment on whether there are detainees on Diego Garcia.[115] U.K. officials have similarly denied assertions that detainees are being held by the United States on Diego Garcia. The Parliamentary Under-Secretary of State, Foreign and Commonwealth Office, Baroness Amos stated that there were no prisoners on Diego Garcia as of January 8, 2003, and later found questions of whether there were Taliban soldiers on Diego-Garcia to be "entirely without merit."[116] Nonetheless, the denials by the United States and Britain contradict repeated press reports indicating that at least some individuals have been detained on Diego Garcia, including, at one time, Hambali (Riduan Isamuddin), the leader of the Jemaah Islamiyah.[117]

Jordan

Investigative reporters have identified the Al Jafr Prison, in the southern desert, as a CIA interrogation facility.[118] According to press reports, approximately 100 detainees have passed through the prison, including high level Al Qaeda leaders, Khalid Sheikh Mohammed and Abd al-Rahim al Nashiri.[119] The CIA and the Pentagon have refused to confirm or deny the existence of any detention facilities in Jordan.[120] Other sources have told us that at least one such facility exists.

United States

The U.S. Government is detaining at least three individuals as "enemy combatants" on U.S. soil: two U.S. citizens, Jose Padilla and Yaser Hamdi, as well as Ali Saleh Kahlah al-Marri, a Qatari national residing in the United States. They are all held at the Naval Consolidated Brig in Charleston, South Carolina.[121]

The legal status or rights held by these "enemy combatants" is now being considered by the U.S. Supreme Court, which is expected to rule in the coming weeks on the legality of their detention. The President has designated Padilla, Hamdi and al-Marri "enemy combatants," and deprived them of protection under the Geneva Conventions or under U.S. criminal law.[122] In effect, the

President has reserved for himself the authority to deny those so labeled, regardless of citizenship, all legal rights and remedies, whether under international human rights or humanitarian law, U.S. criminal law, the Uniform Code of Military Justice, or the U.S. Constitution.

The U.S. Government has likewise failed to provide information regarding the "enemy combatants." Both Mr. Padilla and Mr. al-Marri were abruptly removed from the criminal justice system to military custody.[123] In the case of Jose Padilla, he was originally provided a public defense attorney and his case was entered into the U.S. criminal justice system. While proceedings were pending, the President declared Mr. Padilla an "enemy combatant" and ordered him transported to a military brig in South Carolina – without informing his lawyer.[124] There is no clear procedure for informing families that their loved one has been designed an "enemy combatant." Both Mr. Padilla's and Mr. al-Marri's lawyers informed their respective families of their detention while they were still in the criminal justice system.[125] As far as lawyers for Padilla, Hamdi, and al-Marri are aware, the U.S. Government did not officially inform their respective families.[126]

The detainees' access to the outside world has been limited. After nearly two years in incommunicado detention, both Mr. Hamdi and Mr. Padilla were granted a visit with their lawyers (following the Supreme Court's decision to hear their cases).[127] In addition, the ICRC has been granted a visit to Mr. Padilla and Mr. Hamdi. [128] Mr. al-Marri's attorney does not know whether the ICRC has visited Mr. al-Marri.[129]

U.S. Ships

In the aftermath of the war in Afghanistan, a number of detainees were transferred and held for short periods of time on the USS Bataan and USS Peleliu. In January 2002, John Walker Lindh and David Hicks, along with a number of Taliban and Al Qaeda prisoners were detained aboard the USS Bataan.[130] Mr. Lindh was transferred to the USS Bataan on December 31, 2001 and remained there until January 22, 2002.[131] Eight detainees were held on the USS Bataan during the same time period.[132] Both Mr. Hicks and Mr. Lindh were detained on the USS Peleliu prior to being transferred to the USS Bataan.[133] Mr. Lindh was transferred to the USS Peleliu on December 14, 2001.[134] During that time, there were at least four additional detainees on board the USS Peleliu.[135] The Defense Department has refused to confirm or deny whether any current detainees are being held onboard naval ships.[136]

III. The Law

[There] may be instances arising in the future where persons are wrongfully detained in places unknown to those who would apply for habeas corpus in their behalf. . . . These dangers may seem unreal in the United States. But the experience of less fortunate countries should serve as a warning . . . .

Ahrens v. Clark, 335 U.S. 188 (1948) (Rutledge, J., dissenting)

In its Country Reports on human rights conditions abroad, the U.S. Department of State has consistently criticized the practice of holding individuals incommunicado in secret detention facilities.[137] For a nation founded on the principle of limited government, the reason for the criticism is not difficult to understand. As one federal court recently put it in rejecting the Government's efforts to secretly deport certain individuals from the United States: "The Executive Branch seeks to uproot people's lives, outside the public eye, and behind a closed door. Democracies die behind closed doors."[138]

For this reason, the major international treaties that govern the use of detention by the United States recognize the fundamental necessity of maintaining openness in government detention – whether of civilians or of prisoners of war, and whether they are detained in the course of international armed conflict or not. Moreover, longstanding U.S. law and policy reflect adherence to these obligations.

Under the International Covenant on Civil and Political Rights

The International Covenant on Civil and Political Rights (ICCPR), which the United States ratified more than a decade ago, makes clear that all states parties have a duty to institute procedures that will minimize the risk of torture.[139] At the top of the list of required procedures: maintaining officially recognized places of detention, keeping registers of all in custody, and disclosing the names of all individuals detained to their families and friends.[140]

> To guarantee the effective protection of detained persons, provisions should be made for detainees to be held in places officially recognized as places of detention and for their names and places of detention, as well as for the names of persons responsible for their detention, to be kept in registers readily available and accessible to those concerned, including relatives and friends. To the same effect, the time and place of all interrogations

> should be recorded, together with the names of all those present and this information should also be available for purposes of judicial or administrative proceedings.[141]

Such requirements are imposed because prisoners are "particularly vulnerable persons," who can easily become subject to abuse. In fact, incommunicado detention, especially by denying individuals contact with family and friends, violates the ICCPR's obligation to treat prisoners with humanity.[142] States are thus required to implement provisions "against incommunicado detention" that deter violations and ensure accountability.[143]

The Human Rights Committee (HRC), the independent ICCPR monitoring body (whose members are human rights experts elected by states parties), has consistently recognized the import of these obligations. For example, in *El-Megreisi v. Libya*, the HRC found that the Libyan government in detaining an individual for six years, the last three of which incommunicado and at an unknown location, had violated the ICCPR's prohibition of torture and its requirement that prisoners be treated with dignity.[144] This, despite the fact that the family knew that the detainee was alive and his wife had been allowed to visit him once. The HRC nonetheless found that the detainee's prolonged incommunicado imprisonment as well as the government's refusal to disclose El-Megreisi's whereabouts amounted both to arbitrary detention and to a state failure to minimize the risks of torture.[145]

Under the Geneva Conventions

The Geneva Conventions of 1949, which the United States has signed and ratified, are the primary instruments of international humanitarian law protecting all those caught up in the course of armed conflict. The U.S. Government has generally taken the position that the Geneva Conventions apply in the U.S. armed conflict in Iraq.[146] Despite this, both conflicting public statements, and internal Administration dispute over the applicability of these treaties, have left their role in these conflicts deeply unclear.[147]

The Administration's position regarding the Afghanistan conflict has been even less clear. In press statements in early January 2002, Defense Secretary Donald Rumsfeld stated that as a matter of policy, but not of legal obligation, the United States intended to treat detainees from Afghanistan in a manner "reasonably consistent with the Geneva Conventions," and would "generally" follow the Geneva Conventions, though only to "the extent that they are appropriate," as "technically unlawful combatants do not have any rights under the Geneva Convention."[148] Following an internal review of this position at the urging of Secretary of State Colin Powell (who was concerned about the potential effect on U.S. forces of a blanket renunciation of the Geneva Conventions), the Administration modified its position slightly.[149] On February 7, 2002, White House Spokesman Ari Fleischer announced President Bush's decision "that the Geneva Convention applies to members of the Taliban militia, but not to members of the international al-Qaida terrorist network."[150] Despite the stated application of the Conventions, however, the Administration determined that Taliban fighters were not eligible for prisoner-of-war status because the government had violated international humanitarian law; this allegation had never previously stopped the United States from affording enemy government forces prisoner-of-war protections.

The U.S. obligation to record and account for prisoners of war, defined under the Third Geneva Convention, is clear. Prisoners of war are to be documented, and their whereabouts and health conditions made available to family members and to the country of origin of the prisoner.[151] The

Fourth Geneva Convention (governing the treatment of civilians) establishes virtually identical procedures for the documentation and disclosure of information concerning civilian detainees.[152] These procedures are meant to ensure that "[i]nternment . . . is not a measure of punishment and so the persons interned must not be held incommunicado."[153]

The disclosure required by the Geneva Conventions is done in the first instance through a system of capture cards. "Immediately upon capture, or not more than one week after arrival at a camp, even if it is a transit camp, likewise in case of sickness or transfer to hospital or another camp, every prisoner of war shall be enabled to write direct to his family, on the one hand, and to the Central Prisoners of War Agency provided for in Article 123, on the other hand, a card . . . informing his relatives of his *capture, address and state of health*. The said cards shall be forwarded as rapidly as possible and may not be delayed in any manner."[154] (The United States' failure to observe the capture card system in Iraq was the subject of ICRC criticism in its recently leaked 2004 report.[155])

The Central Agency described in Article 123 is a body meant to be established in a neutral country whose purpose is "to collect all the information it may obtain through official or private channels respecting prisoners of war, and to transmit it as rapidly as possible to the country of origin of the prisoners of war or to the Power on which they depend."[156] The ICRC has historically established the Central Agency and "[w]henever a conflict has occurred since the Second World War, the International Committee has placed the Agency at the disposal of the belligerents, and the latter have accepted its services."[157]

U.S. Domestic Law and Policy

The U.S. government has long-standing rules requiring the disclosure to the ICRC of detainee information as well as the provision of ICRC access to prisoners, in order to ensure that U.S. Geneva Conventions obligations have been fulfilled. This policy is enshrined in binding military regulations and field manuals dating back half a century.

Defense Department Directive 2310.1 – currently in force – affirms the United States' obligation to comply with the Geneva Conventions and establishes a framework for information disclosure.[158] Under this Directive, the Secretary of the Army must develop plans for "the treatment, care, accountability, legal status, and administrative procedures to be followed about personnel captured or detained by, or transferred from the care, custody, and control of, the U.S. Military Services."[159] In particular, the Secretary of the Army is required to plan and operate a prisoner of war and civilian internment information center to comply with the United States' Geneva Convention obligations (described above), and "serve to account for all persons who pass through the care, custody, and control of the U.S. Military Services."[160] The Undersecretary of Defense for Policy (a position currently held by Doug Feith) has "primary staff responsibility" for overseeing the detainee program.[161]

To implement its obligations under Article 122 of the Third Geneva Convention, requiring each detaining power to establish a national information bureau,[162] and to fulfill Directive 2310.1, the Army established the National Prisoner of War Information Center (NPWIC). According to binding Army Regulation 190-8, the NPWIC is charged with maintaining records for both POWs and detained civilians.[163] The center functioned during the 1991 Gulf War, and has been used in subsequent U.S. military operations. As an information processor, the NPWIC ensures full

accountability for persons who fall into U.S. hands. It does not make decisions regarding whether an individual is entitled to prisoner-of-war or other legal status.[164]

As recently as last April, W. Hays Parks, Special Assistant to the Army JAG, maintained that the NPWIC would be employed in Iraq: "Once the theater processing is accomplished, those reports are sent back here to the National Prisoner of War Information Center, which is run under the Army Operations Center. Those lists are all collated, put together and we ensure that we have proper identification, the best information we can get from that. And thereafter, that information is forwarded by the United States government to the International Committee of the Red Cross."[165]

In his report, General Taguba noted that such regulations had not been fully complied with, since the reporting systems – such as the National Detainee Reporting System (NDRS) and the Biometric Automated Toolset System (BATS) – which traditionally provide information to the NPWIC were "underutilized and often [did] not give a 'real time' accurate picture of the detainee population due to untimely updating."[166] Repeated efforts by Human Rights Firsts to contact the Department of the Army, Office of Public Affairs, in order to clarify the status of the center and the use of these reporting systems were not answered.

Finally, since 1956, the Army's field manual has explicitly recognized the ICRC's right to detainee information and access, and its special role in ensuring Geneva Conventions compliance. The manual stipulates: "The special position of the International Committee of the Red Cross in this field shall be recognized and respected at all times."[167] The Navy's operations handbook likewise authorizes the ICRC to monitor "the treatment of prisoners of war, interned civilians, and the inhabitants of occupied territory."[168] It describes the ICRC's special status and access to detainees:

> [The ICRC's] principal purpose is to provide protection and assistance to the victims of armed conflict. The Geneva Conventions recognize the special status of the ICRC and have assigned specific tasks for it to perform, including visiting and interviewing prisoners of war, providing relief to the civilian population of occupied territories, searching for information concerning missing persons, and offering its "good offices" to facilitate the establishment of hospital and safety zones.[169]

Army regulations make even more explicit the rights of detainees, both civilians and combatants, to contact the ICRC and ensure adequate access and disclosure. With respect to detained combatants, prisoner representatives have right to correspond with the ICRC.[170] Similar internee committees representing detained civilians also have rights to unlimited correspondence with the ICRC. "Members of the Internee Committee will be accorded postal and telegraphic facilities for communicating with . . . the International Committee of the Red Cross and its Delegates. . . . These communications will be unlimited."[171]

IV. The Purpose Behind the Law

It will reverse over a century of U.S. policy and practice in supporting the Geneva Conventions and undermine the protections of the law of war for our troops, both in this specific conflict and in general.

Secretary of State Colin Powell
Internal Memorandum on Effects of Disregarding Geneva Conventions in Afghanistan
January 26, 2002

Current U.S. detention and interrogation practices undermine both the protection of human rights, and U.S. national security interests. As described above, the United States has failed to meet its obligation to keep registers of all in custody, and to disclose the names of all individuals detained to their families and friends.[172] The United States has also failed to fulfill its obligation under longstanding U.S. policy and law to afford the ICRC unfettered access to all detainees held in the course of armed conflict.[173] And the United States has failed to afford every individual in its custody some recognized legal status – some human rights – under law.[174]

These laws were enacted in part to meet essential policy objectives. As we have seen vividly demonstrated in Abu Ghraib prison in Iraq, unregulated and unmonitored detention and interrogation practices invite torture and abuse. These abuses put the United States' own forces abroad at greater risk of the same kinds of torture. These illegal practices also seriously undermine the United States' ability to "win the hearts and minds" of the global community – a goal essential to defeating terrorism over the long term. This chapter discusses the basis for those concerns.

Current Practice Sets Conditions for Torture & Abuse

All I want to say is that there was "before" 9/11 and "after" 9/11. After 9/11 the gloves come off.

Former CIA Counterterrorism Director Cofer Black
Testimony to the Joint House and Select Intelligence Committee
September 26, 2002

When governments cloak detention in a veil of secrecy, by holding prisoners incommunicado or at undisclosed locations, the democratic system of public accountability cannot function. As former UN Special Rapporteur on Torture Nigel Rodley has written, the more hidden detention

practices there are, the more likely that "all legal and moral constraint on official behavior [will be] removed."[175]

These concerns have produced a series of international standards governing detention, expressed in the UN Standard Minimum Rules for the Treatment of Prisoners (Standard Minimum Rules) and the UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (Body of Principles). In order to maintain public accountability and minimize the chance for abuse, international law requires families to be notified of both arrest and detainee whereabouts.[176] For the same reason, governments must hold detainees only in publicly recognized detention centers and maintain updated registers of all prisoners.[177] By ensuring that state detention practices are subject to public scrutiny, these disclosure requirements constrain state violence and provide basic safeguards for prisoner treatment.

Without these protections, the safety and dignity of prisoners are left exclusively to the discretion of the detaining power – circumstances that have repeatedly produced brutal consequences. For instance, during Saddam Hussein's rule of Iraq, secrecy was an essential component of detention practices. Individuals were arbitrarily arrested; tracing their whereabouts was a virtual impossibility. As Amnesty International reported in 1994: "Usually families of the 'disappeared' remain[ed] ignorant of their fate until they [were] either released or confirmed to have been executed."[178] Thus, in the March 1991 uprising after the first Gulf War, "opposition forces broke into prisons and detentions centres" across northern and southern Iraq and released hundreds of prisoners "held in secret underground detention centres with no entrance or exit visible."[179]

The United States' own recent experiences in Iraq provide a more apt case in point. As widely publicized reports now make clear, U.S. detention officials have used various prohibited interrogation techniques on Iraqi prisoners, including manipulating detainees' diets, imposing prolonged isolation, using military dogs for intimidation, and forcing detainees to maintain "stress positions" for prolonged periods. These practices violate U.S. and international law,[180] and a thorough internal Army investigation report documenting their use circulated within the U.S. Government in February 2004. Yet according to press accounts, these practices continued "until a scandal erupted in May over photographs depicting abuse at the prison."[181]

Policies of secrecy and non-disclosure have also made subsequent investigations into wrong-doing – and efforts to hold violators accountable – more difficult. Investigations into reports of abuse and even deaths of detainees in custody have been scattered and insufficient.[182] For example, the *New York Times* has reported on two deaths in U.S. custody at Bagram Air Force that occurred in December 2002; according to the Times, the Army pathologist's report indicated the cause of death was "homicide," a result of "blunt force injuries to lower extremities complicating coronary artery disease." Despite multiple requests from Human Rights First and other human rights organizations, the Pentagon has refused to disclose any information on how, or even whether, it was investigating these deaths.[183] Recently leaked Army reports indicate that the investigation into the deaths continues, and that the crimes remain unsolved nearly a year and a half later.[184]

Such experiences give added import to international disclosure requirements regarding detention practices. They also make the failure of the United States to disclose detainees'

whereabouts or numbers particularly disconcerting. By keeping its practices hidden from view, the United States created conditions ripe for the torture and abuse now in evidence.

Current Practice Undermines Protections for Americans Abroad

It is critical to realize that the Red Cross and the Geneva Conventions do not endanger American soldiers, they protect them. Our soldiers enter battle with the knowledge that should they be taken prisoner, there are laws intended to protect them and impartial international observers to inquire after them.

Senator John McCain
Wall Street Journal Commentary
June 1, 2004

The United States' official compliance with the Geneva Conventions since World War II has been animated by several powerful concerns that remain equally important in the struggle against terror. First and foremost is the belief that American observance of rule-of-law protections drives our enemies to reciprocate in their treatment of American troops and civilians caught up in conflicts overseas. As the U.S. Senate recognized in ratifying the Conventions:

> If the end result [of ratification] is only to obtain for Americans caught in the maelstrom of war a treatment which is 10 percent less vicious than what they would receive without these conventions, if only a few score of lives are preserved because of the efforts at Geneva, then the patience and laborious work of all who contributed to that goal will not have been in vain.[185]

Secretary of State John Foster Dulles agreed that American "participation is needed to . . . enable us to invoke [the Geneva Conventions] for the protection of our nationals."[186] And Senator Mike Mansfield added that while American "standards are already high":

> The conventions point the way to other governments. Without any real cost to us, acceptance of the standards provided for prisoners of war, civilians, and wounded and sick will insure improvement of the condition of our own people.[187]

The fundamental self-interest behind ratification of the Geneva Conventions has proven effective in conflicts preceding the "war on terrorism." General Eisenhower, for example, explained that the Western Allies treated German prisoners in accordance with the principles of international humanitarian law because "the Germans had some thousands of American and British prisoners and I did not want to give Hitler the excuse or justification for treating our prisoners more harshly than he already was doing."[188]

During the Vietnam War, North Vietnam publicly asserted that all American POWs were war criminals, and hence not entitled to the protections of the Geneva Conventions.[189] Still, the United States applied the Geneva Conventions' principles to all enemy prisoners of war – both North Vietnamese regulars and Viet Cong – in part to try to ensure "reciprocal benefits for American captives."[190] U.S. military experts have made clear their belief that American adherence to the Geneva Conventions in Vietnam saved American lives:

> [A]pplying the benefits of the Convention to those combat captives held in South Vietnam did enhance the opportunity for survival of U.S. service members held by the

> Viet Cong and North Vietnamese. While the enemy never officially acknowledged the applicability of the Geneva Convention, and treatment of American POWs continued to be brutal, more U.S. troops were surviving capture. Gone were the days when an American advisor was beheaded, and his head displayed on a pole by the Viet Cong. On the contrary, the humane treatment afforded Viet Cong and North Vietnamese Army prisoners exerted constant pressure on the enemy to reciprocate, and the American POWs who came home in 1973 survived, at least in part, because of [that].[191]

The United States government's allegiance to basic international law obligations continued during the 1991 Gulf War, in which the United States armed forces readily afforded full protection under the Geneva Conventions to the more than 86,000 Iraqi POWs in its custody.[192]

It is in large measure for their effectiveness in protecting America's own that many former American prisoners of war today support the United States government's adherence to the principles of the Geneva Conventions that helped protect them. As Senator (and former prisoner of war) John McCain has explained:

> The Geneva Conventions and the Red Cross were created in response to the stark recognition of the true horrors of unbounded war. And I thank God for that. I am thankful for those of us whose dignity, health and lives have been protected by the Conventions . . . . I am certain we all would have been a lot worse off if there had not been the Geneva Conventions around which an international consensus formed about some very basic standards of decency that should apply even amid the cruel excesses of war.[193]

Senator McCain recently reaffirmed his belief that our failure to abide by our own obligations puts our troops in danger abroad: "While our intelligence personnel in Abu Ghraib may have believed that they were protecting U.S. lives by roughing up detainees to extract information, they have had the opposite effect. Their actions have increased the danger to American soldiers, in this conflict and in future wars."[194]

Commenting on recent events in the "war on terrorism," former U.S. Ambassador to Vietnam (and former prisoner of war) Pete Peterson agreed, explaining: "There can be no doubt that the Vietnamese while consistently denying any responsibility for carrying out the provisions of the Geneva Accords, nevertheless tended to follow those rules which resulted in many more of us returning home than would have otherwise been the case."[195]

Current Practice Undermines American "Soft Power" in the World

Detention can induce fear, isolation and hopelessness. . . .

Physicians for Human Rights
From *Persecution to Prison: The Health Consequences of Detention for Asylum Seekers*
June 2002

The United States' practices in its global network of detention facilities also has a deeply negative effect on the U.S. ability to combat the threat of terrorism. As national security experts have pointed out, military power is only one of a set of tools in the nation's toolbox to reduce the chances of more terrorist attacks on U.S. soil. Other critical tools – what some have called "soft power" – include diplomatic and economic measures, cultural and educational exchange,

and the ability to credibly leverage moral and popular authority.[196] This last tool depends critically on visible demonstration that the United States deeds match its words in supporting democracy and human rights.

The extent to which the United States' detention practices represent a failure in this regard is in painful evidence when one compares the Administration's statements to recent revelations about acts of torture by U.S. personnel:

- On March 23, 2003, after American soldiers were captured and abused in Iraq, the United States condemned Iraqi treatment of American prisoners as violating the Geneva Conventions and contrasted it to the United States' own treatment of prisoners it had taken. President Bush demanded that American prisoners "be treated humanely . . . just like we're treating the prisoners that we have captured humanely."[197]
- On March 23, 2003, Deputy Secretary of Defense Wolfowitz also invoked the Geneva Conventions when objecting to Iraqi treatment of U.S. prisoners: "We've seen those scenes on Al Jazeera that others have seen. We have reminded the Iraqis . . . that there are very clear obligations under the Geneva Convention to treat prisoners humanely . . . . We treat our own prisoners, and there are hundreds of Iraqi prisoners, extremely well."[198]
- On June 26, 2003, President Bush affirmed the United States' commitment not to torture security suspects or interrogate them in a manner that would constitute "cruel and unusual punishment."[199]
- On April 28, 2004, Supreme Court Justice Ruth Bader Ginsburg asked U.S. Deputy Solicitor General Paul Clement how the Court could be sure that government interrogators were not torturing detainees in U.S. custody. Clement insisted that the Court would just have to "trust the executive to make the kind of quintessential military judgments that are involved in things like that."[200]

The Administration's words are admirable. But the deeds resulting from its policies have engendered deep uncertainty, fear, and anger among the many in the Muslim world. As Brigadier General Mark Kimmitt, chief spokesman for the U.S. military in Iraq, recently acknowledged: "The evidence of abuse inside Abu Ghraib has shaken public opinion in Iraq to the point where it may be more difficult than ever to secure cooperation against the insurgency, that winning over Iraqis before the planned handover of some sovereign powers next month had been made considerably harder by the photos."[201]

The effect of U.S. secrecy and failure to communicate regarding policies of detention has deeply alienated the families of those detained. As the *New York Times* reported of some of the families of Iraqi detainees:

> Sabrea Kudi cannot find her son. He was taken by American soldiers nearly nine months ago, and there has been no trace of him since. "I'm afraid he's dead," Ms. Kudi said. Lara Waad cannot find her husband. He was arrested in a raid, too. "I had God – and I had him," she said. "Now I am alone." . . . . Ms. Kudi, whose son, Muhammad, was detained nearly nine months ago, has been to Abu Ghraib more than 20 times. The huge prison is the center of her continuing odyssey through military bases, jails, assistance

> centers, hospitals and morgues. She said she had been shoved by soldiers and chased by dogs. "If they want to kill me, kill me," Ms. Kudi said. "Just give me my son."[202]

Recent polls by the Coalition Provisional Authority show that about 80 percent of Iraqis view U.S. troops unfavorably. More significant, Muslim clerics now regularly rail against the United States for the abuse of Iraqi captives at Abu Ghraib prison. As one Muslim preacher was recently quoted saying: "No one can ask them what they are doing, because they are protected by their freedom. . . . No one can punish them, whether in our country or their country. The worst thing is what was discovered in the course of time: abusing women, children, men, and the old men and women whom they arrested randomly and without any guilt. They expressed the freedom of rape, the freedom of nudity and the freedom of humiliation."[203]

Finally, U.S. policies that promote secrecy and lack of accountability have encouraged authoritarian regimes around the globe to commit abuses in the name of counterterrorism – abuses that undermine efforts to promote democracy and human rights. These regimes self-consciously invoke the very language the United States uses to justify such security policies in order to suppress lawful dissent and quell political opposition in their own countries. To cite a few examples:

- In Egypt (where President Mubarak has endorsed a diminished post-September 11 concept of the "freedom of the individual");
- In Liberia (where former President Taylor ordered a critical journalist declared an "enemy combatant"; the journalist was subsequently jailed and tortured);
- In Zimbabwe (where President Mugabe, while voicing agreement with the Bush Administration's policies in the "war on terrorism," declared foreign journalists and others critical of his regime "terrorists" and suppressed their work);
- In Eritrea (where the governing party arrested 11 political opponents, has held them incommunicado and without charge, and defended its actions as being consistent with United States actions after September 11); and
- In China (where the Chinese government charged a peaceful political activist with terrorism and sentenced him to life in prison, leading the U.S. State Department to note "with particular concern the charge of terrorism in this case, given the apparent lack of evidence [and] due process").[204]

The United States is losing the critical moral high ground that is essential to achieving success against terror; we are now used as an example of unchecked government power by the most repressive regimes in the world.

V. Ending Secret Detentions

The revelations that have emerged about U.S. policy and practice of detention and interrogation in the "war on terrorism" are deeply disturbing. While the United States of course has legitimate interests in keeping some information secret, there is no legitimate security interest in failing to provide a baseline accounting to Congress, the ICRC, and the families of those detained of the number, nationality, legal status, and general location of all those the United States currently holds.

Human Rights First thus calls on the Bush Administration to take the following critical steps:

1. Disclose to Congress and the ICRC the location of all U.S.-controlled detention facilities worldwide, and provide a regular accounting of: the number of detainees, their nationality, and the legal basis on which they are being held.
2. Order a thorough, comprehensive, and independent investigation of all U.S.-controlled detention facilities, and submit the findings of the investigation to Congress.
3. Take all necessary steps to inform the immediate families of those detained of their loved ones' capture, location, legal status, and condition of health.
4. Immediately grant the ICRC unrestricted access to all detainees being held by the United States in the course of the global "war on terrorism."
5. Publicly reject assertions by Administration lawyers that domestic and international prohibitions on torture and cruelty do not apply to the President in the exercise of his commander-in-chief authority.
6. Investigate and prosecute all those who carried out acts of torture and other cruel, inhuman or degrading treatment in violation of U.S. and international law, as well as those officials who ordered, approved or tolerated these acts.
7. Publicly disclose the status of all pending investigations into allegations of mistreatment of detainees and detainee deaths in custody.

VI. Partial List of Letters and Inquiries by Human Rights First Since June 2003

1. June 8, 2004, Human Rights Executive Directors Working Group letter to Senators, re: calling for support of amendment proposed by Senator Durbin reiterating the United States' commitment to the Convention Against Torture.
2. June 4, 2004, Human Rights First letter to John Ashcroft, Attorney General, re: calling for expeditious investigation and prosecution of those responsible for abuses at Abu Ghraib.
3. June 2, 2004, Human Rights First letter to P. Mathew Gillen, Director of Consular Affairs, Saudi Arabia, re: status of Ahmed Abu Ali, U.S. citizen detained in Saudi Arabia.
4. May 13, 2004, Human Rights First letter to Donald H. Rumsfeld, Secretary of Defense, re: disclosure of information regarding location of detentions.
5. May 7, 2004, Human Rights Executive Directors Working Group letter to President George W. Bush, re: abuses at Abu Ghraib.
6. December 16, 2003, Human Rights First letter to Brigadier General Thomas L. Hemingway, Legal Advisor to the Appointing Authority, Office of Military Commissions, re: access to military commissions.
7. November 17, 2003, Human Rights Executive Directors Working Group letter to Colin L. Powell, Secretary of State, re: calling for investigation into the case of Maher Arar.
8. November 17, 2003, Human Rights Executive Directors Working Group letter to Condoleezza Rice, National Security Advisor to the President, re: calling for investigation into the case of Maher Arar.
9. November 17, 2003, Human Rights Executive Directors Working Group letter to William J. Haynes II, General Counsel, Department of Defense, re: calling for investigation into the case of Maher Arar.
10. November 12, 2003, Human Rights First letter to Lieutenant General John R. Vines, U.S. Commander in Afghanistan, re: status of military investigations into deaths at Bagram Air Base.
11. June 25, 2003, Human Rights First letter to Major General John R. Vines, U.S. Commander in Afghanistan, re: status of military investigations into deaths at Bagram Air Base.

12. June 18, 2003, Human Rights First letter to William J. Haynes II, General Counsel, Department of Defense, re: access to military commissions.

Endnotes

1 Oral Argument at 23, Rumsfeld v. Padilla, 124 S.Ct. 1904, 72 USLW 3656 (2004) (No. 03-1027).

2 Human Rights First, *Assessing the New Normal: Liberty and Security for the Post –September 11 United States,*(2003), p. 83; Human Rights Watch, "Enduring Freedom: Abuses by U.S. Forces in Afghanistan," March 8, 2004, available at http://hrw.org/reports/2004/afghanistan0304/ (accessed June 6, 2004); Pamela Hess, "Rumsfeld Approves Interrogation Procedures," *United Press International*, May 20, 2004, Douglas Jehl and Andrea Elliott, "Cuba Base Sent Its Interrogators To Iraqi Prison," *New York Times*, May 29, 2004; David Johnston and Thom Shanker, "Pentagon Approved Intense Interrogation Techniques for Sept. 11 Suspect at Guantanamo," *New York Times*, May 21, 2004; "Interrogations Led to Afghan, Iraqi Deaths," *United Press International*, May 24, 2004; Douglas Jehl and David Rohde, "Abu Ghraib unit is linked to Afghan prisoner deaths, Bagram detainees describe similar treatment," *International Herald Tribune*, May 25, 2004. For example, the death of two men in custody at the U.S. Air Force Base at Bagram, Afghanistan, in December 2002, and the lack of public information on the internal investigation raised concerns about the government's mistreatment of detainees. Mullah Habibullah and Dilawar (identified by only one name), were determined to have suffered from "blunt force injuries" and their deaths were classified as "homicides" by Department of Defense pathologists. *See e.g.*, Duncan Campbell, "Afghan Prisoners Beaten to Death at U.S. Military Interrogation Base," *Guardian* March 7, 2003, Marc Kaufman, "Army Probing Deaths of Two Afghan Prisoners," *Washington Post*, March 5, 2003. Despite a letter by Human Rights First to Lieutenant General John R. Vines as recently as November 2003, there has been no public disclosure of the status of the investigations into Mr. Habibullah and Dilawar's deaths. In addition, detainees released from Bagram report being sleep deprived through use of bright lights and kicking by officials, being placed in painful positions for long periods of time, prolonged hooding, and painful shackling. Moazzem Begg, a British national, wrote in a letter home of being hungry and unable to sleep because of the bright lights. Paul Harris and Burhan Wazir, "Briton tells of ordeal in Bush's torture jail," *Guardian*, December 29, 2002. Haji Osman, a released Guantanamo detainee who was first held in Bagram, witnessed detainees being made to stand for two hours as punishment. Others, he said, were kept alone in cells and allowed minimal contact with other detainees. Amy Waldman, "Guantanamo and Jailers: Mixed Review by Detainees," *New York Times*, March 17, 2004. Muhammad Sidiq, also released from Guantanamo spoke of being beaten at Bagram and Guantanamo. He said: "They started covering our faces and they started beating us on our head and giving electric shock." *Ibid.*

3 See, e.g., Jon Manuel, "US hides high-profile prisoners," *BBC News*, May 21, 2004, available at http://news.bbc.co.uk/1/hi/world/americas/3736157.stm (accessed June 11, 2004); James Risen, David Johnston and Neil A. Lewis, "Harsh C.I.A. Methods Cited in Top Qaeda Interrogations," *New York Times*, May 13, 2004.

4 Human Rights First telephone interview, Colonel Johnson, Duty Officer, Department of Defense, June 11, 2004.

5 Human Rights First telephone interview with Capt. Bruce Frame, CENTCOM Office of Public Affairs, June 7, 2004. CENTCOM is one of nine Unified Combatant Commands with operational control of U.S. combat forces; its area of responsibility includes Egypt, Iran, Iraq, Jordan, Lebanon, Syria, Yemen, Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, United Arab Emirates, Djibouti, Eritrea, Ethiopia, Kenya, Somalia, Sudan, Seychelles, Iran, Pakistan, Afghanistan, Kyrgyzstan, Kazakhstan, Turkmenistan, and Uzbekistan. United States Central Command: Area of Responsibility, available at http://www.centcom.mil/aboutus/aor.htm (accessed June 10, 2004).

6 International Committee of the Red Cross, Operational Update: "U.S. detention related to the events of 11 September 2001 and its aftermath - the role of the ICRC," May 14, 2004, available at http://www.icrc.org/Web/eng/siteeng0.nsf/iwpList454/73596F146DAB1A08C1256E9400469F48. ("The ICRC is especially concerned about the fact that the US detains an unknown number of people outside any legal framework. Many of those captured in the context of the so-called War on Terror are being held at US detention facilities in Bagram, Afghanistan and in Guantanamo Bay, Cuba. A small number of persons are furthermore detained in Charleston, USA. According to public statements by official US sources, a number of detainees are also being held incommunicado at undisclosed locations. The ICRC has been visiting detainees in Bagram and Guantanamo Bay, as well as in Charleston. The ICRC has also repeatedly appealed to the American authorities for access to people detained in undisclosed locations.")

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8 Steven Lee Myers and Eric Schmitt, "Abuse Inquiries Seen As Leaving Significant Gaps," *New York Times*, June 6, 2004, available at http://www.nytimes.com/2004/06/06/international/middleeast/06ABUS.html?hp=&pagewanted=all&position (accessed June 6, 2004).

9 *See, e.g.*, Dep't of Defense, "Working Group Report on Detainee Interrogations in the Global War on Terrorism: Assessment of Legal, Historical, Policy, and Operational Considerations," March 6, 2003; Memo from William H. Taft, IV, Legal Adviser, Department of State, "Comments on Your Paper on the Geneva Convention," February 2, 2002; Memo from Albert Gonzales, Counsel to President, "Decision Re Application of the Geneva Convention on Prisoners of War to the Conflict with Al Qaeda and the Taliban," January 25, 2002: Memo from Robert J. Delahunty, Special Counsel, and John Yoo, Deputy Assistant Attorney General, "Application of Treaties and Laws to al Qaeda and Taliban Detainees," January 9, 2002; Memo from Patrick F. Philbin, Deputy Assistant Attorney General, and John C. Yoo, Deputy Assistant Attorney General, "Possible Habeas Jurisdiction over Aliens Held in Guantanamo Bay, Cuba," December 28, 2001.

10 *See, e.g.*, Report of the International Committee of the Red Cross On The Treatment By The Coalition Forces Of Prisoners Of War And Other Protected Persons By The Geneva Conventions In Iraq During Arrest, Internment And Interrogation, February 2004, Section 1.1.9, available at http://www.globalsecurity.org/military/library/report/2004/icrc_report_iraq_feb2004.htm [hereinafter "ICRC Iraq Report"] (discussing the U.S. government's failure to adequately maintain the system of capture cards, legally mandated under the Geneva Conventions) ("Since March 2003 capture cards have often been filled out carelessly, resulting in unnecessary delays of several weeks or months before families were notified, and sometimes resulting in no notification at all. . . . The ICRC has raised this issue repeatedly with the detaining authorities since March 2003, including at the highest levels of the CF in August 2003.").

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34 International Committee of the Red Cross, "US detention related to the events of 11 September 2001 and its aftermath - the role of the ICRC," May 14, 2004, available at http://www.icrc.org/Web/Eng/siteeng0.nsf/html/5YYH5X.

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202 *Jeffrey Gettleman, "The Struggle for Iraq: The Detainees," New York. Times*, March 9, 2004, at A1.

203 Edward Cody, "Iraqis Put Contempt For Troops On Display," *Washington Post*, June 12, 2004, at A1 (quoting Sheik Mohammed Bashir at the Sunni Muslim mosque, Um al-Oura), available at http://www.washingtonpost.com/ac2/wp-dyn/A35558-2004Jun11?language=printer.

204 *See* Lawyers Committee for Human Rights, *Assessing the New Normal: Liberty and Security for the Post-September 11 United States*, at 77-80 (Fiona Doherty & Deborah Pearlstein, eds. 2003).

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Final Report of the Independent Panel To Review DoD Detention Operations

August 2004

Independent Panel to Review DoD Detention Operations

Chairman

The Honorable James R. Schlesinger

Panel Members

The Honorable Harold Brown

The Honorable Tillie K. Fowler

General Charles A. Horner (USAF-RET)

Executive Director

Dr. James A. Blackwell, Jr.

INDEPENDENT PANEL TO REVIEW DOD DETENTION OPERATIONS

CHAIRMAN
THE HONORABLE JAMES R. SCHLESINGER

PANEL MEMBERS
THE HONORABLE HAROLD BROWN
THE HONORABLE TILLIE K. FOWLER
GENERAL CHARLES A. HORNER (USAF-RET.)

EXECUTIVE DIRECTOR
DR. JAMES A. BLACKWELL, JR.

August 24, 2004

To U.S. Secretary of Defense Donald Rumsfeld

We, the appointed members of the Independent Panel to Review DoD Detention Operations, pursuant to our charter do hereby submit the results of our findings and offer our best recommendations.

Sincerely,

The Honorable James R. Schlesinger
Chairman

The Honorable Harold Brown
Panel Member

The Honorable Tillie K. Fowler
Panel Member

General Charles A. Horner
(USAF –Ret.)
Panel Member

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The Independent Panel to Review Department of Defense Detention Operations

August 2004

Table of Contents

Table of Appendices

Executive Summary

OVERVIEW

The events of October through December 2003 on the night shift of Tier 1 at Abu Ghraib prison were acts of brutality and purposeless sadism. We now know these abuses occurred at the hands of both military police and military intelligence personnel. The pictured abuses, unacceptable even in wartime, were not part of authorized interrogations nor were they even directed at intelligence targets. They represent deviant behavior and a failure of military leadership and discipline. However, we do know that some of the egregious abuses at Abu Ghraib which were not photographed did occur during interrogation sessions and that abuses during interrogation sessions occurred elsewhere.

In light of what happened at Abu Ghraib, a series of comprehensive investigations has been conducted by various components of the Department of Defense. Since the beginning of hostilities in Afghanistan and Iraq, U.S. military and security operations have apprehended about 50,000 individuals. From this number, about 300 allegations of abuse in Afghanistan, Iraq or Guantanamo have arisen. As of mid-August 2004, 155 investigations into the allegations have been completed, resulting in 66 substantiated cases. Approximately one-third of these cases occurred at the point of capture or tactical collection point, frequently under uncertain, dangerous and violent circumstances.

Abuses of varying severity occurred at differing locations under differing circumstances and context. They were widespread and, though inflicted on only a small percentage of those detained, they were serious both in number and in effect. No approved procedures called for or allowed the kinds of abuse that in fact occurred. There is no evidence of a policy of abuse promulgated by senior officials or military authorities. Still, the abuses were not just the failure of some individuals to follow known standards, and they are more than the failure of a few leaders to enforce proper discipline. There is both institutional and personal responsibility at higher levels.

Secretary of Defense Donald Rumsfeld appointed the members of the Independent Panel to provide independent professional advice on detainee abuses, what caused them and what actions should be taken to preclude their repetition. The Panel reviewed various criminal investigations and a number of command and other major investigations. The Panel also conducted interviews of relevant persons, including the Secretary and Deputy Secretary of Defense, other senior Department of Defense officials, the military chain-of-command and their staffs and other officials directly and indirectly involved with Abu Ghraib and other detention operations. However, the Panel did not have full access to information involving the role of the Central Intelligence Agency in detention operations; this is an area the Panel believes needs further investigation and review. It should be noted that information provided to the Panel was that available as of mid-August 2004. If additional information becomes available, the Panel's judgments might be revised.

POLICY

With the events of September 11, 2001, the President, the Congress and the American people recognized we were at war with a different kind of enemy. The terrorists who flew airliners into the World Trade Center and the Pentagon were unlike enemy combatants the U.S. has fought in previous conflicts. Their objectives, in fact, are to kill large numbers of civilians and to strike at the heart of America's political cohesion and its economic and military might. In the days and weeks after the attack, the President and his closest advisers developed policies and strategies in response. On September 18, 2001, by a virtually unanimous vote, Congress passed an Authorization for Use of Military Force. Shortly thereafter, the U.S. initiated hostilities in Afghanistan and the first detainees were held at Mazar-e-Sharrif in November 2001.

On February 7, 2002, the President issued a memorandum stating that he determined the Geneva Conventions did not apply to the conflict with al Qaeda, and although they did apply in the conflict with Afghanistan, the Taliban were unlawful combatants and

therefore did not qualify for prisoner of war status (see Appendix C). Nonetheless, the Secretary of State, Secretary of Defense, and the Chairman of the Joint Chiefs of Staff were all in agreement that treatment of detainees should be consistent with the Geneva Conventions. The President ordered accordingly that detainees were to be treated ". . . humanely and, to the extent appropriate and consistent with military necessity, in a manner consistent with the principles of Geneva." Earlier, the Department of State had argued the Geneva Conventions in their traditional application provided a sufficiently robust legal construct under which the Global War on Terror could effectively be waged. The Legal Advisor to the Chairman, Joint Chiefs of Staff, and many of the military service attorneys agreed with this position.

In the summer of 2002, the Counsel to the President queried the Department of Justice Office of Legal Counsel (OLC) for an opinion on the standards of conduct for interrogation operations conducted by U.S. personnel outside of the U.S. and the applicability of the Convention Against Torture. The OLC responded in an August 1, 2002 opinion in which it held that in order to constitute torture, an act must be specifically intended to inflict severe physical or mental pain and suffering that is difficult to endure.

Army Field Manual 34-52 (FM 34-52), with its list of 17 authorized interrogation methods, has long been the standard source for interrogation doctrine within the Department of Defense (see Appendix D). In October 2002, authorities at Guantanamo requested approval of stronger interrogation techniques to counter tenacious resistance by some detainees. The Secretary of Defense responded with a December 2, 2002 decision authorizing the use of 16 additional techniques at Guantanamo (see Appendix E). As a result of concerns raised by the Navy General Counsel on January 15, 2003, Secretary Rumsfeld rescinded the majority of the approved measures in the December 2, 2002 authorization. Moreover, he directed the remaining more aggressive techniques could be used only with his approval (see Appendix D).

At the same time, he directed the Department of Defense (DoD) General Counsel to establish a working group to study interrogation techniques. The Working Group was headed by Air Force General Counsel Mary Walker and included wide membership from across the military legal and intelligence communities. The Working Group also relied heavily on the OLC. The Working Group reviewed 35 techniques and after a very extensive debate ultimately recommended 24 to the Secretary of Defense. The study led to the Secretary of Defense's promulgation on April 16, 2003 of a list of approved techniques strictly limited for use at Guantanamo. This policy remains in force at Guantanamo (see Appendix E).

In the initial development of these Secretary of Defense policies, the legal resources of the Services' Judge Advocates General and General Counsels were not utilized to their full potential. Had the Secretary of Defense had a wider range of legal opinions and a more robust debate regarding detainee policies and operations, his policy of April 16, 2003 might well have been developed and issued in early December 2002. This would have avoided the policy changes which characterized the Dec 02, 2002 to April 16, 2003 period.

It is clear that pressures for additional intelligence and the more aggressive methods sanctioned by the Secretary of Defense memorandum, resulted in stronger interrogation techniques that were believed to be needed and appropriate in the treatment of detainees defined as "unlawful combatants." At Guantanamo, the interrogators used those additional techniques with only two detainees, gaining important and time-urgent information in the process.

In Afghanistan, from the war's inception through the end of 2002, all forces used FM 34-52 as a baseline for interrogation techniques. Nonetheless, more aggressive interrogation of detainees appears to have been on-going. On January 24, 2003, in response to a data call from the Joint Staff to facilitate the Working Group efforts, the Commander Joint Task Force-180 forwarded a list of techniques being used in

Afghanistan, including some not explicitly set out in FM 34-52. These techniques were included in a Special Operation Forces (SOF) Standard Operating Procedures document published in February 2003. The 519th Military Intelligence Battalion, a company of which was later sent to Iraq, assisted in interrogations in support of SOF and was fully aware of their interrogation techniques.

Interrogators and lists of techniques circulated from Guantanamo and Afghanistan to Iraq. During July and August 2003, the 519th Military Intelligence Company was sent to the Abu Ghraib detention facility to conduct interrogation operations. Absent any explicit policy or guidance, other than FM 34-52, the officer in charge prepared draft interrogation guidelines that were a near copy of the Standard Operating Procedure created by SOF. It is important to note that techniques effective under carefully controlled conditions at Guantanamo became far more problematic when they migrated and were not adequately safeguarded.

Following a CJTF-7 request, Joint Staff tasked SOUTHCOM to send an assistance team to provide advice on facilities and operations, specifically related to screening, interrogations, HUMINT collection, and inter-agency integration in the short and long term. In August 2003, MG Geoffrey Miller arrived to conduct an assessment of DoD counter-terrorism interrogation and detention operations in Iraq. He was to discuss current theater ability to exploit internees rapidly for actionable intelligence. He brought the Secretary of Defense's April 16, 2003 policy guidelines for Guantanamo with him and gave this policy to CJTF-7 as a possible model for the command-wide policy that he recommended be established. MG Miller noted that it applied to unlawful combatants at Guantanamo and was not directly applicable to Iraq where the Geneva Conventions applied. In part as a result of MG Miller's call for strong, command-wide interrogation policies and in part as a result of a request for guidance coming up from the 519th at Abu Ghraib, on September 14, 2003 LTG Sanchez signed a memorandum authorizing a dozen interrogation techniques beyond Field Manual 34-52—five beyond those approved for Guantanamo (see Appendix D).

MG Miller had indicated his model was approved only for Guantanamo. However, CJTF-7, using reasoning from the President's Memorandum of February 7, 2002 which addressed "unlawful combatants," believed additional, tougher measures were warranted because there were "unlawful combatants" mixed in with Enemy Prisoners of War and civilian and criminal detainees. The CJTF-7 Commander, on the advice of his Staff Judge Advocate, believed he had the inherent authority of the Commander in a Theater of War to promulgate such a policy and make determinations as to the categorization of detainees under the Geneva Conventions. CENTCOM viewed the CJTF-7 policy as unacceptably aggressive and on October 12, 2003 Commander CJTF-7 rescinded his September directive and disseminated methods only slightly stronger than those in Field Manual 34-52 (see Appendix D). The policy memos promulgated at the CJTF-7 level allowed for interpretation in several areas and did not adequately set forth the limits of interrogation techniques. The existence of confusing and inconsistent interrogation technique policies contributed to the belief that additional interrogation techniques were condoned.

DETENTION AND INTERROGATION OPERATIONS

From his experience in Guantanamo, MG Miller called for the military police and military intelligence soldiers to work cooperatively, with the military police "setting the conditions" for interrogations. This MP role included passive collection on detainees as well as supporting incentives recommended by the military interrogators. These collaborative procedures worked effectively in Guantanamo, particularly in light of the high ratio of approximately 1 to 1 of military police to mostly compliant detainees. However, in Iraq and particularly in Abu Ghraib the ratio of military police to repeatedly unruly detainees was significantly smaller, at one point 1 to about 75 at Abu Ghraib, making it difficult even to keep track of prisoners. Moreover, because Abu Ghraib was located in a combat zone, the military police were engaged in force protection of the complex as well as escorting convoys of supplies to and from the prison. Compounding

these problems was the inadequacy of leadership, oversight and support needed in the face of such difficulties.

At various times, the U.S. conducted detention operations at approximately 17 sites in Iraq and 25 sites in Afghanistan, in addition to the strategic operation at Guantanamo. A cumulative total of 50,000 detainees have been in the custody of U.S. forces since November 2001, with a peak population of 11,000 in the month of March 2004.

In Iraq, there was not only a failure to plan for a major insurgency, but also to quickly and adequately adapt to the insurgency that followed after major combat operations. The October 2002 CENTCOM War Plan presupposed that relatively benign stability and security operations would precede a handover to Iraq's authorities. The contingencies contemplated in that plan included sabotage of oil production facilities and large numbers of refugees generated by communal strife.

Major combat operations were accomplished more swiftly than anticipated. Then began a period of occupation and an active and growing insurgency. Although the removal of Saddam Hussein was initially welcomed by the bulk of the population, the occupation became increasingly resented. Detention facilities soon held Iraqi and foreign terrorists as well as a mix of Enemy Prisoners of War, other security detainees, criminals and undoubtedly some accused as a result of factional rivalries. Of the 17 detention facilities in Iraq, the largest, Abu Ghraib, housed up to 7,000 detainees in October 2003, with a guard force of only about 90 personnel from the 800th Military Police Brigade. Abu Ghraib was seriously overcrowded, under-resourced, and under continual attack. Five U.S. soldiers died as a result of mortar attacks on Abu Ghraib. In July 2003, Abu Ghraib was mortared 25 times; on August 16, 2003, five detainees were killed and 67 wounded in a mortar attack. A mortar attack on April 20, 2004 killed 22 detainees.

Problems at Abu Ghraib are traceable in part to the nature and recent history of the military police and military intelligence units at Abu Ghraib. The 800th Military Police

Brigade had one year of notice to plan for detention operations in Iraq. Original projections called for approximately 12 detention facilities in non-hostile, rear areas with a projection of 30,000 to 100,000 Enemy Prisoners of War. Though the 800th had planned a detention operations exercise for the summer of 2002, it was cancelled because of the disruption in soldier and unit availability resulting from the mobilization of Military Police Reserves following 9/11. Although its readiness was certified by U.S. Army Forces Command, actual deployment of the 800th Brigade to Iraq was chaotic. The "Time Phased Force Deployment List," which was the planned flow of forces to the theater of operations, was scrapped in favor of piecemeal unit deployment orders based on actual unit readiness and personnel strength. Equipment and troops regularly arrived out of planned sequence and rarely together. Improvisation was the order of the day. While some units overcame these difficulties, the 800th was among the lowest in priority and did not have the capability to overcome the shortfalls it confronted.

The 205th MI Brigade, deployed to support Combined Joint Task Force-7 (CJTF-7), normally provides the intelligence capability for a Corps Headquarters. However, it was insufficient to provide the kind of support needed by CJTF-7, especially with regard to interrogators and interpreters. Some additional units were mobilized to fill in the gaps, but while these MI units were more prepared than their military police counterparts, there were insufficient numbers of units available. Moreover, unit cohesion was lacking because elements of as many as six different units were assigned to the interrogation mission at Abu Ghraib. These problems were heightened by friction between military intelligence and military police personnel, including the brigade commanders themselves.

ABUSES

As of the date of this report, there were about 300 incidents of alleged detainee abuse across the Joint Operations Areas. Of the 155 completed investigations, 66 have resulted in a determination that detainees under the control of U.S. forces were abused. Dozens of

non-judicial punishments have already been awarded. Others are in various stages of the military justice process.

Of the 66 already substantiated cases of abuse, eight occurred at Guantanamo, three in Afghanistan and 55 in Iraq. Only about one-third were related to interrogation, and two-thirds to other causes. There were five cases of detainee deaths as a result of abuse by U.S. personnel during interrogations. Many more died from natural causes and enemy mortar attacks. There are 23 cases of detainee deaths still under investigation; three in Afghanistan and 20 in Iraq. Twenty-eight of the abuse cases are alleged to include Special Operations Forces (SOF) and, of the 15 SOF cases that have been closed, ten were determined to be unsubstantiated and five resulted in disciplinary action. The Jacoby review of SOF detention operations found a range of abuses and causes similar in scope and magnitude to those found among conventional forces.

The aberrant behavior on the night shift in Cell Block 1 at Abu Ghraib would have been avoided with proper training, leadership and oversight. Though acts of abuse occurred at a number of locations, those in Cell Block 1 have a unique nature fostered by the predilections of the noncommissioned officers in charge. Had these noncommissioned officers behaved more like those on the day shift, these acts, which one participant described as "just for the fun of it," would not have taken place.

Concerning the abuses at Abu Ghraib, the impact was magnified by the fact the shocking photographs were aired throughout the world in April 2004. Although CENTCOM had publicly addressed the abuses in a press release in January 2004, the photographs remained within the official criminal investigative process. Consequently, the highest levels of command and leadership in the Department of Defense were not adequately informed nor prepared to respond to the Congress and the American public when copies were released by the press.

POLICY AND COMMAND RESPONSIBILITIES

Interrogation policies with respect to Iraq, where the majority of the abuses occurred, were inadequate or deficient in some respects at three levels: Department of Defense, CENTCOM/CJTF-7, and Abu Ghraib Prison. Policies to guide the demands for actionable intelligence lagged behind battlefield needs. As already noted, the changes in DoD interrogation policies between December 2, 2002 and April 16, 2003 were an element contributing to uncertainties in the field as to which techniques were authorized. Although specifically limited by the Secretary of Defense to Guantanamo, and requiring his personal approval (given in only two cases), the augmented techniques for Guantanamo migrated to Afghanistan and Iraq where they were neither limited nor safeguarded.

At the operational level, in the absence of specific guidance from CENTCOM, interrogators in Iraq relied on Field Manual 34-52 and on unauthorized techniques that had migrated from Afghanistan. On September 14, 2003 CJTF-7 signed the theater's first policy on interrogation, which contained elements of the approved Guantanamo policy and elements of the SOF policy (see Appendix D). Policies approved for use on al Qaeda and Taliban detainees, who were not afforded the protection of the Geneva Conventions, now applied to detainees who did fall under the Geneva Convention protections.

CENTCOM disapproved the September 14, 2003 policy, resulting in another policy signed on October 12, 2003 which essentially mirrored the outdated 1987 version of the FM 34-52 (see Appendix D). The 1987 version, however, authorized interrogators to control all aspects of the interrogation, "to include lighting and heating, as well as food, clothing, and shelter given to detainees." This was specifically left out of the current 1992 version. This clearly led to confusion on what practices were acceptable. We cannot be sure how much the number and severity of abuses would have been curtailed

had there been early and consistent guidance from higher levels. Nonetheless, such guidance was needed and likely would have had a limiting effect.

At the tactical level we concur with the Jones/Fay investigation's conclusion that military intelligence personnel share responsibility for the abuses at Abu Ghraib with the military police soldiers cited in the Taguba investigation. The Jones/Fay Investigation found 44 alleged instances of abuse, some which were also considered by the Taguba report. A number of these cases involved MI personnel directing the actions of MP personnel. Yet it should be noted that of the 66 closed cases of detainee abuse in Guantanamo, Afghanistan and Iraq cited by the Naval Inspector General, only one-third were interrogation related.

The Panel concurs with the findings of the Taguba and Jones investigations that serious leadership problems in the 800th MP Brigade and 205th MI Brigade, to include the 320th MP Battalion Commander and the Director of the Joint Debriefing and Interrogation Center (JDIC), allowed the abuses at Abu Ghraib. The Panel endorses the disciplinary actions taken as a result of the Taguba Investigation. The Panel anticipates that the Chain of Command will take additional disciplinary action as a result of the referrals of the Jones/Fay investigation.

We believe LTG Sanchez should have taken stronger action in November when he realized the extent of the leadership problems at Abu Ghraib. His attempt to mentor BG Karpinski, though well-intended, was insufficient in a combat zone in the midst of a serious and growing insurgency. Although LTG Sanchez had more urgent tasks than dealing personally with command and resource deficiencies at Abu Ghraib, MG Wojdakowski and the staff should have seen that urgent demands were placed to higher headquarters for additional assets. We concur with the Jones findings that LTG Sanchez and MG Wojdakowski failed to ensure proper staff oversight of detention and interrogation operations.

We note, however, in terms of its responsibilities, CJTF-7 was never fully resourced to meet the size and complexity of its mission. The Joint Staff, CJTF-7 and CENTCOM took too long to finalize the Joint Manning Document (JMD). It was not finally approved until December 2003, six months into the insurgency. At one point, CJTF-7 had only 495 of the 1,400 personnel authorized. The command was burdened with additional complexities associated with its mission to support the Coalition Provisional Authority.

Once it became clear in the summer of 2003 that there was a major insurgency growing in Iraq, with the potential for capturing a large number of enemy combatants, senior leaders should have moved to meet the need for additional military police forces. Certainly by October and November when the fighting reached a new peak, commanders and staff from CJTF-7 all the way to CENTCOM to the Joint Chiefs of Staff should have known about and reacted to the serious limitations of the battalion of the 800th Military Police Brigade at Abu Ghraib. CENTCOM and the JCS should have at least considered adding forces to the detention/interrogation operation mission. It is the judgment of this panel that in the future, considering the sensitivity of this kind of mission, the OSD should assure itself that serious limitations in detention/interrogation missions do not occur.

Several options were available to Commander CENTCOM and above, including reallocation of U.S. Army assets already in the theater, Operational Control (OPCON) of other Service Military Police units in theater, and mobilization and deployment of additional forces from the continental United States. There is no evidence that any of the responsible senior officers considered any of these options. What could and should have been done more promptly is evidenced by the fact that the detention/interrogation operation in Iraq is now directed by a Major General reporting directly to the Commander, Multi-National Forces Iraq (MNFI). Increased units of Military Police, fully manned and more appropriately equipped, are performing the mission once assigned to a single under-strength, poorly trained, inadequately equipped and weakly-led brigade.

In addition to the already cited leadership problems in the 800th MP Brigade, there were a series of tangled command relationships. These ranged from an unclear military intelligence chain of command, to the Tactical Control (TACON) relationship of the 800th with CJTF-7 which the Brigade Commander apparently did not adequately understand, and the confusing and unusual assignment of MI and MP responsibilities at Abu Ghraib. The failure to react appropriately to the October 2003 ICRC report, following its two visits to Abu Ghraib, is indicative of the weakness of the leadership at Abu Ghraib. These unsatisfactory relationships were present neither at Guantanamo nor in Afghanistan.

RECOMMENDATIONS

Department of Defense reform efforts are underway and the Panel commends these efforts. They are discussed in more detail in the body of this report. The Office of the Secretary of Defense, the Joint Chiefs of Staff and the Military Services are conducting comprehensive reviews on how military operations have changed since the end of the Cold War. The Military Services now recognize the problems and are studying force compositions, training, doctrine, responsibilities and active duty/reserve and guard/contractor mixes which must be adjusted to ensure we are better prepared to succeed in the war on terrorism. As an example, the Army is currently planning and developing 27 additional MP companies.

The specific recommendations of the Independent Panel are contained in the Recommendations section, beginning on page 87.

CONCLUSION

The vast majority of detainees in Guantanamo, Afghanistan and Iraq were treated appropriately, and the great bulk of detention operations were conducted in compliance with U.S. policy and directives. They yielded significant amounts of actionable intelligence for dealing with the insurgency in Iraq and strategic intelligence of value in the Global War on Terror. For example, much of the information in the recently released 9/11 Commission's report, on the planning and execution of the attacks on the World Trade Center and Pentagon, came from interrogation of detainees at Guantanamo and elsewhere.

Justice Sandra Day O'Connor, writing for the majority of the Supreme Court of the United States in *Hamdi v. Rumsfeld* on June 28, 2004, pointed out that "The purpose of detention is to prevent captured individuals from returning to the field of battle and taking up arms once again." But detention operations also serve the key purpose of intelligence gathering. These are not competing interests but appropriate objectives which the United States may lawfully pursue.

We should emphasize that tens of thousands of men and women in uniform strive every day under austere and dangerous conditions to secure our freedom and the freedom of others. By historical standards, they rate as some of the best trained, disciplined and professional service men and women in our nation's history.

While any abuse is too much, we see signs that the Department of Defense is now on the path to dealing with the personal and professional failures and remedying the underlying causes of these abuses. We expect any potential future incidents of abuse will similarly be discovered and reported out of the same sense of personal honor and duty that characterized many of those who went out of their way to do so in most of these cases. The damage these incidents have done to U.S. policy, to the image of the U.S. among

populations whose support we need in the Global War on Terror and to the morale of our armed forces, must not be repeated.

INTRODUCTION–CHARTER AND METHODOLOGY

The Secretary of Defense chartered the Independent Panel on May 12, 2004, to review Department of Defense (DoD) Detention Operations (see Appendix A). In his memorandum, the Secretary tasked the Independent Panel to review Department of Defense investigations on detention operations whether completed or ongoing, as well as other materials and information the Panel deemed relevant to its review. The Secretary asked for the Panel's independent advice in highlighting the issues considered most important for his attention. He asked for the Panel's views on the causes and contributing factors to problems in detainee operations and what corrective measures would be required.

Completed investigations reviewed by the Panel include the following:

- Joint Staff External Review of Intelligence Operations at Guantanamo Bay, Cuba, September 28, 2002 (Custer Report)

- Joint Task Force Guantanamo assistance visit to Iraq to assess intelligence operations, September 5, 2003 (Miller Report)

- Army Provost Marshal General assessment of detention and corrections operations in Iraq, November 6, 2003 (Ryder Report)

- Administrative investigation under Army Regulation 15-6 (AR 15-6) regarding Abu Ghraib, June 8, 2004 (Taguba Report)

- Army Inspector General assessment of doctrine and training for detention operations, July 23, 2004 (Mikolashek Report)

- The Fay investigation of activities of military personnel at Abu Ghraib and related LTG Jones investigation under the direction of GEN Kern, August 16, 2004

- Naval Inspector General's review of detention procedures at Guantanamo Bay, Cuba and the Naval Consolidated Brig, Charleston, South Carolina (A briefing was presented to the Secretary of Defense on May 8, 2004.)

- Naval Inspector General's review of DoD worldwide interrogation operations, due for release on September 9, 2004

- Special Inspection of Detainee Operations and Facilities in the Combined Forces Command-Afghanistan AOR (CFC-A), June 26, 2004 (Jacoby Report).

- Administrative Investigation of Alleged Detainee Abuse by the Combined Joint Special Operations Task Force – Arabian Peninsula (Formica Report) Due for release in August, 2004. Assessment not yet completed and not reviewed by the Independent Panel

- Army Reserve Command Inspector General Assessment of Military Intelligence and Military Police Training (due for release in December 2004)

Panel interviews of selected individuals either in person or via video-teleconference:

June 14, 2004:

- MG Keith Dayton, Director, Iraq Survey Group (ISG), Baghdad, Iraq
- MG Geoffrey Miller, Director, Detainee Operations, CJTF-7, Baghdad, Iraq
- Hon Donald Rumsfeld, Secretary of Defense
- Hon Steve Cambone, Under Secretary of Defense for Intelligence
- MG Walter Wojdakowski, Deputy Commanding General, V Corps, USAREUR and 7th Army

- MG Donald Ryder, Provost Marshal, U.S. Army/Commanding General, U.S. Army Criminal Investigation Command, Washington, D.C.
- COL Thomas Pappas, Commander, 205th Military Intelligence Brigade, V Corps, USAREUR and 7th Army

June 24,2004:

- LTG David McKiernan, Commanding General, Third U.S. Army, U.S. Army Forces Central Command, Coalition Forces Land Component Command
- MG Barbara Fast, CJTF-7 C-2, Director for Intelligence, Baghdad, Iraq
- MG Geoffrey Miller, Director, Detainee Operations, CJTF-7, Baghdad, Iraq
- LTG Ricardo Sanchez, Commanding General, CJTF-7, Commanding General, V Corps, USAREUR and 7th Army in Iraq
- Mr. Daniel Dell'Orto, Principal Deputy General Counsel, DoD
- LTG Keith Alexander, G-2, U.S. Army, Washington, D.C.
- LTG William Boykin, Deputy Undersecretary of Defense for Intelligence, Intelligence and Warfighting Support, Office of the Under Secretary of Defense for Intelligence
- Hon Douglas Feith, Under Secretary of Defense for Policy

July 8, 2004:

- COL Marc Warren, Senior Legal Advisor to LTG Sanchez, Iraq
- BG Janis Karpinski, Commander (TPU), 800th Military Police Brigade, Uniondale, NY
- Hon Paul Wolfowitz, Deputy Secretary of Defense
- Hon William Haynes, General Counsel DoD
- Mr. John Rizzo, CIA Senior Deputy General Counsel
- GEN John Abizaid, Commander, U.S. Central Command
- MG George Fay, Deputy to the Army G2, Washington, D.C.
- VADM Albert Church III, Naval Inspector General

July 22, 2004:

- Hon Donald Rumsfeld, Secretary of Defense

The Panel did not conduct a case-by-case review of individual abuse cases. This task has been accomplished by those professionals conducting criminal and commander-directed investigations. Many of these investigations are still on-going. The Panel did review the various completed and on-going reports covering the causes for the abuse. Each of these inquiries or inspections defined abuse, categorized the abuses, and analyzed the abuses in conformity with the appointing authorities' guidance, but the methodologies do not parallel each other in all respects. The Panel concludes, based on our review of other reports to date and our own efforts that causes for abuse have been adequately examined.

The Panel met on July 22nd and again on August 16th to discuss progress of the report. Panel members also reviewed sections and versions of the report through July and mid-August.

An effective, timely response to our requests for other documents and support was invariably forthcoming, due largely to the efforts of the DoD Detainee Task Force. We conducted reviews of multiple classified and unclassified documents generated by DoD and other sources.

Our staff has met and communicated with representatives of the International Committee of the Red Cross and with the Human Rights Executive Directors' Coordinating Group.

It should be noted that information provided to the Panel was that available as of mid-August 2004. If additional information becomes available, the Panel's judgments might be revised.

THE CHANGING THREAT

The date September 11, 2001, marked an historic juncture in America's collective sense of security. On that day our presumption of invulnerability was irretrievably shattered. Over the last decade, the military has been called upon to establish and maintain the peace in Bosnia and Kosovo, eject the Taliban from Afghanistan, defeat the Iraqi Army, and fight ongoing insurgencies in Iraq and Afghanistan. Elsewhere it has been called upon to confront geographically dispersed terrorists who would threaten America's right to political sovereignty and our right to live free of fear.

In waging the Global War on Terror, the military confronts a far wider range of threats. In Iraq and Afghanistan, U.S. forces are fighting diverse enemies with varying ideologies, goals and capabilities. American soldiers and their coalition partners have defeated the armored divisions of the Republican Guard, but are still under attack by forces using automatic rifles, rocket-propelled grenades, roadside bombs and surface-to-air missiles. We are not simply fighting the remnants of dying regimes or opponents of the local governments and coalition forces assisting those governments, but multiple enemies including indigenous and international terrorists. This complex operational environment requires soldiers capable of conducting traditional stability operations associated with peacekeeping tasks one moment and fighting force-on-force engagements normally associated with war-fighting the next moment.

Warfare under the conditions described inevitably generates detainees—enemy combatants, opportunists, trouble-makers, saboteurs, common criminals, former regime officials and some innocents as well. These people must be carefully but humanely processed to sort out those who remain dangerous or possess militarily-valuable intelligence. Such processing presents extraordinarily formidable logistical, administrative, security and legal problems completely apart from the technical obstacles posed by communicating with prisoners in another language and extracting actionable intelligence from them in timely fashion. These activities, called detention operations,

are a vital part of an expeditionary army's responsibility, but they depend upon training, skills, and attributes not normally associated with soldiers in combat units.

Military interrogators and military police, assisted by front-line tactical units, found themselves engaged in detention operations with detention procedures still steeped in the methods of World War II and the Cold War, when those we expected to capture on the battlefield were generally a homogenous group of enemy soldiers. Yet this is a new form of war, not at all like Desert Storm nor even analogous to Vietnam or Korea.

General Abizaid himself best articulated the current nature of combat in testimony before the U.S. Senate Armed Services Committee on May 19, 2004:

> Our enemies are in a unique position, and they are a unique brand of ideological extremists whose vision of the world is best summed up by how the Taliban ran Afghanistan. If they can outlast us in Afghanistan and undermine the legitimate government there, they'll once again fill up the seats at the soccer stadium and force people to watch executions. If, in Iraq, the culture of intimidation practiced by our enemies is allowed to win, the mass graves will fill again. Our enemies kill without remorse, they challenge our will through the careful manipulation of propaganda and information, they seek safe havens in order to develop weapons of mass destruction that they will use against us when they are ready. Their targets are not Kabul and Baghdad, but places like Madrid and London and New York. While we can't be defeated militarily, we're not going to win this thing militarily alone.... As we fight this most unconventional war of this new century, we must be patient and courageous.

In Iraq the U.S. commanders were slow to recognize and adapt to the insurgency that erupted in the summer and fall of 2003. Military police and interrogators who had previous experience in the Balkans, Guantanamo and Afghanistan found themselves, along with increasing numbers of less-experienced troops, in the midst of detention operations in Iraq the likes of which the Department of Defense had not foreseen. As Combined Joint Task Force-7 (CJTF-7) began detaining thousands of Iraqis suspected of

involvement in or having knowledge of the insurgency, the problem quickly surpassed the capacity of the staff to deal with and the wherewithal to contain it.

Line units conducting raids found themselves seizing specifically targeted persons, so designated by military intelligence; but, lacking interrogators and interpreters to make precise distinctions in an alien culture and hostile neighborhoods, they reverted to rounding up any and all suspicious-looking persons—all too often including women and children. The flood of incoming detainees contrasted sharply with the trickle of released individuals. Processing was overwhelmed. Some detainees at Abu Ghraib had been held 90 days before being interrogated for the first time.

Many interrogators, already in short supply from major reductions during the post-Cold War drawdown, by this time, were on their second or third combat tour. Unit cohesion and morale were largely absent as under-strength companies and battalions from across the United States and Germany were deployed piecemeal and stitched together in a losing race to keep up with the rapid influx of vast numbers of detainees.

As the insurgency reached an initial peak in the fall of 2003, many military policemen from the Reserves who had been activated shortly after September 11, 2001 had reached the mandatory two-year limit on their mobilization time. Consequently, the ranks of soldiers having custody of detainees in Iraq fell to about half strength as MPs were ordered home by higher headquarters.

Some individuals seized the opportunity provided by this environment to give vent to latent sadistic urges. Moreover, many well-intentioned professionals, attempting to resolve the inherent moral conflict between using harsh techniques to gain information to save lives and treating detainees humanely, found themselves in uncharted ethical ground, with frequently changing guidance from above. Some stepped over the line of humane treatment accidentally; some did so knowingly. Some of the abusers believed other governmental agencies were conducting interrogations using harsher techniques

than allowed by the Army Field Manual 34-52, a perception leading to the belief that such methods were condoned. In nearly 10 percent of the cases of alleged abuse, the chain of command ignored reports of those allegations. More than once a commander was complicit.

The requirements for successful detainee operations following major combat operations were known by U.S. forces in Iraq. After Operations Enduring Freedom and earlier phases of Iraqi Freedom, several lessons learned were captured in official reviews and were available on-line to any authorized military user. These lessons included the need for doctrine tailored to enable police and interrogators to work together effectively; the need for keeping MP and MI units manned at levels sufficient to the task; and the need for MP and MI units to belong to the same tactical command. However, there is no evidence that those responsible for planning and executing detainee operations, in the phase of the Iraq campaign following the major combat operations, availed themselves of these "lessons learned" in a timely fashion.

Judged in a broader context, U.S. detention operations were both traditional and new. They were traditional in that detainee operations were a part of all past conflicts. They were new in that the Global War on Terror and the insurgency we are facing in Iraq present a much more complicated detainee population.

Many of America's enemies, including those in Iraq and Afghanistan, have the ability to conduct this new kind of warfare, often referred to as "asymmetric" warfare. Asymmetric warfare can be viewed as attempts to circumvent or undermine a superior, conventional strength, while exploiting its weaknesses using methods the superior force neither can defeat nor resort to itself. Small unconventional forces can violate a state's security without any state support or affiliation whatsoever. For this reason, many terms in the orthodox lexicon of war—e.g., state sovereignty, national borders, uniformed combatants, declarations of war, and even war itself, are not terms terrorists acknowledge.

Today, the power to wage war can rest in the hands of a few dozen highly motivated people with cell phones and access to the Internet. Going beyond simply terrorizing individual civilians, certain insurgent and terrorist organizations represent a higher level of threat, characterized by an ability and willingness to violate the political sovereignty and territorial integrity of sovereign nations.

Essential to defeating terrorist and insurgent threats is the ability to locate cells, kill or detain key leaders, and interdict operational and financial networks. However, the smallness and wide dispersal of these enemy assets make it problematic to focus on signal and imagery intelligence as we did in the Cold War, Desert Storm, and the first phase of Operation Iraqi Freedom. The ability of terrorists and insurgents to blend into the civilian population further decreases their vulnerability to signal and imagery intelligence. Thus, information gained from human sources, whether by spying or interrogation, is essential in narrowing the field upon which other intelligence gathering resources may be applied. In sum, human intelligence is absolutely necessary, not just to fill these gaps in information derived from other sources, but also to provide clues and leads for the other sources to exploit.

Military police functions must also adapt to this new kind of warfare. In addition to organizing more units capable of handling theater-level detention operations, we must also organize those units, so they are able to deal with the heightened threat environment. In this new form of warfare, the distinction between front and rear becomes more fluid. All forces must continuously prepare for combat operations.

THE POLICY PROMULGATION PROCESS

Although there were a number of contributing causes for detainee abuses, policy processes were inadequate or deficient in certain respects at various levels: Department of Defense (DoD), CENTCOM, Coalition Forces Land Component Command (CFLCC), CJTF-7, and the individual holding facility or prison. In pursuing the question of the extent to which policy processes at the DoD or national level contributed to abuses, it is important to begin with policy development as individuals in Afghanistan were first being detained in November 2001. The first detainees arrived at Guantanamo in January 2002.

In early 2002, a debate was ongoing in Washington on the application of treaties and laws to al Qaeda and Taliban. The Department of Justice, Office of Legal Counsel (OLC) advised DoD General Counsel and the Counsel to the President that, among other things:

- Neither the Federal War Crimes Act nor the Geneva Conventions would apply to the detention conditions of al Qaeda prisoners,
- The President had the authority to suspend the United States treaty obligations applying to Afghanistan for the duration of the conflict should he determine Afghanistan to be a failed state,
- The President could find that the Taliban did not qualify for Enemy Prisoner of War (EPW) status under Geneva Convention III.

The Attorney General and the Counsel to the President, in part relying on the opinions of OLC, advised the President to determine the Geneva Conventions did not apply to the conflict with al Qaeda and the Taliban. The Panel understands DoD General Counsel's position was consistent with the Attorney General's and the Counsel to the President's position. Earlier, the Department of State had argued that the Geneva Conventions in their traditional application provided a sufficiently robust legal construct under which the Global War on Terror could effectively be waged.

The Legal Advisor to the Chairman, Joint Chiefs of Staff and many service lawyers agreed with the State Department's initial position. They were concerned that to conclude otherwise would be inconsistent with past practice and policy, jeopardize the United States armed forces personnel, and undermine the United States military culture which is based on a strict adherence to the law of war. At the February 4, 2002 National Security Council meeting to decide this issue, the Department of State, the Department of Defense, and the Chairman of the Joint Chiefs of Staff were in agreement that all detainees would get the treatment they are (or would be) entitled to under the Geneva Conventions.

On February 7, 2002, the President issued his decision memorandum (see Appendix B). The memorandum stated the Geneva Conventions did not apply to al Qaeda and therefore they were not entitled to prisoner of war status. It also stated the Geneva Conventions did apply to the Taliban but the Taliban combatants were not entitled to prisoner of war status as a result of their failure to conduct themselves in accordance with the provisions of the Geneva Conventions. The President's memorandum also stated: "As a matter of policy, United States Armed Forces shall continue to treat detainees humanely and, to the extent appropriate and consistent with military necessity, in a manner consistent with the principles of Geneva."

Regarding the applicability of the Convention Against Torture and Other Cruel Inhumane or Degrading Treatment, the OLC opined on August 1, 2002 that interrogation methods that comply with the relevant domestic law do not violate the Convention. It held that only the most extreme acts, that were specifically intended to inflict severe pain and torture, would be in violation; lesser acts might be "cruel, inhumane, or degrading" but would not violate the Convention Against Torture or domestic statutes. The OLC memorandum went on to say, as Commander in Chief exercising his wartime powers, the President could even authorize torture, if he so decided.

Reacting to tenacious resistance by some detainees to existing interrogation methods, which were essentially limited to those in Army Field Manual 34-52 (see Appendix E), Guantanamo authorities in October 2002 requested approval of strengthened counter-interrogation techniques to increase the intelligence yield from interrogations. This request was accompanied by a recommended tiered list of techniques, with the proviso that the harsher Category III methods (see Appendix E) could be used only on "exceptionally resistant detainees" and with approval by higher headquarters.

This Guantanamo initiative resulted in a December 2, 2002 decision by the Secretary of Defense authorizing, "as a matter of policy," the use of Categories I and II and only one technique in Category III: mild, non-injurious physical contact (see Appendix E). As a result of concern by the Navy General Counsel, the Secretary of Defense rescinded his December approval of all Category II techniques plus the one from Category III on January 15, 2003. This essentially returned interrogation techniques to FM 34-52 guidance. He also stated if any of the methods from Categories II and III were deemed warranted, permission for their use should be requested from him (see Appendix E).

The Secretary of Defense directed the DoD General Counsel to establish a working group to study interrogation techniques. The working group was headed by Air Force General Counsel Mary Walker and included wide membership from across the military, legal and intelligence communities. The working group also relied heavily on the OLC. The working group reviewed 35 techniques, and after a very expansive debate, ultimately recommended 24 to the Secretary of Defense. The study led to the Secretary's promulgation on April 16, 2003 of the list of approved techniques. His memorandum emphasized appropriate safeguards should be in place and, further, "*Use of these techniques is limited to interrogations of unlawful combatants held at Guantanamo Bay, Cuba.*" He also stipulated that four of the techniques should be used only in case of military necessity and that he should be so notified in advance. If additional techniques were deemed essential, they should be requested in writing, with "recommended safeguards and rationale for applying with an identified detainee."

In the initial development of these Secretary of Defense policies, the legal resources of the Services' Judge Advocates and General Counsels were not utilized to their fullest potential. Had the Secretary of Defense had the benefit of a wider range of legal opinions and a more robust debate regarding detainee policies and operations, his policy of April 16, 2003 might well have been developed and issued in early December 2002. This could have avoided the policy changes which characterized the December 2, 2002 to April 16, 2003 period.

It is clear that pressure for additional intelligence and the more aggressive methods sanctioned by the Secretary of Defense memorandum resulted in stronger interrogation techniques. They did contribute to a belief that stronger interrogation methods were needed and appropriate in their treatment of detainees. At Guantanamo, the interrogators used those additional techniques with only two detainees, gaining important and time-urgent information in the process.

In Afghanistan, from the war's inception through the end of 2002, all forces used FM 34-52 as a baseline for interrogation techniques. Nonetheless, more aggressive interrogation of detainees appears to have been ongoing. On January 24, 2003, in response to a data call from the Joint Staff to facilitate the Secretary of Defense-directed Working Group efforts, the Commander Joint Task Force-180 forwarded a list of techniques being used in Afghanistan, including some not explicitly set out in FM 34-52. These techniques were included in a Special Operations Forces (SOF) Standard Operating Procedures document published in February 2003. The 519th Military Intelligence Battalion, a Company of which was later sent to Iraq, assisted in interrogations in support of SOF and was fully aware of their interrogation techniques.

In Iraq, the operational order from CENTCOM provided the standard FM 34-52 interrogation procedures would be used. Given the greatly different situations in Afghanistan and Iraq, it is not surprising there were differing CENTCOM policies for the

two countries. In light of ongoing hostilities that monopolized commanders' attention in Iraq, it is also not unexpected the detainee issues were not given a higher priority.

Interrogators and lists of techniques circulated from Guantanamo and Afghanistan to Iraq. During July and August 2003, a Company of the 519th MI Battalion was sent to the Abu Ghraib detention facility to conduct interrogation operations. Absent guidance other than FM 34-52, the officer in charge prepared draft interrogation guidelines that were a near copy of the Standard Operating Procedure created by SOF. It is important to note that techniques effective under carefully controlled conditions at Guantanamo became far more problematic when they migrated and were not adequately safeguarded.

In August 2003, MG Geoffrey Miller arrived to conduct an assessment of DoD counterterrorism interrogation and detention operations in Iraq. He was to discuss current theater ability to exploit internees rapidly for actionable intelligence. He brought to Iraq the Secretary of Defense's April 16, 2003 policy guidelines for Guantanamo—which he reportedly gave to CJTF-7 as a potential model—recommending a command-wide policy be established. He noted, however, the Geneva Conventions did apply to Iraq. In addition to these various printed sources, there was also a store of common lore and practice within the interrogator community circulating through Guantanamo, Afghanistan and elsewhere.

At the operational level, in the absence of more specific guidance from CENTCOM, interrogators in Iraq relied on FM 34-52 and on unauthorized techniques that had migrated from Afghanistan. On September 14, 2003, Commander CJTF-7 signed the theater's first policy on interrogation which contained elements of the approved Guantanamo policy and elements of the SOF policy. Policies approved for use on al Qaeda and Taliban detainees who were not afforded the protection of EPW status under the Geneva Conventions now applied to detainees who did fall under the Geneva Convention protections. CENTCOM disapproved the September 14, 2003 policy resulting in another policy signed on October 12, 2003 which essentially mirrored the

outdated 1987 version of the FM 34-52. The 1987 version, however, authorized interrogators to control all aspects of the interrogation, "to include lighting and heating, as well as food, clothing, and shelter given to detainees." This was specifically left out of the 1992 version, which is currently in use. This clearly led to confusion on what practices were acceptable. We cannot be sure how much the number and severity of abuses would have been curtailed had there been early and consistent guidance from higher levels. Nonetheless, such guidance was needed and likely would have had a limiting effect.

At Abu Ghraib, the Jones/Fay investigation concluded that MI professionals at the prison level shared a "major part of the culpability" for the abuses. Some of the abuses occurred during interrogation. As these interrogation techniques exceeded parameters of FM 34-52, no training had been developed. Absent training, the interrogators used their own initiative to implement the new techniques. To what extent the same situation existed at other prisons is unclear, but the widespread nature of abuses warrants an assumption that at least the understanding of interrogations policies was inadequate. A host of other possible contributing factors, such as training, leadership, and the generally chaotic situation in the prisons, are addressed elsewhere in this report.

PUBLIC RELEASE OF ABUSE PHOTOS

In any large bureaucracy, good news travels up the chain of command quickly; bad news generally does not. In the case of the abuse photos from Abu Ghraib, concerns about command influence on an ongoing investigation may have impeded notification to senior officials.

Chronology of Events

On January 13, 2004, SPC Darby gave Army criminal investigators a copy of a CD containing abuse photos he had taken from SPC Graner's computer. CJTF-7, CENTCOM, the Chairman of the Joint Chiefs of Staff and the Secretary of Defense were all informed of the issue. LTG Sanchez promptly asked for an outside investigation, and MG Taguba was appointed as the investigating officer. The officials who saw the photos on January 14, 2004, not realizing their likely significance, did not recommend the photos be shown to more senior officials. A CENTCOM press release in Baghdad on January 16, 2004 announced there was an ongoing investigation into reported incidents of detainee abuse at a Coalition Forces detention facility.

An interim report of the investigation was provided to CJTF-7 and CENTCOM commanders in mid-March 2004. It is unclear whether they saw the Abu Ghraib photos, but their impact was not appreciated by either of these officers or their staff officers who may have seen the photographs, as indicated by the failure to transmit them in a timely fashion to more senior officials. When LTG Sanchez received the Taguba report, he immediately requested an investigation into the possible involvement of military intelligence personnel. He told the panel that he did not request the photos be disseminated beyond the criminal investigative process because commanders are prohibited from interfering with, or influencing, active investigations. In mid-April, LTG McKiernan, the appointing official, reported the investigative results through his chain of

command to the Department of the Army, the Army Judge Advocate General, and the U.S. Army Reserve Command. LTG McKiernan advised the panel that he did not send a copy of the report to the Secretary of Defense, but forwarded it through his chain of command. Again the reluctance to move bad news farther up the chain of command probably was a factor impeding notification of the Secretary of Defense.

Given this situation, GEN Richard Myers, the Chairman of the Joint Chiefs of Staff, was unprepared in April 2004 when he learned the photos of detainee abuse were to be aired in a CBS broadcast. The planned release coincided with particularly intense fighting by Coalition forces in Fallujah and Najaf. After a discussion with GEN Abizaid, GEN Myers asked CBS to delay the broadcast out of concern the lives of the Coalition soldiers and the hostages in Iraq would be further endangered. The story of the abuse itself was already public. Nonetheless, both GEN Abizaid and GEN Myers understood the pictures would have an especially explosive impact around the world.

Informing Senior Officials

Given the magnitude of this problem, the Secretary of Defense and other senior DoD officials need a more effective information pipeline to inform them of high-profile incidents which may have a significant adverse impact on DoD operations. Had such a pipeline existed, it could have provided an accessible and efficient tool for field commanders to apprise higher headquarters, the Joint Chiefs of Staff, and the Office of the Secretary of Defense, of actual or developing situations which might hinder, impede, or undermine U.S. operations and initiatives. Such a system could have equipped senior spokesmen with the known facts of the situation from all DoD elements involved. Finally, it would have allowed for senior official preparation and Congressional notification.

Such a procedure would make it possible for a field-level command or staff agency to alert others of the situation and forward the information to senior officials. This would not have been an unprecedented occurrence. For example, in December 2002, concerned Naval Criminal Investigative Service agents drew attention to the potential for abuse at Guantanamo. Those individuals had direct access to the highest levels of leadership and were able to get that information to senior levels without encumbrance. While a corresponding flow of information might not have prevented the abuses from occurring, the Office of the Secretary of Defense would have been alerted to a festering issue, allowing for an early and appropriate response.

Another example is the Air Force Executive Issues Team. This office has fulfilled the special information pipeline function for the Air Force since February 1998. The team chief and team members are highly trained and experienced field grade officers drawn from a variety of duty assignments. The team members have access to information flow across all levels of command and staff and are continually engaging and building contacts to facilitate the information flow. The information flow to the team runs parallel and complementary to standard reporting channels in order to avoid bypassing the chain of command but yet ensures a rapid and direct flow of relevant information to Air Force Headquarters.

A proper, transparent posture in getting the facts and fixing the problem would have better enabled the DoD to deal with the damage to the mission of the U.S. in the region and to the reputation of the U.S. military.

COMMAND RESPONSIBILITIES

Although the most egregious instances of detainee abuse were caused by the aberrant behavior of a limited number of soldiers and the predilections of the non-commissioned officers on the night shift of Tier 1 at Abu Ghraib, the Independent Panel finds that commanding officers and their staffs at various levels failed in their duties and that such failures contributed directly or indirectly to detainee abuse. Commanders are responsible for all their units do or fail to do, and should be held accountable for their action or inaction. Command failures were compounded by poor advice provided by staff officers with responsibility for overseeing battlefield functions related to detention and interrogation operations. Military and civilian leaders at the Department of Defense share this burden of responsibility.

Commanders

The Panel finds that the weak and ineffectual leadership of the Commanding General of the 800th MP Brigade and the Commanding Officer of the 205th MI Brigade allowed the abuses at Abu Ghraib. There were serious lapses of leadership in both units from junior non-commissioned officers to battalion and brigade levels. The commanders of both brigades either knew, or should have known, abuses were taking place and taken measures to prevent them. The Panel finds no evidence that organizations above the 800th MP Brigade- or the 205th MI Brigade-level were directly involved in the incidents at Abu Ghraib. Accordingly, the Panel concurs in the judgment and recommendations of MG Taguba, MG Fay, LTG Jones, LTG Sanchez, LTG McKiernan, General Abizaid and General Kern regarding the commanders of these two units. The Panel expects disciplinary action may be forthcoming.

The Independent Panel concurs with the findings of MG Taguba regarding the Director of the Joint Interrogation and Debriefing Center (JIDC) at Abu Ghraib. Specifically, the Panel notes that MG Taguba concluded that the Director, JIDC made material misrepresentations to MG Taguba's investigating team. The panel finds that he failed to properly train and control his soldiers and failed to ensure prisoners were afforded the protections under the relevant Geneva Conventions. The Panel concurs with MG Taguba's recommendation that he be relieved for cause and given a letter of reprimand and notes that disciplinary action may be pending against this officer.

The Independent Panel concurs with the findings of MG Taguba regarding the Commander of the 320th MP Battalion at Abu Ghraib. Specifically, the Panel finds that he failed to ensure that his subordinates were properly trained and supervised and that he failed to establish and enforce basic soldier standards, proficiency and accountability. He was not able to organize tasks to accomplish his mission in an appropriate manner. By not communicating standards, policies and plans to soldiers, he conveyed a sense of tacit approval of abusive behavior towards prisoners and a lax and dysfunctional command climate took hold. The Panel concurs with MG Taguba's recommendation that he be relieved from command, be given a General Officer Memorandum of reprimand, and be removed from the Colonel/O-6 promotion list.

The Independent Panel finds that BG Karpinski's leadership failures helped set the conditions at the prison which led to the abuses, including her failure to establish appropriate standard operating procedures (SOPs) and to ensure the relevant Geneva Conventions protections were afforded prisoners, as well as her failure to take appropriate actions regarding ineffective commanders and staff officers. The Panel notes the conclusion of MG Taguba that she made material misrepresentations to his investigating team regarding the frequency of her visits to Abu Ghraib. The Panel concurs with MG Taguba's recommendation that BG Karpinski be relieved of command and given a General Officer Letter of Reprimand.

Although LTG Sanchez had tasks more urgent than dealing personally with command and resource deficiencies and allegations of abuse at Abu Ghraib, he should have ensured his staff dealt with the command and resource problems. He should have assured that urgent demands were placed for appropriate support and resources through Coalition Forces Land Component Command (CFLCC) and CENTCOM to the Joint Chiefs of Staff. He was responsible for establishing the confused command relationship at the Abu Ghraib prison. There was no clear delineation of command responsibilities between the 320th MP Battalion and the 205th MI Brigade. The situation was exacerbated by CJTF-7 Fragmentary Order (FRAGO) 1108 issued on November 19, 2003 that appointed the commander of the 205th MI Brigade as the base commander for Abu Ghraib, including responsibility for the support of all MPs assigned to the prison. In addition to being contrary to existing doctrine, there is no evidence the details of this command relationship were effectively coordinated or implemented by the leaders at Abu Ghraib. The unclear chain of command established by CJTF-7, combined with the poor leadership and lack of supervision, contributed to the atmosphere at Abu Ghraib that allowed the abuses to take place.

The unclear command structure at Abu Ghraib was further exacerbated by the confused command relationship up the chain. The 800th MP Brigade was initially assigned to the Central Command's Combined Forces Land Component Commander (CFLCC) during the major combat phase of Operation Iraqi Freedom. When CFLCC left the theater and returned to Fort McPherson Georgia, CENTCOM established Combined Joint Task Force-Seven (CJTF-7). While the 800th MP Brigade remained assigned to CFLCC, it essentially worked for CJTF-7. LTG Sanchez delegated responsibility for detention operations to his Deputy, MG Wojdakowski. At the same time, intelligence personnel at Abu Ghraib reported through the CJTF-7 C-2, Director for Intelligence. These arrangements had the damaging result that no single individual was responsible for overseeing operations at the prison.

The Panel endorses the disciplinary actions already taken, although we believe LTG Sanchez should have taken more forceful action in November when he fully comprehended the depth of the leadership problems at Abu Ghraib. His apparent attempt to mentor BG Karpinski, though well-intended, was insufficient in a combat zone in the midst of a serious and growing insurgency.

The creation of the Joint Interrogation and Debriefing Center (JIDC) at Abu Ghraib was not an unusual organizational approach. The problem is, as the Army Inspector General assessment revealed, joint doctrine for the conduct of interrogation operations contains inconsistent guidance, particularly with regard to addressing the issue of the appropriate command relationships governing the operation of such organizations as a JIDC. Based on the findings of the Fay, Jones and Church investigations, SOUTHCOM and CENTCOM were able to develop effective command relationships for such centers at Guantanamo and in Afghanistan, but CENTCOM and CJTF-7 failed to do so for the JIDC at Abu Ghraib.

Staff Officers

While staff officers have no command responsibilities, they are responsible for providing oversight, advice and counsel to their commanders. Staff oversight of detention and interrogation operations for CJTF-7 was dispersed among the principal and special staff. The lack of one person on the staff to oversee detention operations and facilities complicated effective and efficient coordination among the staff.

The Panel finds the following:

- The CJTF-7 Deputy Commander failed to initiate action to request additional military police for detention operations after it became clear that there were insufficient assets in Iraq.
- The CJTF-7 C-2, Director for Intelligence failed to advise the commander properly on directives and policies needed for the operation of the JIDC, for interrogation techniques and for appropriately monitoring the activities of Other Government Agencies (OGAs) within the Joint Area of Operations.
- The CJTF-7 Staff Judge Advocate failed to initiate an appropriate response to the November 2003 ICRC report on the conditions at Abu Ghraib.

Failure of the Combatant Command to Adjust the Plan

Once it became clear in July 2003 there was a major insurgency growing in Iraq and the relatively benign environment projected for Iraq was not materializing, senior leaders should have adjusted the plan from what had been assumed to be a stability operation and a benign handoff of detention operations to the Iraqis. If commanders and staffs at the operational level had been more adaptive in the face of changing conditions, a different approach to detention operations could have been developed by October 2003, as difficulties with the basic plan were readily apparent by that time. Responsible leaders who could have set in motion the development of a more effective alternative course of action extend up the command chain (and staff), to include the Director for Operations, Combined Joint Task Force 7 (CJTF-7); Deputy Commanding General, CJTF-7; Commander CJTF-7; Deputy Commander for Support, CFLCC; Commander, CFLCC; Director for Operations, Central Command (CENTCOM); Commander, CENTCOM; Director for Operations, Joint Staff; the Chairman of the Joint Chiefs of Staff; and the Office of the Secretary of Defense. In most cases these were errors of omission, but they were errors that should not go unnoted.

There was ample evidence in both Joint and Army lessons learned that planning for detention operations for Iraq required alternatives to standard doctrinal approaches. Reports from experiences in Operation Enduring Freedom and at Guantanamo had already recognized the inadequacy of current doctrine for the detention mission and the need for augmentation of both MP and MI units with experienced confinement officers and interrogators. Previous experience also supported the likelihood that detainee population numbers would grow beyond planning estimates. The relationship between MP and MI personnel in the conduct of interrogations also demanded close, continuous coordination rather than remaining compartmentalized. "Lessons learned" also reported the value of establishing a clear chain of command subordinating MP and MI to a Joint Task Force or Brigade Commander. This commander would be in charge of all aspects of both detention and interrogations just as tactical combat forces are subordinated to a single commander. The planners had only to search the lessons learned databases (available on-line in military networks) to find these planning insights. Nevertheless, CENTCOM's October 2002 planning annex for detention operations reflected a traditional doctrinal methodology.

The change in the character of the struggle signaled by the sudden spike in U.S. casualties in June, July and August 2003 should have prompted consideration of the need for additional MP assets. GEN Abizaid himself signaled a change in operations when he publicly declared in July that CENTCOM was now dealing with a growing "insurgency," a term government officials had previously avoided in characterizing the war. Certainly by October and November when the fighting reached a new peak, commanders and staffs from CJTF-7 all the way to CENTCOM and the Joint Chiefs of Staff knew by then the serious deficiencies of the 800th MP Brigade and should have at least considered reinforcing the troops for detention operations. Reservists, some of whom had been first mobilized shortly after September 11, 2001, began reaching a two-year mobilization commitment, which, by law, mandated their redeployment and deactivation.

There was not much the 800th MP Brigade (an Army Reserve unit), could do to delay the loss of those soldiers, and there was no individual replacement system or a unit replacement plan. The MP Brigade was totally dependent on higher headquarters to initiate action to alleviate the personnel crisis. The brigade was duly reporting readiness shortfalls through appropriate channels. However, its commanding general was emphasizing these shortfalls in personal communications with CJTF-7 commanders and staff as opposed to CFLCC. Since the brigade was assigned to CFLCC, but under the Tactical Control (TACON) of CJTF-7, her communications should been with CFLCC. The response from CJTF-7's Commander and Deputy Commander was that the 800th MP Brigade had sufficient personnel to accomplish its mission and that it needed to reallocate its available soldiers among the dozen or more detention facilities it was operating in Iraq. However, the Panel found the further deterioration in the readiness condition of the brigade should have been recognized by CFLCC and CENTCOM by late summer 2003. This led the Panel to conclude that CJTF-7, CFLCC and CENTCOM failure to request additional forces was an avoidable error.

The Joint Staff recognized intelligence collection from detainees in Iraq needed improvement. This was their rationale for sending MG Miller from Guantanamo to assist CJTF-7 with interrogation operations. However, the Joint Staff was not paying sufficient attention to evidence of broader readiness issues associated with both MP and MI resources.

We note that CJTF-7 Headquarters was never fully resourced to meet the size and complexity of its mission. The Joint Staff, CJTF-7 and CENTCOM took too long to finalize the Joint Manning Document (JMD) which was not finally approved until December 2003—six months into the insurgency. At one point, CJTF-7 Headquarters had only 495 of the 1,400 personnel authorized. The command was burdened with additional complexities associated with its mission to support the Coalition Provisional Authority.

Finally, the Joint Staff failed to recognize the implications of the deteriorating manning levels in the 800th MP Brigade; the absence of combat equipment among detention elements of MP units operating in a combat zone; and the indications of deteriorating mission performance among military intelligence interrogators owing to the stress of repeated combat deployments.

When CJTF-7 did realize the magnitude of the detention problem, it requested an assistance visit by the Provost Marshal General of the Army, MG Ryder. There seemed to be some misunderstanding of the CJTF-7 intent, however, since MG Ryder viewed his visit primarily as an assessment of how to transfer the detention program to the Iraqi prison system.

In retrospect, several options for addressing the detention operations challenge were available. CJTF-7 could have requested a change in command relationships to place the 800th MP Brigade under Operational Control of CJTF-7 rather than Tactical Control. This would have permitted the Commander of CJTF-7 to reallocate tactical assets under his control to the detention mission. While other Military Police units in Iraq were already fully committed to higher-priority combat and combat support missions, such as convoy escort, there were non-MP units that could have been reassigned to help in the conduct of detention operations. For example, an artillery brigade was tasked to operate the CJTF-7 Joint Visitors Center in Baghdad. A similar tasking could have provided additional troop strength to assist the 800th MP Brigade at Abu Ghraib. Such a shift would have supplied valuable experienced sergeants, captains and lieutenant colonels sorely lacking in both the MI and MP units at Abu Ghraib. A similar effect could have been achieved by CENTCOM assigning USMC, Navy and Air Force MP and security units to operational control of CJTF-7 for the detention operations mission.

Mobilization and deployment of additional forces from CONUS was also a feasible option. A system is in place for commands such as CJTF-7, CFLCC, and CENTCOM to submit a formal Request for Forces (RFF). Earlier, CJTF-7 had submitted a RFF for an

additional Judge Advocate organization, but CENTCOM would not forward it to the Joint Chiefs of Staff. Perhaps this experience made CJTF-7 reluctant to submit a RFF for MP units, but there is no evidence that any of the responsible officers considered any option other than the response given to BG Karpinski to "wear her stars" and reallocate personnel among her already over-stretched units.

While it is the responsibility of the JCS and services to provide adequate numbers of appropriately trained personnel for missions such as the detention operations in Iraq, it is the responsibility of the combatant commander to organize those forces in a manner to achieve mission success. The U.S. experience in the conduct of post-conflict stability operations has been limited, but the impact of our failure to conduct proper detainee operations in this case has been significant. Combatant commanders and their subordinates must organize in a manner that affords unity of command, ensuring commanders work for commanders and not staff.

The fact that the detention operation mission for all of Iraq is now commanded by a 2-star general who reports directly to the operational commander, and that 1,900 MPs, more appropriately equipped for combat, now perform the mission once assigned to a single under-strength, poorly trained, inadequately equipped, and weakly-led brigade, indicate more robust options should have been considered sooner.

Finally, the panel notes the failure to report the abuses up the chain of command in a timely manner with adequate urgency. The abuses at Abu Ghraib were known and under investigation as early as January 2004. However, the gravity of the abuses was not conveyed up the chain of command to the Secretary of Defense. The Taguba report, including the photographs, was completed in March 2004. This report was transmitted to LTG Sanchez and GEN Abizaid; however, it is unclear whether they ever saw the Abu Ghraib photos. GEN Myers has stated he knew of the existence of the photos as early as January 2004. Although the knowledge of the investigation into Abu Ghraib was widely known, as we noted in the previous section, the impact of the photos was not appreciated

by any of these officers as indicated by the failure to transmit them in a timely fashion to officials at the Department of Defense. (See Appendix A for the names of persons associated with the positions cited in this section.)

MILITARY POLICE AND DETENTION OPERATIONS

In Operation Enduring Freedom in Afghanistan and Operation Iraqi Freedom, commanders should have paid greater attention to the relationship between detainees and military operations. The current doctrine and procedures for detaining personnel are inadequate to meet the requirements of these conflicts. Due to the vastly different circumstances in these conflicts, it should not be surprising there were deficiencies in the projected needs for military police forces. All the investigations the Panel reviewed highlight the urgency to augment the prior way of conducting detention operations. In particular, the military police were not trained, organized, or equipped to meet the new challenges.

The Army IG found morale was high and command climate was good throughout forces deployed in Iraq and Afghanistan with one noticeable exception. Soldiers conducting detainee operations in remote or dangerous locations complained of very poor morale and command climate due to the lack of higher command involvement and support and the perception that their leaders did not care. At Abu Ghraib, in particular, there were many serious problems, which could have been avoided, if proper guidance, oversight and leadership had been provided.

Mobilization and Training

Mobilization and training inadequacies for the MP units occurred during the various phases of employment, beginning with peacetime training, activation, arrival at the mobilization site, deployment, arrival in theater and follow-on operations.

Mobilization and Deployment

Problems generally began for the MP units upon arrival at the mobilization sites. As one commander stated, "Anything that could go wrong went wrong." Preparation was not consistently applied to all deploying units, wasting time and duplicating efforts already accomplished. Troops were separated from their equipment for excessive periods of time. The flow of equipment and personnel was not coordinated. The Commanding General of the 800th MP Brigade indicated the biggest problem was getting MPs and their equipment deployed together. The unit could neither train at its stateside mobilization site without its equipment nor upon arrival overseas, as two or three weeks could go by before joining with its equipment. This resulted in assigning equipment and troops in an ad hoc manner with no regard to original unit. It also resulted in assigning certain companies that had not trained together in peacetime to battalion headquarters. The flow of forces into theater was originally planned and assigned on the basis of the Time Phased Force Deployment List (TPFDL). The TPFDL was soon scrapped, however, in favor of individual unit deployment orders assigned by U.S. Army Forces Command based on unit readiness and personnel strength. MP Brigade commanders did not know who would be deployed next. This method resulted in a condition wherein a recently arrived battalion headquarters would be assigned the next arriving MP companies, regardless of their capabilities or any other prior command and training relationships.

Original projections called for approximately 12 detention facilities with a projection of 30,000 to 100,000 enemy prisoners of war. These large projections did not materialize. In fact, the initial commanding general of the 800th MP brigade, BG Hill, stated he had more than enough MPs designated for the Internment/Resettlement (I/R—hereafter called detention) mission at the end of the combat phase in Iraq. This assessment radically changed following the major combat phase, when the 800th moved to Baghdad beginning in the summer of 2003 to assume the detention mission. The brigade was given additional tasks assisting the Coalition Provisional Authority (CPA) in reconstructing the Iraqi corrections system, a mission they had neither planned for nor anticipated.

Inadequate Training for the Military Police Mission

Though some elements performed better than others, generally training was inadequate. The MP detention units did not receive detention-specific training during their mobilization period, which was a critical deficiency. Detention training was conducted for only two MP detention battalions, one in Afghanistan and elements of the other at Camp Arifjan, Kuwait. The 800th MP Brigade, prior to deployment, had planned for a major detention exercise during the summer of 2002; however, this was cancelled due to the activation of many individuals and units for Operation Noble Eagle following the September 11, 2001 attack. The Deputy Commander of one MP brigade stated "training at the mobilization site was wholly inadequate." In addition, there was no theater-specific training.

The Army Inspector General's investigators also found that training at the mobilization sites failed to prepare units for conducting detention operations. Leaders of inspected reserve units stated in interviews that they did not receive a clear mission statement prior to mobilization and were not notified of their mission until after deploying. Personnel interviewed described being placed immediately in stressful situations in a detention facility with thousands of non-compliant detainees and not being trained to handle them. Units arriving in theater were given just a few days to conduct a handover from the outgoing units. Once deployed, these newly arrived units had difficulty gaining access to the necessary documentation on tactics, techniques, and procedures to train their personnel on the MP essential tasks of their new mission. A prime example is that relevant Army manuals and publications were available only on-line, but personnel did not have access to computers or the Internet.

Force Structure Organization

The current military police organizational structure does not address the detention mission on the nonlinear battlefield characteristic of the Global War on Terror.

Current Military Police Structure

The present U.S. Army Reserve and Army National Guard system worked well for the 1991 Gulf War for which large numbers of reserve forces were mobilized, were deployed, fought, and were quickly returned to the United States. These forces, however, were not designed to maintain large numbers of troops at a high operational tempo for a long period of deployment as has been the case in Afghanistan and Iraq.

Comments from commanders and the various inspection reports indicated the current force structure for the MPs is neither flexible enough to support the developing mission, nor can it provide for the sustained detainee operations envisioned for the future. The primary reason is that the present structure lacks sufficient numbers of detention specialists. Currently, the Army active component detention specialists are assigned in support of the Disciplinary Barracks and Regional Correctional Facilities in the United States, all of which are non-deployable.

New Force Structure Initiatives

Significant efforts are currently being made to shift more of the MP detention requirements into the active force structure. The Army's force design for the future will standardize detention forces between active and reserve components and provide the capability for the active component to immediately deploy detention companies.

The Panel notes that the Mikolashek inspection found significant shortfalls in training and force structure for field sanitation, preventive medicine and medical treatment requirements for detainees.

Doctrine and Planning

Initial planning envisaged a conflict mirroring operation Desert Storm; approximately 100,000 enemy prisoners of war were forecast for the first five days of the conflict. This expectation did not materialize in the first phase of Operation Iraqi Freedom. As a result, there were too many MP detention companies. The reverse occurred in the second phase of Iraqi Freedom, where the plan envisaged a reduced number of detention MPs on the assumption the initial large numbers of enemy prisoners of war would already have been processed out of the detention facilities. The result was that combat MPs were ultimately reassigned to an unplanned detention mission.

The doctrine of yesterday's battlefield does not satisfy the requirements of today's conflicts. Current doctrine assumes a linear battlefield and is very clear for the handling of detainees from the point of capture to the holding areas and eventually to the detention facilities in the rear. However, Operations Enduring Freedom and Iraqi Freedom, both occurring where there is no distinction between front and rear areas, forced organizations to adapt tactics and procedures to address the resulting voids. Organizations initially used standard operating procedures for collection points and detention facilities. These procedures do not fit the new environment, generally because there are no safe areas behind "friendly lines" – there *are* no friendly lines. The inapplicability of current doctrine had a negative effect on accountability, security, safeguarding of detainees, and intelligence exploitation. Instead of capturing and rapidly moving detainees to secure collection points as prescribed by doctrine, units tended to retain the detainees and attempted to exploit their tactical intelligence value without the required training or infrastructure.

Current doctrine specifies that line combat units hold detainees no longer than 12 – 24 hours to extract immediately useful intelligence. Nonetheless, the Army IG inspection found detainees were routinely held up to 72 hours. For corps collection points, doctrine specifies detainees be held no longer than three days; the Army IG found detainees were held from 30 to 45 days.

Equipment Shortfalls

The current force structure for MP detention organizations does not provide sufficient assets to meet the inherent force protection requirement on battlefields likely to be characteristic of the future. Detention facilities in the theater may have to be located in a hostile combat zone, instead of the benign secure environment current doctrine presumes.

MP detention units will need to be equipped for combat. Lack of crew-served weapons, e.g., machine guns and mortars, to counter external attacks resulted in casualties to the detainee population as well as to the friendly forces. Moreover, Army-issued radios were frequently inoperable and too few in number. In frustration, individual soldiers purchased commercial radios from civilian sources. This improvisation created an unsecured communications environment that could be monitored by any hostile force outside the detention facility.

Detention Operations and Accountability

Traditionally, military police support the Joint Task Force (JTF) by undertaking administrative processing of detention operations, thereby relieving the war-fighters of concern over prisoners and civilian detainees. The handling of detainees is a tactical and operational consideration the JTF addresses during planning to prevent combat forces from being diverted to handle large numbers of detainees. Military police are structured,

therefore, to facilitate the tempo of combat operations by providing for the quick movement of prisoners from the battle area to temporary holding areas and thence to detention facilities.

However, the lack of relevant doctrine meant the design and operation of division, battalion, and company collection points were improvised on an ad hoc basis, depending on such immediate local factors as mission, troops available, weather, time, etc. At these collection points, the SOPs the units had prior to deployment were outdated or ill-suited for the operating environment of Afghanistan and Iraq. Tactical units found themselves taking on roles in detainee operations never anticipated in their prior training. Such lack of proper skills had a negative effect on the intelligence exploitation, security, and safeguarding of detainees.

The initial point of capture may be at any time or place in a military operation. This is the place where soldiers have the least control of the environment and where most contact with the detainees occurs. It is also the place where, in or immediately after battle, abuse may be most likely. And it is the place where the detainee, shocked by capture, may be most likely to give information. As noted earlier, instead of capturing and rapidly transporting detainees to collection points, battalions and companies were holding detainees for excessive periods, even though they lacked the training, materiel, or infrastructure for productive interrogation. The Naval IG found that approximately one-third of the alleged incidents of abuse occurred at the point of capture.

Detention

The decision to use Abu Ghraib as the primary operational level detention facility happened by default. Abu Ghraib was selected by Ambassador Bremer who envisioned it as a temporary facility to be used for criminal detainees until the new Iraqi government could be established and an Iraqi prison established at another site. However, CJTF-7 saw an opportunity to use it as an interim site for the detainees it expected to round up as

part of Operation Victory Bounty in July 2003. CJTF-7 had considered Camp Bucca but rejected it, as it was 150 miles away from Baghdad where the operation was to take place.

Abu Ghraib was also a questionable facility from a standpoint of conducting interrogations. Its location, next to an urban area, and its large size in relation to the small MP unit tasked to provide a law enforcement presence, made it impossible to achieve the necessary degree of security. The detainee population of approximately 7,000 out-manned the 92 MPs by approximately a 75:1 ratio. The choice of Abu Ghraib as the facility for detention operations placed a strictly detention mission-driven unit—one designed to operate in a rear area—smack in the middle of a combat environment.

Detainee Accountability and Classification

Adequate procedures for accountability were lacking during the movement of detainees from the collection points to the detainee facilities. During the movement, it was not unusual for detainees to exchange their identification tags with those of other detainees. The diversity of the detainee population also made identification and classification difficult. Classification determined the detainee assignment to particular cells/blocks, but individuals brought to the facility were often a mix of criminals and security detainees. The security detainees were either held for their intelligence value or presented a continuing threat to Coalition Forces. Some innocents were also included in the detainee population. The issue of unregistered or "ghost" detainees presented a limited, though significant, problem of accountability at Abu Ghraib.

Detainee Reporting

Detainee reporting lacked accountability, reliability and standardization. There was no central agency to collect and manage detainee information. The combatant commanders

and the JTF commanders have overall responsibility for the detainee programs to ensure compliance with the international law of armed conflict, domestic law and applicable national policy and directives. The reporting system is supposed to process all inquiries concerning detainees and provide accountability information to the International Committee of the Red Cross. The poor reporting system did not meet this obligation.

Release Procedures

Multiple reviews were required to make release recommendations prior to approval by the release authority. Nonconcurrence by area commanders, intelligence organizations, or law enforcement agencies resulted in retention of ever larger numbers of detainees. The Army Inspector General estimated that up to 80 percent of detainees being held for security and intelligence reasons might be eligible for release upon proper review of their cases with the other 20 percent either requiring continued detention on security grounds or uncompleted intelligence requirements. Interviews indicated area commanders were reluctant to concur with release decisions out of concern that potential combatants would be reintroduced into their areas of operation or that the detainees had continuing intelligence value.

INTERROGATION OPERATIONS

Any discussion of interrogation techniques must begin with the simple reality that their purpose is to gain intelligence that will help protect the United States, its forces and interests abroad. The severity of the post-September 11, 2001 terrorist threat and the escalating insurgency in Iraq make information gleaned from interrogations especially important. When lives are at stake, all legal and moral means of eliciting information must be considered. Nonetheless, interrogations are inherently unpleasant, and many people find them objectionable by their very nature.

The relationship between interrogators and detainees is frequently adversarial. The interrogator's goal of extracting useful information likely is in direct opposition to the detainee's goal of resisting or dissembling. Although interrogators are trained to stay within the bounds of acceptable conduct, the imperative of eliciting timely and useful information can sometimes conflict with proscriptions against inhumane or degrading treatment. For interrogators in Iraq and Afghanistan, this tension is magnified by the highly stressful combat environment. The conditions of war and the dynamics of detainee operations carry inherent risks for human mistreatment and must be approached with caution and careful planning and training.

A number of interrelated factors both limited the intelligence derived from interrogations and contributed to detainee abuse in Operations Enduring Freedom and Iraqi Freedom. A shortfall of properly trained human intelligence personnel to do tactical interrogation of detainees existed at all levels. At the larger detention centers, qualified and experienced interrogators and interpreters were in short supply. No doctrine existed to cover segregation of detainees whose status differed or was unclear, nor was there guidance on timely release of detainees no longer deemed of intelligence interest. The failure to adapt rapidly to the new intelligence requirements of the Global War on Terror resulted in inadequate resourcing, inexperienced and untrained personnel, and a backlog of detainees

destined for interrogation. These conditions created a climate not conducive to sound intelligence-gathering efforts.

The Threat Environment

The Global War on Terror requires a fundamental reexamination of how we approach collecting intelligence. Terrorists present new challenges because of the way they organize, communicate, and operate. Many of the terrorists and insurgents are geographically dispersed non-state actors who move across national boundaries and operate in small cells that are difficult to surveil and penetrate.

Human Intelligence from Interrogations

The need for human intelligence has dramatically increased in the new threat environment of asymmetric warfare. Massed forces and equipment characteristic of the Cold War era, Desert Storm and even Phase I of Operation Iraqi Freedom relied largely on signals and imagery intelligence. The intelligence problem then was primarily one of monitoring known military sites, troop locations and equipment concentrations. The problem today, however, is discovering new information on widely dispersed terrorist and insurgent networks. Human intelligence often provides the clues to understand these networks, enabling the collection of intelligence from other sources. Information derived from interrogations is an important component of this human intelligence, especially in the Global War on Terror.

The interrogation of al Qaeda members held at Guantanamo has yielded valuable information used to disrupt and preempt terrorist planning and activities. Much of the 9/11 Commission's report on the planning and execution of the attacks on the World Trade Center and Pentagon came from interrogation of detainees. In the case of

al Qaeda, interrogations provided insights on organization, key personnel, target selection, planning cycles, cooperation among various groups, and logistical support. This information expanded our knowledge of the selection, motivation, and training of these groups. According to Congressional testimony by the Under Secretary of Defense for Intelligence, we have gleaned information on a wide range of al Qaeda activities, including efforts to obtain weapons of mass destruction, sources of finance, training in use of explosives and suicide bombings, and potential travel routes to the United States.

Interrogations provide commanders with information about enemy networks, leadership, and tactics. Such information is critical in planning operations. Tactically, detainee interrogation is a fundamental tool for gaining insight into enemy positions, strength, weapons, and intentions. Thus, it is fundamental to the protection of our forces in combat. Notably, Saddam Hussein's capture was facilitated by interrogation-derived information. Interrogations often provide fragmentary pieces of the broader intelligence picture. These pieces become useful when combined with other human intelligence or intelligence from other sources.

Pressure on Interrogators to Produce Actionable Intelligence

With the active insurgency in Iraq, pressure was placed on the interrogators to produce "actionable" intelligence. In the months before Saddam Hussein's capture, inability to determine his whereabouts created widespread frustration within the intelligence community. With lives at stake, senior leaders expressed, forcibly at times, their needs for better intelligence. A number of visits by high-level officials to Abu Ghraib undoubtedly contributed to this perceived pressure. Both the CJTF-7 commander and his intelligence officer, CJTF-7 C2, visited the prison on several occasions. MG Miller's visit in August/September, 2003 stressed the need to move from simply collecting tactical information to collecting information of operational and strategic value. In November

2003, a senior member of the National Security Council Staff visited Abu Ghraib, leading some personnel at the facility to conclude, perhaps incorrectly, that even the White House was interested in the intelligence gleaned from their interrogation reports. Despite the number of visits and the intensity of interest in actionable intelligence, however, the Panel found no undue pressure exerted by senior officials. Nevertheless, their eagerness for intelligence may have been perceived by interrogators as pressure.

Interrogation Operations Issues

A number of factors contributed to the problems experienced in interrogation operations. They ranged from resource and leadership shortfalls to doctrinal deficiencies and poor training.

Inadequate Resources

As part of the peace dividend following the Cold War much of the human intelligence capability, particularly in the Army, was reduced. As hostilities began in Afghanistan and Iraq, Army human intelligence personnel, particularly interrogators and interpreters, were ill-equipped to deal with requirements at both the tactical level and at the larger detention centers. At the tactical level, questioning of detainees has been used in all major conflicts. Knowledge of the enemy's positions, strength, equipment and tactics is critical in order to achieve operational success while minimizing casualties. Such tactical questioning to gain immediate battlefield intelligence is generally done at or near the point of capture. In Iraq, although their numbers were insufficient, some of the more seasoned MIs from the MI units supporting Abu Ghraib were assigned to support the Army Tactical HUMINT teams in the field.

In both Afghanistan and Iraq, tactical commanders kept detainees longer than specified by doctrine in order to exploit their unique local knowledge such as religious and tribal affiliation and regional politics. Remaining with the tactical units, the detainees could be

available for follow-up questioning and clarification of details. The field commanders were concerned that information from interrogations, obtained in the more permanent facilities, would not be returned to the capturing unit. Tactical units, however, were not properly resourced to implement this altered operating arrangement. The potential for abuse also increases when interrogations are conducted in an emotionally charged field environment by personnel unfamiliar with approved techniques.

At the fixed detention centers such as Abu Ghraib, lack of resources and shortage of more experienced senior interrogators impeded the production of actionable intelligence. Inexperienced and untrained personnel often yielded poor intelligence. Interpreters, particularly, were in short supply, contributing to the backlog of detainees to be interrogated. As noted previously, at Abu Ghraib for instance, there were detainees who had been in custody for as long as 90 days before being interrogated for the first time.

Leadership and Organization Shortfalls at Abu Ghraib

Neither the leadership nor the organization of Military Intelligence at Abu Ghraib was up to the mission. The 205th MI Brigade had no organic interrogation elements; they had been eliminated by the downsizing in the 1990s. Soldiers from Army Reserve units filled the ranks, with the consequence that the Brigade Commander had to rely on disparate elements of units and individuals, including civilians, which had never trained together. The creation of the Joint Interrogation and Debriefing Center (JIDC) introduced another layer of complexity into an already stressed interrogations environment. The JIDC was an ad hoc organization made up of six different units lacking the normal command and control structure, particularly at the senior noncommissioned officer level. Leadership was also lacking, from the Commander of the 800th MP Brigade in charge of Abu Ghraib, who failed to ensure that soldiers had appropriate SOPs for dealing with detainees, to the Commander of the 205th MI Brigade, who failed to ensure that soldiers under his command were properly trained and followed the interrogation rules of engagement. Moreover, the Director of the JIDC was a weak leader who did not have experience in

interrogation operations and who ceded the core of his responsibilities to subordinates. He failed to provide appropriate training and supervision of personnel assigned to the Center. None of these leaders established the basic standards and accountability that might have served to prevent the abusive behaviors that occurred.

Interrogation Techniques

Interrogation techniques intended only for Guantanamo came to be used in Afghanistan and Iraq. Techniques employed at Guantanamo included the use of stress positions, isolation for up to 30 days and removal of clothing. In Afghanistan techniques included removal of clothing, isolating people for long periods of time, use of stress positions, exploiting fear of dogs, and sleep and light deprivation. Interrogators in Iraq, already familiar with some of these ideas, implemented them even prior to any policy guidance from CJTF-7. Moreover, interrogators at Abu Ghraib were relying on a 1987 version of FM 34-52, which authorized interrogators to control all aspects of the interrogation to include light, heating, food, clothing and shelter given to detainees.

A range of opinion among interrogators, staff judge advocates and commanders existed regarding what techniques were permissible. Some incidents of abuse were clearly cases of individual criminal misconduct. Other incidents resulted from misinterpretations of law or policy or confusion about what interrogation techniques were permitted by law or local SOPs. The incidents stemming from misinterpretation or confusion occurred for several reasons: the proliferation of guidance and information from other theaters of operation; the interrogators' experiences in other theaters; and the failure to distinguish between permitted interrogation techniques in other theater environments and Iraq. Some soldiers or contractors who committed abuse may honestly have believed the techniques were condoned.

Use of Contractors as Interrogators

As a consequence of the shortage of interrogators and interpreters, contractors were used to augment the workforce. Contractors were a particular problem at Abu Ghraib. The Army Inspector General found that 35 percent of the contractors employed did not receive formal training in military interrogation techniques, policy, or doctrine. The Naval Inspector General, however, found some of the older contractors had backgrounds as former military interrogators and were generally considered more effective than some of the junior enlisted military personnel. Oversight of contractor personnel and activities was not sufficient to ensure intelligence operations fell within the law and the authorized chain of command. Continued use of contractors will be required, but contracts must clearly specify the technical requirements and personnel qualifications, experience, and training needed. They should also be developed and administered in such as way as to provide the necessary oversight and management.

Doctrinal Deficiencies

At the tactical level, detaining individuals primarily for intelligence collection or because they constitute a potential security threat, though necessary, presents units with situations not addressed by current doctrine. Many units adapted their operating procedures for conducting detainee operations to fit an environment not contemplated in the existing doctrinal manuals. The capturing units had no relevant procedures for information and evidence collection, which were critical for the proper disposition of detainees.

Additionally, there is inconsistent doctrine on interrogation facility operations for the fixed detention locations. Commanders had to improvise the organization and command relationships within these elements to meet the particular requirements of their operating environments in Afghanistan and Iraq. Doctrine is lacking to address the screening and interrogation of large numbers of detainees whose status (combatants, criminals, or innocents) is not easily ascertainable. Nor does policy specifically address administrative

responsibilities related to the timely release of detainees captured and detained primarily for intelligence exploitation or for the security threat they may pose.

Role of CIA

CIA personnel conducted interrogations in DoD detention facilities. In some facilities these interrogations were conducted in conjunction with military personnel, but at Abu Ghraib the CIA was allowed to conduct its interrogations separately. No memorandum of understanding existed on interrogations operations between the CIA and CJTF-7, and the CIA was allowed to operate under different rules. According to the Fay investigation, the CIA's detention and interrogation practices contributed to a loss of accountability at Abu Ghraib. We are aware of the issue of unregistered detainees, but the Panel did not have sufficient access to CIA information to make any determinations in this regard.

THE ROLE OF MILITARY POLICE AND MILITARY INTELLIGENCE IN DETENTION OPERATIONS

Existing doctrine does not clearly address the relationship between the Military Police (MP) operating detention facilities and Military Intelligence (MI) personnel conducting intelligence exploitation at those facilities. The Army Inspector General report states neither MP nor MI doctrine specifically defines the distinct, but interdependent, roles and responsibilities of the two elements in detainee operations.

In the Global War on Terror, we are dealing with new conditions and new threats. Doctrine must be adjusted accordingly. MP doctrine currently states intelligence personnel may collaborate with MPs at detention sites to conduct interrogations, with coordination between the two groups to establish operating procedures. MP doctrine does not; however, address the subject of approved and prohibited MI procedures in an MP-operated facility. Conversely, MI doctrine does not clearly explain MP detention procedures or the role of MI personnel within a detention setting.

GUANTANAMO

The first detainees arrived at Guantanamo in January 2002. The SOUTHCOM Commander established two joint task forces at Guantanamo to execute the detention operations (JTF-160) and the interrogation operations (JTF-170). In August of that year, based on difficulties with the command relationships, the two JTFs were organized into a single command designated as Joint Task Force Guantanamo. This reorganization was conceived to enhance unity of command and direct all activities in support of interrogation and detention operations.

On November 4, 2002, MG Miller was appointed Commander of Joint Task Force Guantanamo. As the joint commander, he called upon the MP and MI soldiers to work together cooperatively. Military police were to collect passive intelligence on detainees. They became key players, serving as the eyes and ears of the cellblocks for military intelligence personnel. This collaboration helped set conditions for successful interrogation by providing the interrogator more information about the detainee—his mood, his communications with other detainees, his receptivity to particular incentives, etc. Under the single command, the relationship between MPs and MIs became an effective operating model.

AFGHANISTAN

The MP and MI commands at the Bagram Detention Facility maintained separate chains of command and remained focused on their independent missions. The Combined Joint Task Force-76 Provost Marshal was responsible for detainee operations. He designated a principal assistant to run the Bagram facility. In parallel fashion, the CJTF-76 Intelligence Officer was responsible for MI operations in the facility, working through an Officer-in-Charge to oversee interrogation operations. The two deputies worked together to coordinate execution of their respective missions. A dedicated judge advocate was assigned full time to the facility, while the CJTF-76 Inspector General provided independent oversight. Based on information from the Naval Inspector General investigation, this arrangement in Afghanistan worked reasonably well.

ABU GHRAIB, IRAQ

The Central Confinement Facility is located near the population center of Baghdad. Abu Ghraib was selected by Ambassador Bremer who envisioned it as a temporary facility to be used for criminal detainees until the new Iraqi government could be

established and an Iraqi prison established at another site. Following operations during the summer of 2003, Abu Ghraib also was designated by CJTF-7 as the detention center for security detainees. It was selected because it was difficult to transport prisoners, due to improvised explosives devices (IEDs) and other insurgent tactics, to the more remote and secure Camp Bucca, some 150 miles away.

Request for Assistance

Commander CJTF-7 recognized serious deficiencies at the prison and requested assistance. In response to this request, MG Miller and a team from Guantanamo were sent to Iraq to provide advice on facilities and operations specific to screening, interrogations, HUMINT collection and interagency integration in the short- and long- term. The team arrived in Baghdad on August 31, 2003. MG Miller brought a number of recommendations derived from his experience at Guantanamo to include his model for MP and MI personnel to work together. These collaborative procedures had worked well at Guantanamo, in part because of the high ratio of approximately one-to-one of military police to mostly compliant detainees. However, the guard-to-detainee ratio at Abu Ghraib was approximately 1 to 75, and the Military Intelligence and the Military Police had separate chains of command.

MG Ryder, the Army Provost Marshal, also made an assistance visit in mid-October 2003. He conducted a review of detainee operations in Iraq. He found flawed operating procedures, a lack of training, an inadequate prisoner classification system, under-strength units and a ratio of guard to prisoners designed for "compliant" prisoners of war and not for criminals or high-risk security detainees. However, he failed to detect the warning signs of potential and actual abuse that was ongoing during his visit. The assessment team members did not identify any MP units purposely applying inappropriate confinement practices. The Ryder report continues that "Military Police, though adept at passive collection of intelligence within a facility, do not participate in

Military Intelligence-supervised interrogation sessions. The 800th MP Brigade has not been asked to change its facility procedures to set the conditions for MI interviews, nor participate in those interviews."

Prevailing Conditions

Conditions at Abu Ghraib reflected an exception to those prevailing at other theater detainee facilities. U.S. forces were operating Tiers 1A and 1B, while Tiers 2 through 7 were under the complete control of Iraqi prison guards. Iraqis who had committed crimes against other Iraqis were intended to be housed in the tiers under Iraqi control. The facility was under frequent hostile fire from mortars and rocket-propelled grenades. Detainee escape attempts were numerous and there were several riots. Both MI and MP units were seriously under-resourced and lacked unit cohesion and mid-level leadership. The reserve MP units had lost senior noncommissioned officers and other personnel through rotations back to the U.S. as well as reassignments to other missions in the theater.

When Abu Ghraib opened, the first MP unit was the 72nd MP Company, based in Henderson, Nevada. Known as "the Nevada Company," it has been described by many involved in investigations concerning Abu Ghraib as a very strong unit that kept tight rein on operational procedures at the facility. This company called into question the interrogation practices of the MI brigade regarding nakedness of detainees. The 72nd MP Company voiced and then filed written objections to these practices.

The problems at Abu Ghraib intensified after October 15, 2003, when the 372nd Military Police Company took over the facility. The 372nd MP Company had been given the most sensitive mission: control of Tier 1A and Tier 1B, where civilian and military intelligence specialists held detainees identified for interrogations as well as "high-risk" detainees. An "MI hold" was anyone of intelligence interest and included foreign and

Iraqi terrorists, as well as individuals possessing information regarding foreign fighters, infiltration methods, or pending attacks on Coalition forces. The "high-risk" troublemakers were held in Tier 1B. The prison cells of Tiers 1A and 1B were collectively known as "the hard site." The 372nd soldiers were not trained for prison guard duty and were thinly stretched in dealing with the large number of detainees. With little experience to fall back on, the company commander deferred to noncommissioned officers who had civilian correctional backgrounds to work the night shift. This deference was a significant error in judgment.

Leadership Shortfalls

At the leadership level, there was friction and a lack of communication between the 800th MP Brigade and the 205th MI Brigade through the summer and fall of 2003. There was no clear delineation of responsibility between commands and little coordination at the command level. Both the Director of the Joint Interrogation and Debriefing Center (JIDC) and the Commander of the 320th MP Battalion were weak and ineffective leaders. Both failed to ensure their subordinates were properly trained and supervised. They failed to establish and enforce basic soldier standards, proficiency, and accountability. Neither was able to organize tasks to accomplish their missions in an appropriate manner. By not communicating standards, policies, and plans to soldiers, these leaders conveyed a sense of tacit approval of abusive behaviors toward prisoners. This was particularly evident with respect to prisoner-handling procedures and techniques, including unfamiliarity with the Geneva Conventions. There was a lack of discipline and standards of behavior were not established nor enforced. A lax and dysfunctional command climate took hold.

In November 2003, the 205th MI Brigade Commander was assigned as the Forward Operation Base Commander, thus receiving responsibility for Abu Ghraib. This assignment was made as a result of CJTF-7 Commander's concern over force protection at the prison. The Fay investigation found this did not change the relationship of MP and

MI units in day-to-day operations at the facility, although the Commander of the 800th MP Brigade says she was denied access to areas of Abu Ghraib for which she was doctrinally responsible. Key leaders did not seem to recognize or appreciate psychological stressors associated with the detention mission. MG Taguba concluded these factors included "differences in culture, soldiers' quality of life, and the real presence of mortal danger over an extended time period. The failure of commanders to recognize these pressures contributed to the pervasive atmosphere existing at Abu Ghraib Detention Facility."

Military Working Dogs at Abu Ghraib

The Military Police directives give guidance for the use of military working dogs. They are used to provide an effective psychological and physical deterrent in the detention facility, offering an alternative to using firearms. Dogs are also used for perimeter security, inspections and patrols. MG Miller had recommended dogs as beneficial for detainee custody and control during his visit in August/September 2003. However, he never recommended, nor were dogs used for interrogations at Guantanamo. The working dog teams were requested by the Commander 205th MI Brigade who never understood the intent as described by MG Miller. It is likely the confusion about using dogs partially stems from the initial request for dog teams by military intelligence and not military police.

The working dogs arrived at Abu Ghraib in mid-November 2003. The two Army teams were assigned primarily to security of the compound while the three Navy teams worked inside at the entry control point. The senior Army and Navy dog handlers indicated they had not previously worked in a prison environment and received only a one-day training session on scout and search for escaped Enemy Prisoners of War. The Navy handler stated that upon arrival at Abu Ghraib he had not received an orientation on what was expected from his canine unit nor what was authorized or not authorized. He further

stated he had never received instruction on the use of force in the compound, but he acknowledged he knew a dog could not be used on a detainee if the detainee posed no threat.

Guidance provided by the CJTF-7 directive of September 14, 2003 allowed working dogs to be used as an interrogation technique with the CJTF-7 Commander's approval. This authorization was updated by the October 12, 2003 memorandum, which allowed the presence of dogs during interrogation as long as they were muzzled and under control of the handler at all times but still required approval. The Taguba and Jones/Fay investigations identified a number of abuses related to using muzzled and unmuzzled dogs during interrogations. They also identified some abuses involving dog-use unrelated to interrogations, apparently for the sadistic pleasure of the MPs involved in these incidents.

MP/MI Relationship

It is clear, with these serious shortfalls and lack of supervision, the model MG Miller presented for the effective working relationship between MI and MP was neither understood nor could it have been successfully implemented. Based on the Taguba and Jones/Fay investigations, "setting favorable conditions" had some basis in fact at Abu Ghraib, but it was also used as an excuse for abusive behavior toward detainees.

The events that took place at Abu Ghraib are an aberration when compared to the situations at other detention operations. Poor leadership and a lack of oversight set the stage for abuses to occur.

LAWS OF WAR/GENEVA CONVENTIONS

American military culture, training, and operations are steeped in a long-held commitment to the tenets of military and international law as traditionally codified by the world community. Department of Defense Directive 5100.77, DoD Law of War Program, describes the law of war as:

> That part of international law that regulates the conduct of armed hostilities. It is often called the law of armed conflict. The law of war encompasses all international law for the conduct of hostilities binding on the United States or its individual citizens, including treaties and international agreements to which the United States is a party, and applicable customary international law.

The law of war includes, among other agreements, the Geneva Conventions of 1949. The Geneva Conventions set forth the rights and obligations which govern the treatment of civilians and combatants during periods of armed conflict. Specifically, Geneva Convention III addresses the treatment of prisoners of war; and Geneva Convention IV addresses the treatment of civilians.

Chairman of the Joint Chiefs of Staff Instruction 5810.01B, Implementation of the DoD Law of War Program, reiterates U.S. policy concerning the law of war: "The Armed Forces of the United States will comply with the law of war during all armed conflicts, however such conflicts are characterized…."

The United States became engaged in two distinct conflicts, Operation Enduring Freedom (OEF) in Afghanistan and Operation Iraqi Freedom (OIF) in Iraq. As a result of a Presidential determination, the Geneva Conventions did not apply to al Quaeda and Taliban combatants. Nevertheless, these traditional standards were put into effect for OIF and remain in effect at this writing. Some would argue this is a departure from the

traditional view of the law of war as espoused by the ICRC and others in the international community.

Operation Enduring Freedom

On October 17, 2001, pursuant to the commencement of combat operations in OEF, the Commander, CENTCOM, issued an order instructing the Geneva Conventions were to be applied to all captured individuals in accordance with their traditional interpretation. Belligerents would be screened to determine whether or not they were entitled to prisoner of war status. If an individual was entitled to prisoner of war status, the protections of Geneva Convention III would apply. If armed forces personnel were in doubt as to a detained individual's status, Geneva Convention III rights would be accorded to the detainee until a Geneva Convention III Article 5 tribunal made a definitive status determination. If the individual was found not to be entitled to Geneva Convention III protections, he or she might be detained and processed under U.S. criminal code, a procedure consistent with Geneva Convention IV.

A policy debate concerning the application of treaties and laws to al Qaeda and Taliban detainees then began taking shape. The Department of Justice Office of Legal Counsel (OLC) provided opinions to Counsel to the President and Department of Defense General Counsel concluding the Geneva Conventions did not protect members of the al Qaeda organization, and the President could decide that Geneva Conventions did not protect Taliban militia. Counsel to the President and the Attorney General so advised the President.

On February 7, 2002 the President issued a memorandum stating, in part,

> ...the war against terrorism ushers in a new paradigm.... Our nation recognizes that this new paradigm – ushered in not by us, but by terrorists – requires new thinking in the law of war, but thinking that should nevertheless be consistent with the principles of Geneva.

Upon this premise, the President determined the Geneva Conventions did not apply to the U.S. conflict with al Qaeda, and that Taliban detainees did not qualify for prisoner of war status. Removed from the protections of the Geneva Conventions, al Qaeda and Taliban detainees have been classified variously as "unlawful combatants," "enemy combatants," and "unprivileged belligerents."

The enemy in the Global War on Terror is one neither the United States nor the community of nations has ever before engaged on such an extensive scale. These far-reaching, well-resourced, organized, and trained terrorists are attempting to achieve their own ends. Such terrorists are not of a nation state such as those who are party to the agreements which comprise the law of war. Neither do they conform their actions to the letter or spirit of the law of war.

The Panel accepts the proposition that these terrorists are not combatants entitled to the protections of Geneva Convention III. Furthermore, the Panel accepts the conclusion the Geneva Convention IV and the provisions of domestic criminal law are not sufficiently robust and adequate to provide for the appropriate detention of captured terrorists.

The Panel notes the President qualified his determination, directing that United States policy would be "consistent with the principles of Geneva." Among other things, the Geneva Conventions adhere to a standard calling for a delineation of rights for all persons, and humane treatment for all persons. They suggest that no person is "outlaw," that is, outside the laws of some legal entity.

The Panel finds the details of the current policy vague and lacking. Justice Sandra Day O'Connnor, writing for the majority in *Hamdi v Rumsfeld*, June 28, 2004 points out "the Government has never provided any court with the full criteria that it uses in classifying individuals as [enemy combatants]." Justice O'Connor cites several authorities to support the proposition that detention "is a clearly established principle of the law of

war," but also states there is no precept of law, domestic or international, which would permit the indefinite detention of any combatant.

As a matter of logic, there should be a category of persons who do not comply with the specified conditions and thus fall outside the category of persons entitled to EPW status. Although there is not a particular label for this category in law of war conventions, the concept of "unlawful combatant" or "unprivileged belligerent" is a part of the law of war.

Operation Iraqi Freedom

Operation Iraqi Freedom is wholly different from Operation Enduring Freedom. It is an operation that clearly falls within the boundaries of the Geneva Conventions and the traditional law of war. From the very beginning of the campaign, none of the senior leadership or command considered any possibility other than that the Geneva Conventions applied.

The message in the field, or the assumptions made in the field, at times lost sight of this underpinning. Personnel familiar with the law of war determinations for OEF in Afghanistan tended to factor those determinations into their decision-making for military actions in Iraq. Law of war policy and decisions germane to OEF migrated, often quite innocently, into decision matrices for OIF. We noted earlier the migration of interrogation techniques from Afghanistan to Iraq. Those interrogation techniques were authorized only for OEF. More important, their authorization in Afghanistan and Guantanamo was possible only because the President had determined that individuals subjected to these interrogation techniques fell outside the strict protections of the Geneva Conventions.

One of the more telling examples of this migration centers around CJTF-7's determination that some of the detainees held in Iraq were to be categorized as unlawful

combatants. "Unlawful combatants" was a category set out in the President's February 7, 2002 memorandum. Despite lacking specific authorization to operate beyond the confines of the Geneva Conventions, CJTF-7 nonetheless determined it was within their command discretion to classify, as unlawful combatants, individuals captured during OIF. CJTF-7 concluded it had individuals in custody who met the criteria for unlawful combatants set out by the President and extended it in Iraq to those who were not protected as combatants under the Geneva Conventions, based on the OLC opinions. While CJTF-7's reasoning is understandable in respect to unlawful combatants, nonetheless, they understood there was no authorization to suspend application of the Geneva Conventions, in letter and spirit, to all military actions of Operation Iraqi Freedom. In addition, CJTF-7 had no means of discriminating detainees among the various categories of those protected under the Geneva Conventions and those unlawful combatants who were not.

THE ROLE OF THE INTERNATIONAL COMMITTEE OF THE RED CROSS

Since December 2001, the International Committee of the Red Cross (ICRC) has visited U.S. detention operations in Guantanamo, Iraq, and Afghanistan numerous times. Various ICRC inspection teams have delivered working papers and reports of findings to U.S. military leaders at different levels. While the ICRC has acknowledged U.S. attempts to improve the conditions of detainees, major differences over detainee status as well as application of specific provisions of Geneva Conventions III and IV remain. If we were to follow the ICRC's interpretations, interrogation operations would not be allowed. This would deprive the U.S. of an indispensable source of intelligence in the war on terrorism.

The ICRC is an independent agency whose activities include observing and reporting on conditions in wartime detention camps and facilities. During visits, it attempts to register all prisoners, inspect facilities, and conduct private interviews with detainees to discuss any problems concerning detainee treatment or conditions; it also provides a means for detainees to contact their families. While the ICRC has no enforcing authority and its reports are supposedly confidential, any public revelation regarding standards of detainee treatment can have a substantial effect on international opinion.

The ICRC seeks to handle problems at the lowest level possible. When a team conducts an inspection, it provides a briefing, and sometimes a report, to the local commander. Discrepancies and issues are presented to the detaining authorities, and follow-up visits are made to monitor compliance with recommendations. The commander may or may not implement the recommendations based on either resource constraint or his interpretation of applicable law. These constraints can make complete implementation of ICRC recommendations either difficult or inappropriate. If recommendations are not implemented, the ICRC may address the issue with higher authorities. The ICRC does

not expect to receive, nor does the DoD have a policy of providing, a written response to ICRC reports. However, DoD elements do attempt to implement as many of the recommendations as practicable, given security and resource constraints.

One important difference in approach between the U.S. and the ICRC is the interpretation of the legal status of terrorists. According to a Panel interview with CJTF-7 legal counsel, the ICRC sent a report to the State Department and the Coalition Provisional Authority in February 2003 citing lack of compliance with Protocol 1. But the U.S. has specifically rejected Protocol 1 stating that certain elements in the protocol, that provide legal protection for terrorists, make it plainly unacceptable. Still the U.S. has worked to preserve the positive elements of Protocol 1. In 1985, the Secretary of Defense noted that "certain provisions of Protocol 1 reflect customary international law, and others appear to be positive new developments. We therefore intend to work with our allies and others to develop a common understanding or declaration of principles incorporating these positive aspects, with the intention they shall, in time, win recognition as customary international law." In 1986 the ICRC acknowledged that it and the U.S. government had "agreed to disagree" on the applicability of Protocol 1. Nevertheless, the ICRC continues to presume the United States should adhere to this standard under the guise of customary international law.

This would grant legal protections to terrorists equivalent to the protections accorded to prisoners of war as required by the Geneva Conventions of 1949 despite the fact terrorists do not wear uniforms and are otherwise indistinguishable from noncombatants. To do so would undermine the prohibition on terrorists blending in with the civilian population, a situation which makes it impossible to attack terrorists without placing noncombatants at risk. For this and other reasons, the U.S. has specifically rejected this additional protocol.

The ICRC also considers the U.S. policy of categorizing some detainees as "unlawful combatants" to be a violation of their interpretation of international humanitarian law. It contends that Geneva Conventions III and IV, which the U.S. has ratified, allow for only

two categories of detainees: (1) civilian detainees who must be charged with a crime and tried and (2) enemy combatants who must be released at the cessation of hostilities. In the ICRC's view, the category of "unlawful combatant" deprives the detainees of certain human rights. It argues that lack of information regarding the reasons for detention and the conditions for release are major sources of stress for detainees.

However, the 1949 Geneva Conventions specify conditions to qualify for protected status. By logic, then, if detainees do not meet the specific requirements of privileged status, there clearly must be a category for those lacking in such privileges. The ICRC does not acknowledge such a category of "unprivileged belligerents," and argues that it is not consistent with its interpretation of the Geneva Conventions.

Regarding the application of current international humanitarian law, including Geneva Conventions III and IV, the ICRC has three concerns: (1) gaining access to and ascertaining the status of all detainees in U.S. custody; (2) its belief that linking detention with interrogations should not be allowed which follows from its refusal to recognize the category of unprivileged combatants and (3) they also worry about losing their effectiveness.

Although the ICRC found U.S. forces generally cooperative, it has cited occasions when the forces did not grant adequate access to detainees, both in Iraq and Afghanistan. Of particular concern to the ICRC, however, has been the existence of "ghost detainees," detainees who were kept from ICRC inspectors. While the Panel has not been able to ascertain the number of ghost detainees in the overall detainee population, several investigations cite their existence. Both the Taguba and Jones/Fay reports cite instances of ghost detainees at Abu Ghraib. Secretary Rumsfeld publicly declared he directed one detainee be held secretly at the request of the Director of Central Intelligence.

On balance, the Panel concludes there is value in the relationship the Department of Defense historically has had with the ICRC. The ICRC should serve as an early warning

indicator of possible abuse. Commanders should be alert to ICRC observations in their reports and take corrective actions as appropriate. The Panel also believes the ICRC, no less than the Defense Department, needs to adapt itself to the new realities of conflict, which are far different from the Western European environment from which the ICRC's interpretation of Geneva Conventions was drawn. The Department of Defense has established an office of detainee affairs and should continue to reshape its operational relationship with the ICRC.

RECOMMENDATIONS

Department of Defense reform efforts are underway and the Panel commends these efforts. The Office of the Secretary of Defense, the Joint Chiefs of Staff and the Military Services are conducting comprehensive reviews on how military operations have changed since the end of the Cold War. The military services now recognize the problems and are studying how to adjust force compositions, training, doctrine and responsibilities for active/reserve/guard and contractor mixes to ensure we are better prepared to succeed in the war on terrorism.

The Panel reviewed various inspections, investigations and assessments that produced over 300 recommendations for corrective actions to address the problems identified with DoD detention operations. For the most part the Panel endorses their recommendations. In some areas the recommendations do not go far enough and we augment them. We provide additional recommendations to address relevant areas not covered by previous analyses.

The Independent Panel provides the following additional recommendations:

1. The United States should further define its policy, applicable to both the Department of Defense and other government agencies, on the categorization and status of all detainees as it applies to various operations and theaters. It should define their status and treatment in a way consistent with U.S. jurisprudence and military doctrine and with U.S. interpretation of the Geneva Conventions. We recommend that additional operational, support and staff judge advocate personnel be assigned to appropriate commands for the purpose of expediting the detainee release review process.

2. The Department of Defense needs to address and develop joint doctrine to define the appropriate collaboration between military intelligence and military police in a detention facility. The meaning of guidance, such as MPs "setting the conditions" for

interrogation, needs to be defined with precision. MG Taguba argued that all detainee operations be consolidated under the responsibility of a single commander reporting directly to Commander CJTF-7. This change has now been accomplished and seems to be working effectively. Other than lack of leadership, training deficiencies in both MP and MI units have been cited most often as the needed measures to prevent detainee abuse. We support the recommendations on training articulated by the reports published by the various other reviews.

3. The nation needs more specialists for detention/interrogation operations, including linguists, interrogators, human intelligence, counter-intelligence, corrections police and behavioral scientists. Accompanying professional development and career field management systems must be put in place concurrently. The Panel agrees that some use of contractors in detention operations must continue into the foreseeable future. This is especially the case with the need for qualified interpreters and interrogators and will require rigorous oversight.

4. Joint Forces Command should chair a Joint Service Integrated Process Team to develop a new Operational Concept for Detention Operations in the new era of warfare, covering the Global War on Terror. The team should place special and early emphasis on detention operations during Counter-Insurgency campaigns and Stability Operations in which familiar concepts of front and rear areas may not apply. Attention should also be given to preparing for conditions in which normal law enforcement has broken down in an occupied or failed state. The Panel recommends that the idea of a deployable detention facility should be studied and implemented as appropriate.

5. Clearly, force structure in both MP and MI is inadequate to support the armed forces in this new form of warfare. Every investigation we reviewed refers to force structure deficiencies in some measure. There should be an active and reserve component mix of units for both military intelligence and military police. Other forces besides the Army are also in need of force structure improvements. Those forces have not been addressed

adequately in the reports reviewed by the Panel, and we recommend that the Secretaries of the Navy and Air Force undertake force structure reviews of their own to improve the performance of their Services in detention operations.

6. Well-documented policy and procedures on approved interrogation techniques are imperative to counteract the current chilling effect the reaction to the abuses have had on the collection of valuable intelligence through interrogations. Given the critical role of intelligence in the Global War on Terror, the aggressiveness of interrogation techniques employed must be measured against the value of intelligence sought, to include its importance, urgency and relevance. A policy for interrogation operations should be promulgated early on and acceptable interrogation techniques for each operation must be clearly understood by all interrogation personnel.

7. All personnel who may be engaged in detention operations, from point of capture to final disposition, should participate in a professional ethics program that would equip them with a sharp moral compass for guidance in situations often riven with conflicting moral obligations. The development of such a values-oriented ethics program should be the responsibility of the individual services with assistance provided by the Joint Chiefs of Staff.

8. Clearer guidelines for the interaction of CIA with the Department of Defense in detention and interrogation operations must be defined.

9. The United States needs to redefine its approach to customary and treaty international humanitarian law, which must be adapted to the realities of the nature of conflict in the 21st Century. In doing so, the United States should emphasize the standard of reciprocity, in spite of the low probability that such will be extended to United States Forces by some adversaries, and the preservation of United States societal values and international image that flows from an adherence to recognized humanitarian standards.

10. The Department of Defense should continue to foster its operational relationship with the International Committee of the Red Cross. The Panel believes the International Committee of the Red Cross, no less than the Defense Department, needs to adapt itself to the new realities of conflict which are far different from the Western European environment from which the ICRC's interpretation of Geneva Conventions was drawn.

11. The assignment of a focal point within the office of the Under Secretary for Policy would be a useful organizational step. The new focal point for Detainee Affairs should be charged with all aspects of detention policy and also be responsible for oversight of DoD relations with the International Committee of the Red Cross.

12. The Secretary of Defense should ensure the effective functioning of rapid reporting channels for communicating bad news to senior Department of Defense leadership without prejudice to any criminal or disciplinary actions already underway. The Panel recommends consideration of a joint adaptation of procedures such as the Air Force special notification process.

13. The Panel notes that the Fay investigation cited some medical personnel for failure to report detainee abuse. As noted in that investigation, training should include the obligation to report any detainee abuse. The Panel also notes that the Army IG found significant shortfalls in training and force structure for field sanitation, preventive medicine and medical treatment requirements for detainees. As the DoD improves detention operations force structure and training, it should pay attention to the need for medical personnel to screen and monitor the health of detention personnel and detainees.

14. The integration of the recommendations in this report and all the other efforts underway on detention operations will require further study. Analysis of the dynamics of program and resource implications, with a view to assessing the trade-offs and opportunity costs involved, must be addressed.

Appendices

GLOSSARY

Army Regulation 15-6	AR 15-6	Army regulation which specifies procedures for command investigations. The common name for both formal and informal command investigations.
Active Component	AC	Active military component of the Army, Navy, Air Force or Marines.
Abuse Cases		An incident or allegation of abuse, including, but not limited to death, assault, sexual assault, and theft, that triggers a CID investigation, which may involve multiple individuals.
Behavioral Science Coordination Team	BSCT	Team comprised of medical and other specialized personnel that provides support to special operations forces.
Civilian Internees	CI	Designation of civilians encountered and detained in the theater of war.
Criminal Investigation Command	CID	Investigative agency of the U. S. Army responsible for conducting criminal investigations to which the Army is or may be a party.
Collection Points	CP	Forward locations where prisoners are collected, processed and prepared for movement to the detention center.
Coalition Provisional Authority	CPA	Interim government of Iraq, in place from May 2003 through June 2004.
Convention Against Torture and Other Cruel Inhumane or Degrading Treatment		An international treaty brought into force in 1987 which seeks to define torture and other cruel, inhuman or degrading treatment or punishment and provides a mechanism for punishing those who would inflict such treatment on others.
Enemy Prisoner of War	EPW	International Committee of the Red Cross term for prisoners of war; this status bestows certain rights to the individual in the Geneva Conventions.
Force Design Update	FDU	The Army process to review and restructure forces.

GLOSSARY

Fragmentary Order	FRAGO	An abbreviated form of an operation order (verbal, written or digital) usually issued on a day-to-day basis that eliminates the need for restarting information contained in a basic operation order.
Army Field Manual 34-52 "Intelligence Interrogation"	FM 34-52	Current manual for operations and training in interrogation techniques. The edition dated 1987 was updated in 1992.
Geneva Conventions	GC	The international treaties brought into force in August 1949. These conventions extend protections to, among others, prisoners of war and civilians in time of war.
Global War on Terror	GWOT	Worldwide operation to eradicate individuals and groups that participate in and sponsor terrorism.
Internment/Resettlement	I/R	Internment/resettlement mission assigned to specific US Army Military Police units who are responsible for the detention of Enemy Prisoners of War during armed conflict.
International Committee of the Red Cross	ICRC	Nongovernmental organization that seeks to help victims of war and internal violence.
In Lieu Of	ILO	When used in reference to manning, indicates that forces were used in a manner other than originally specified.
Initial Point of Capture	IPOC	Location where an enemy prisoner or internee is captured.
Iraq Survey Group	ISG	Organization located in Iraq with the mission to find weapons of mass destruction.
Joint Manning Document	JMD	Master document covering personnel requirements for the joint theater.
Navy Criminal Investigative Service	NCIS	Investigative service for the US Navy and Marine Corps.

GLOSSARY

National Detainee Reporting Center	NDRC	Agency charged with accounting for and reporting all EPW, retained personnel, civilian internees and other detainees during armed conflict.
Operation Enduring Freedom	OEF	Military operation in Afghanistan
Other Government Agencies	OGA	Refers to non-Department of Defense agencies operating in theaters of war.
Operation Iraqi Freedom	OIF	Military operation in Iraq.
Office of Legal Counsel	OLC	Refers to the Department of Justice Office of Legal Counsel.
Operation Noble Eagle	ONE	Operation to activate and deploy forces for homeland defense and civil support in response to the attacks of September 11, 2001.
Operation Victory Bounty	OVB	CJTF-7 operation to sweep Baghdad area for remaining elements of the Saddam Fedayeen in 2003.
Operational Control	OPCON	Command authority over all aspects of military operations.
Republican Guard	RG	Elite Iraqi military forces under the regime of Saddam Hussein.
Reserve Component	RC	Army, Navy, Air Force and Marine Reserves and Army and Air National Guard
Request for Forces	RFF	Commanders request for additional forces to support the mission.
Standing Operating Procedure	SOP	A set of instructions covering those features of operations which lend themselves to a definite or standardized procedures without loss of effectiveness. The procedure is applicable unless ordered otherwise.
Tactical Control	TACON	Command authority to control and task forces for maneuvers within an area of operations.

GLOSSARY

Tactical Human Intelligence Team	THT	Forward deployed intelligence element providing human intelligence support to maneuver units.
Time Phased Force Deployment List	TPFDL	Identifies the units needed to support an operational plan and specifies their order and method of deployment.
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GLOSSARY

			Commander
Guantanamo			
United States Southern Command	USSOUTHCOM	One of nine Unified Combatant Commands with operational control of U.S. military forces. Area of responsibility includes Guantanamo Bay, Cuba.	GEN James Hill
Joint Task Force 160	JTF-160	Initially responsible for detention operations at Guantanamo, merged in JTF-G 11/4/02.	
Joint Task Force 170	JTF-170	Initially responsible for interrogation operations at Guantanamo, merged in JTF-G 11/4/02.	
Joint Task Force Guantanamo	JTF-G	Joint task force for all operations at Guantanamo, formed 11/4/02.	
Afghanistan			
United States Central Command	USCENTCOM	One of nine Unified Commands with operational control of U.S. military forces. Area of responsibility includes Afghanistan and Iraq.	GEN John Abizaid
Coalition Forces Land Component Command	CFLCC	Senior headquarters element for multi-national land forces in both Iraq and Afghanistan.	LTG David McKiernan
Combined Joint Task Force 180	CJTF-180	Forward deployed headquarters for Afghanistan.	
Iraq			
United States Central Command	USCENTCOM	One of nine Unified Commands with operational control of U.S. military forces. Area of responsibility includes Afghanistan and Iraq.	GEN John Abizaid
Coalition Forces Land Component Command	CFLCC	Senior headquarters element for multi-national land forces in both Iraq and Afghanistan.	LTG David McKiernan
Combined Joint Task Force 7	CJTF-7	Forward deployed headquarters for Operation Iraqi Freedom. Replaced in May 04 by Multi National Force - Iraq and Multi National Corps - Iraq	LTG Ricardo Sanchez
Combined Joint Task Force 7 Intelligence Staff	CJTF-7 C2	Intelligence staff support to CJTF-7	MG Barbara Fast
800th Military Police Brigade	800th MP BDE	U.S. Army Reserve Military Police Brigade, responsible for all internment facilities in Iraq, and assistance to CPA Minister of Justice.	BG Janis Karpinski
Joint Interrogation and Detention Center	JDIC	Element of CJTF-7 for intrrogation mission at Abu Ghuraib.	LTC Steven Jordan

320th Military Police Battalion	320th MP BN	Element of 800th Bde; assigned to Abu Ghuraib.	LTC Jerry Phillabaum
372nd Military Police Company	372nd MP CO	Element of 320th Bn; assigned to Abu Ghuraib in October 2003.	CPT Donald Reese
72nd Military Police Company	72nd MP CO	Nevada National Guard MP Company, assigned to Abu Ghuraib prior to 372nd MP Co.	
205th Military Intelligence Brigade	205th MI BDE	Military Intelligence Brigade responsible for multiple Army intelligence missions throughout Iraq.	COL Thomas Pappas
519th Military Intelligence Battalion	519th MI BN	Tactical exploitation element of 525 MI Bde; Company A was located at Abu Ghuraib.	MAJ Michnewicz

Other

United States Army Forces Command	FORSCOM	U.S. Army major command responsible for training, readiness and deployment.

SECRETARY OF DEFENSE
1000 DEFENSE PENTAGON
WASHINGTON, DC 20301-1000

MAY 12 2004

MEMORANDUM FOR THE HONORABLE JAMES R. SCHLESINGER,
CHAIRMAN
THE HONORABLE HAROLD BROWN
THE HONORABLE TILLIE K. FOWLER
GENERAL CHARLES A. HORNER, USAF (RET.)

SUBJECT: Independent Panel to Review DoD Detention Operations

Various organizations of the Department of Defense have investigated, or will investigate, various aspects of allegations of abuse at DoD Detention Facilities and other matters related to detention operations. Thus far these inquiries include the following:

--Criminal investigations into individual allegations
--Army Provost Marshal General assessment of detention and corrections operations in Iraq
--Joint Task Force Guantanamo assistance visit to Iraq to assess intelligence operations
--Administrative Investigation under AR 15-6 regarding Abu Ghraib operations
--Army Inspector General assessment of doctrine and training for detention operations
--Commander, Joint Task Force-7 review of activities of military intelligence personnel at Abu Ghraib
--Army Reserve Command Inspector General assessment of training of Reserve units regarding military intelligence and military police
--Naval Inspector General review of detention procedures at Guantanamo Bay, Cuba, and the Naval Consolidated Brig, Charleston, South Carolina

I have been or will be briefed on the results of these inquiries and the corrective actions taken by responsible officials within the Department.

It would be helpful to me to have your independent, professional advice on the issues that you consider most pertinent related to the various allegations, based on your review of completed and pending investigative reports and other materials and information. I am especially interested in your views on the cause of the problems and what should be done to fix them. Issues such as force structure, training of regular and reserve personnel, use of contractors, organization, detention policy and procedures, interrogation policy and procedures, the relationship between detention and interrogation, compliance with the Geneva Conventions, relationship with the International Committee

OSD 06804-04

x B

of the Red Cross, command relationships, and operational practices may be contributing factors you might wish to review. Issues of personal accountability will be resolved through established military justice and administrative procedures, although any information you may develop will be welcome.

I would like your independent advice orally and in writing, preferably within 45 days after you begin your review. DoD personnel will collect information for your review and assist you as you deem appropriate. You are to have access to all relevant DoD investigations and other DoD information unless prohibited by law. Reviewing all written materials relevant to these issues may be sufficient to allow you to provide your advice. Should you believe it necessary to travel or conduct interviews, the Director of Administration and Management will make appropriate arrangements.

I intend to provide your report to the Committees on Armed Services, the Secretaries of the Military Departments, the Chairman of the Joint Chiefs of Staff, the Commanders of the Combatant Commands, the Directors of the Defense Agencies, and others as appropriate. If your report contains classified information, please also provide an unclassified version suitable for public release.

By copy of this memorandum, I request the Director of Administration and Management to secure the necessary technical, administrative and legal support for your review from the Department of Defense Components. I appoint you as full-time employees of this Department without pay under 10 U.S.C. §1583. I request all Department of Defense personnel to cooperate fully with your review and to make available all relevant documents and information at your request.

cc: SECRETARIES OF THE MILITARY DEPARTMENTS
CHAIRMAN OF THE JOINT CHIEFS OF STAFF
UNDER SECRETARIES OF DEFENSE
DIRECTOR, DEFENSE RESEARCH AND ENGINEERING
ASSISTANT SECRETARIES OF DEFENSE
GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE
INSPECTOR GENERAL OF THE DEPARTMENT OF DEFENSE
DIRECTOR, OPERATIONAL TEST AND EVALUATION
ASSISTANTS TO THE SECRETARY OF DEFENSE

DIRECTOR, ADMINISTRATION AND MANAGEMENT
DIRECTOR, FORCE TRANSFORMATION
DIRECTOR, NET ASSESSMENT
DIRECTOR, PROGRAM ANALYSIS AND EVALUATION
DIRECTORS OF THE DEFENSE AGENCIES
DIRECTORS OF THE DOD FIELD ACTIVITIES

THE WHITE HOUSE

WASHINGTON

February 7, 2002

MEMORANDUM FOR THE VICE PRESIDENT
THE SECRETARY OF STATE
THE SECRETARY OF DEFENSE
THE ATTORNEY GENERAL
CHIEF OF STAFF TO THE PRESIDENT
DIRECTOR OF CENTRAL INTELLIGENCE
ASSISTANT TO THE PRESIDENT FOR NATIONAL SECURITY AFFAIRS
CHAIRMAN OF THE JOINT CHIEFS OF STAFF

SUBJECT: Humane Treatment of al Qaeda and Taliban Detainees

1. Our recent extensive discussions regarding the status of al Qaeda and Taliban detainees confirm that the application of the Geneva Convention Relative to the Treatment of Prisoners of War of August 12, 1949 (Geneva) to the conflict with al Qaeda and the Taliban involves complex legal questions. By its terms, Geneva applies to conflicts involving "High Contracting Parties," which can only be states. Moreover, it assumes the existence of "regular" armed forces fighting on behalf of states. However, the war against terrorism ushers in a new paradigm, one in which groups with broad, international reach commit horrific acts against innocent civilians, sometimes with the direct support of states. Our Nation recognizes that this new paradigm -- ushered in not by us, but by terrorists -- requires new thinking in the law of war, but thinking that should nevertheless be consistent with the principles of Geneva.

2. Pursuant to my authority as Commander in Chief and Chief Executive of the United States, and relying on the opinion of the Department of Justice dated January 22, 2002, and on the legal opinion rendered by the Attorney General in his letter of February 1, 2002, I hereby determine as follows:

   a. I accept the legal conclusion of the Department of Justice and determine that none of the provisions of Geneva apply to our conflict with al Qaeda in Afghanistan or elsewhere throughout the world because, among other reasons, al Qaeda is not a High Contracting Party to Geneva.

   b. I accept the legal conclusion of the Attorney General and the Department of Justice that I have the authority under the Constitution to suspend Geneva as between the United States and Afghanistan, but I decline to

[redacted]

Appendix C

exercise that authority at this time. Accordingly, I determine that the provisions of Geneva will apply to our present conflict with the Taliban. I reserve the right to exercise this authority in this or future conflicts.

c. I also accept the legal conclusion of the Department of Justice and determine that common Article 3 of Geneva does not apply to either al Qaeda or Taliban detainees, because, among other reasons, the relevant conflicts are international in scope and common Article 3 applies only to "armed conflict not of an international character."

d. Based on the facts supplied by the Department of Defense and the recommendation of the Department of Justice, I determine that the Taliban detainees are unlawful combatants and, therefore, do not qualify as prisoners of war under Article 4 of Geneva. I note that, because Geneva does not apply to our conflict with al Qaeda, al Qaeda detainees also do not qualify as prisoners of war.

3. Of course, our values as a Nation, values that we share with many nations in the world, call for us to treat detainees humanely, including those who are not legally entitled to such treatment. Our Nation has been and will continue to be a strong supporter of Geneva and its principles. As a matter of policy, the United States Armed Forces shall continue to treat detainees humanely and, to the extent appropriate and consistent with military necessity, in a manner consistent with the principles of Geneva.

4. The United States will hold states, organizations, and individuals who gain control of United States personnel responsible for treating such personnel humanely and consistent with applicable law.

5. I hereby reaffirm the order previously issued by the Secretary of Defense to the United States Armed Forces requiring that the detainees be treated humanely and, to the extent appropriate and consistent with military necessity, in a manner consistent with the principles of Geneva.

6. I hereby direct the Secretary of State to communicate my determinations in an appropriate manner to our allies, and other countries and international organizations cooperating in the war against terrorism of global reach.

Interrogation Policies in Guantanamo, Afghanistan and Iraq

17	FM 34-52 (1992)	Jan 02 - 01 Dec 02		**17**	FM 34-52 (1992)	27 Oct 01 - 24 Jan 03		**17**	FM 34-52 (1992)		
33	Secretary of Defense Approved Tiered System	02 Dec 02 - 15 Jan 03	1	**33**	CJTF 180 Response to Director, Joint Staff	24-Jan-03	1, 3, 6	**29**	CJTF-7 Signed Policy	14-Sep-03	1
20	FM 34-52 (1992) with 3 Cat I Techniques	16 Jan 03 - 15 Apr 03		**32**	CJTF 180 Detainee SOP	27-Mar-04	1	**19**	CJTF-7 Signed Policy	12-Oct-03	4
24	Secretary of Defense Memo	16 Apr 03 - Present	1,2	**19**	CJTF-A Rev 2 Guidance	Jun-04	4	**19**	CJTF-7 Signed Policy	13-May-04	4

1 Some techniques specifically delineated in this memo are inherent to techniques contained in FM 34-52, e.g. Yelling as a component of Fear Up
2 Five Approved Techniques require SOUTHCOM approval and SECDEF notification.
3 Figure includes techniques that were not in current use but requested for future use.
4 Figure includes one technique which requires CG approval.
5 Memorandum cited for Afghanistan and Iraq are classified.
6 Figure includes the 17 techniques of FM-34-52, alhtough they are not specified in the Memo.

Appendix D

Source: Naval IG Investigation

Evolution of Interrogation Techniques - GTMO

Interrogation Techniques	FM 34-52 (1992) Jan 02 - 01 Dec 02	Secretary of Defense Approved Tiered System 02 Dec 02 - 15 Jan 03	FM 34-52 (1992) with some Cat I 16 Jan 03 - 15 Apr 03	Secretary of Defense Memo 16 Apr 03 - Present
Direct questioning	X	X	X	X
Incentive/removal of incentive	X	X	X	X
Emotional love	X	X	X	X
Emotional hate	X	X	X	X
Fear up harsh	X	X	X	X
Fear up mild	X	X	X	X
Reduced fear	X	X	X	X
Pride and ego up	X	X	X	X
Pride and ego down	X	X	X	X
Futility	X	X	X	X
We know all	X	X	X	X
Establish your identity	X	X	X	X
Repetition approach	X	X	X	X
File and dossier	X	X	X	X
Mutt and Jeff				X*
Rapid Fire	X	X	X	X
Silence	X	X	X	X
Change of Scene	X	X	X	X
Yelling		X (Cat I)	X	
Deception		X (Cat I)		
Multiple interrogators		X (Cat I)	X	
Interrogator identity		X (Cat I)	X	
Stress positions, like standing		X (Cat II)		
False documents/reports		X (Cat II)		
Isolation for up to 30 days		X (Cat II)		X*
Deprivation of light/auditory stimuli		X (Cat II)		
Hooding (transportation & questioning		X (Cat II)		
20-interrogations		X (Cat II)		
Removal of ALL comfort items, including religious items		X (Cat II)		
MRE-only diet		X (Cat II)		X*
Removal of clothing		X (Cat II)		
Forced grooming		X (Cat II)		
Exploiting individual phobias, e.g. dogs		X (Cat II)		
Mild, non-injurious physical contact, e.g. grabbing, poking or light pushing		X (Cat III)		
Environmental manipulation				X
Sleep adjustment				X
False flag				X

*Techniques require SOUTHCOM approval and SECDEF notification.

Source: Naval IG Investigation
Appendix E

Major Detention Events

Terrorist attacks on U.S. Homeland.

First detainee seized at Mazar-e-Sharif. CIA officer M. Spirio killed.

President's Military Order re: Detention, Treatment, and Trial of Certain Non-Citizens in the War against Terrorism.

Operation Enduring Freedom begins.

Bagram Detention Facility Opened.

SOUTHCOM forwarded the 11 October JTF GTMO request for the use of 20 additional interrogation techniques to CJCS for approval. The SOUTHCOM request to the CJCS included 20 techniques.

ICRC visits Bagram.

First detainee arrives in GTMO.

First ICRC Visit to Guantanamo Bay prison camp.

President issues memorandum re: treatment of al Qaeda and Taliban detainees.

SECDEF approves "harsh" techniques.

SECDEF rescinds "harsh" techniques.

Invasion of Iraq begins.

SECDEF Approves Interrogation Techniques based on DoD Working Group recommendations.

President Bush declares major ground combat over in Iraq.

800 MP Bde., 3rd Maryland returnees returned.

Operation VICTORY BOUNTY. Focused effort to round up mid-level Baathists, Fedayeen, and others. 1000 detainees anticipated.

Abu Ghraib-policed re-opened by the Coalition Provisional Authority.

MG Miller leads a survey team on intelligence, interrogation, and detention operations in Iraq. Miller's report on 4 Sep recommends that MP detention operations support intelligence interrogation operations.

CJTF-7 issues Interrogation and Counter Resistance Policy for Iraq.

ICRC Visit to Abu Ghraib.

ICRC Visit to Abu Ghraib.

Abu Ghraib. Dates of photos for abuse triggered series of investigations.

CJTF-7 issues NEW "Interrogation and Counter-resistance Policy". Supersedes policy dated 14 Sep 03.

MG Fryer assesses detention and counselor operations in Iraq. Recommends that MP detention operations be kept separate from MI interrogation operations.

205th MI Bde. CDR, designated as overall commander at Abu Ghraib.

Abu Ghraib. 372 MP Co. SPC Diaby turns in a CD-ROM showing abuse photos.

Charges filed against 6 Soldiers seen in the photos.

MG Taguba conducts 15-6 investigation of the 800 MP Bde.

ICRC submits "Report on the Treatment by the Coalition Forces of Prisoners of War and Other Protected Persons by the Geneva Conventions in Iraq during Arrest, Internment and Interrogation" to General Sanchez.

60 Minutes II airs the pieces on Abu Ghraib.

Appendix F

PSYCHOLOGICAL STRESSES

The potential for abusive treatment of detainees during the Global War on Terrorism was entirely predictable based on a fundamental understanding of the principle of social psychology principles coupled with an awareness of numerous known environmental risk factors. Most leaders were unacquainted with these known risk factors, and therefore failed to take steps to mitigate the likelihood that abuses of some type would occur during detainee operations. While certain conditions heightened the possibility of abusive treatment, such conditions neither excuse nor absolve the individuals who engaged in deliberate immoral or illegal behaviors.

The abuse the detainees endured at various places and times raises a number of questions about the likely psychological aspects of inflicting such abuses. Findings from the field of social psychology suggest that the conditions of war and the dynamics of detainee operations carry inherent risks for human mistreatment, and therefore must be approached with great caution and careful planning and training.

The Stanford Prison Experiment

In 1973, Haney, Banks and Zimbardo (1) published their landmark Stanford study, "Interpersonal Dynamics in a Simulated Prison." Their study provides a cautionary tale for all military detention operations. The Stanford Experiment used a set of tested, psychologically sound college students in a benign environment. In contrast, in military detention operations, soldiers work under stressful combat conditions that are far from benign.

The Stanford Prison Experiment (SPE) attempted to "create a prison-like situation" and then observe the behavior of those involved. The researchers randomly assigned 24 young men to either the "prisoner" or "guard" group. Psychological testing was used to eliminate participants with overt psychopathology, and extensive efforts were made to

simulate actual prison conditions. The experiment, scheduled to last two weeks, was cancelled after only six days due to the ethical concerns raised by the behaviors of the participants. The study notes that while guards and prisoners were free to engage in any form of interpersonal interactions, the "characteristic nature of their encounters tended to be negative, hostile, affrontive and dehumanizing."

The researchers found that both prisoners and guards exhibited "pathological reactions" during the course of the experiment. Guards fell into three categories: (1) those who were "tough but fair," (2) those who were passive and reluctant to use coercive control and, of special interests, (3) those who "went far beyond their roles to engage in creative cruelty and harassment." With each passing day, guards "were observed to generally escalate their harassment of the prisoners." The researchers reported: "We witnessed a sample of normal, healthy American college students fractionate into a group of prison guards who seemed to derive pleasure from insulting, threatening, humiliating, and dehumanizing their peers."

Because of the random assignment of subjects, the study concluded the observed behaviors were the result of situational rather than personality factors:

> The negative, anti-social reactions observed were not the product of an environment created by combining a collection of deviant personalities, but rather, the result of an intrinsically pathological situation which could distort and rechannel the behaviour of essentially normal individuals. The abnormality here resided in the psychological nature of the situation and not in those who passed through it.

The authors discussed how prisoner-guard interactions shaped the evolution of power use by the guards:

> The use of power was self-aggrandizing and self-perpetuating. The guard power, derived initially from an arbitrary label, was intensified whenever there was any perceived threat by the prisoners and this new level subsequently became the baseline from which further hostility and harassment would begin. The most hostile guards on each shift moved spontaneously into the leadership roles of

> giving orders and deciding on punishments. They became role models whose behaviour was emulated by other members of the shift. Despite minimal contact between the three separate guard shifts and nearly 16 hours a day spent away from the prison, the absolute level of aggression as well as the more subtle and "creative" forms of aggression manifested, increased in a spiraling function. Not to be tough and arrogant was to be seen as a sign of weakness by the guards and even those "good" guards who did not get as drawn into the power syndrome as the others respected the implicit norm of never contradicting or even interfering with an action of a more hostile guard on their shift.

In an article published 25 years after the Stanford Prison Experiment, Haney and Zimbardo noted their initial study "underscored the degree to which institutional settings can develop a life of their own, independent of the wishes, intentions, and purposes of those who run them." They highlighted the need for those outside the culture to offer external perspectives on process and procedures. (2)

Social Psychology: Causes of Aggression and Inhumane Treatment

The field of social psychology examines the nature of human interactions. Researchers in the field have long been searching to understand why humans sometimes mistreat fellow humans. The discussions below examine the factors behind human aggression and inhumane treatment, striving to impart a better understanding of why detainee abuses occur.

Human Aggression

Research has identified a number of factors that can assist in predicting human aggression. These factors include:

- **Personality traits**. Certain traits among the totality of an individual's behavioral and emotional make-up predispose to be more aggressive than other individuals.
- **Beliefs**. Research reveals those who believe they can carry out aggressive acts, and that such acts will result in a desired outcome, are more likely to be aggressive than those who do not hold these beliefs.
- **Attitudes**. Those who hold more positive attitudes towards violence are more likely to commit violent acts.
- **Values.** The values individuals hold vary regarding the appropriateness of using violence to resolve interpersonal conduct.
- **Situational Factors**. Aggressive cues (the presence of weapons), provocation (threats, insults, aggressive behaviors), frustration, pain and discomfort (hot temperatures, loud noises, unpleasant odors), and incentives can all call forth aggressive behaviors.
- **Emotional factors**. Anger, fear, and emotional arousal can heighten the tendency to act out aggressively.

The personality traits, belief systems, attitudes, and values of those who perpetrated detainee abuses can only be speculated upon. However, it is reasonable to assume, in any given population, these characteristics will be distributed along a bell curve, which will predispose some more than others within a group to manifest aggressive behaviors. These existing traits can be affected by environmental conditions, which are discussed later.

Abusive Treatment

Psychologists have attempted to understand how and why individuals and groups who usually act humanely can sometimes act otherwise in certain circumstances. A number of psychological concepts explain why abusive behavior occurs. These concepts include:

Deindividuation. Deindividuation is a process whereby the anonymity, suggestibility, and contagion provided in a crowd allows individuals to participate in behavior marked by the temporary suspension of customary rules and inhibitions. Individuals within a group may experience reduced self-awareness which can also result in disinhibited behavior.

Groupthink. Individuals often make very uncharacteristics decisions when part of a group. Symptoms of groupthink include: (1) Illusion of invulnerability—group members believe the group is special and morally superior; therefore its decisions are sound; (2) Illusion of unanimity in which members assume all are in concurrence, and (3) Pressure is brought to bear on those who might dissent.

Dehumanization. Dehumanization is the process whereby individuals or groups are viewed as somehow less than fully human. Existing cultural and moral standards are often not applied to those who have been dehumanized.

Enemy Image. Enemy image describes the phenomenon wherein both sides participating in a conflict tend to view themselves as good and peace-loving peoples, while the enemy is seen as evil and aggressive.

Moral Exclusion. Moral exclusion is a process whereby one group views another as fundamentally different, and therefore prevailing moral rules and practices apply to one group but not the other.

Abuse and Inhumane Treatment in War

Socialization to Evil and Doubling. Dr. Robert Jay Lifton has extensively examined the nature of inhumane treatment during war. Dr. Lifton suggested that ordinary people can experience "socialization to evil," especially in a war environment. Such people often experience a "doubling." They are socialized to evil in one environment and act accordingly within that environment, but they think and behave otherwise when removed from that environment. For example, doctors committed unspeakable acts while working in Auschwitz, but would go home on weekends and behave as "normal" husbands and fathers.

Moral Disengagement. Moral disengagement occurs when normal self-regulatory mechanisms are altered in a way that allows for abusive treatment and similar immoral behaviors. Certain conditions, identified by Bandura and his colleagues (3), can lead to moral disengagement, such as:

- **Moral Justification.** Misconduct can be justified if it is believed to serve a social good.
- **Euphemistic Language.** Language affects attitudes and beliefs, and the use of euphemistic language such as "softening up" (and even "humane treatment") can lead to moral disengagement.
- **Advantageous Comparison.** "Injurious conduct can be rendered benign" when compared to more violent behaviors. This factor is likely to occur during war. Essentially, abusive behaviors may appear less significant and somehow justifiable when compared to death and destruction.
- **Displacement of Responsibility.** "People view their actions as springing from the social pressures or dictates of others rather than as something for which they are socially responsible." This is consistent with statements from those under investigation for abuses.
- **Diffusion of Responsibility.** Group decisions and behaviors can obscure responsibility: "When everyone is responsible, no one really feels responsible."
- **Disregarding or Distorting the Consequences of Actions.** Harmful acts can be minimized or ignored when the harm is inflicted for personal gain or because of social inducements.
- **Attribution of Blame.** "Victims get blamed for bringing suffering on themselves."

Detainee and interrogation operations consist of a special subset of human interactions, characterized by one group which has significant power and control over another group which must be managed, often against the will of its members. Without proper oversight

and monitoring, such interactions carry a higher risk of moral disengagement on the part of those in power and, in turn, are likely to lead to abusive behaviors.

Environmental Factors

The risk of abusive behaviors is best understood by examining both psychological and environmental risk factors. A cursory examination of situational variables present at Abu Ghraib indicates the risk for abusive treatment was considerable. Many of the problematic conditions at Abu Ghraib are discussed elsewhere in this report, to include such factors as poor training, under nearly daily attack, insufficient staffing, inadequate oversight, confused lines of authority, evolving and unclear policy, and a generally poor quality of life. The stresses of these conditions were certainly exacerbated by delayed troop rotations and by basic issues of safety and security. Personnel needed to contend with both internal threats from volatile and potentially dangerous prisoners and external threats from frequent mortar fire and attacks on the prison facilities.

The widespread practice of stripping detainees, another environmental factor, deserves special mention. The removal of clothing interrogation technique evolved into something much broader, resulting in the practice of groups of detainees being kept naked for extended periods at Abu Ghraib. Interviews with personnel at Abu Ghraib indicated that naked detainees were a common sight within the prison, and this was understood to be a general part of interrogation operations.

While the removal of clothing may have been intended to make detainees feel more vulnerable and therefore more compliant with interrogations, this practice is likely to have had a psychological impact on guards and interrogators as well. The wearing of clothes is an inherently social practice, and therefore the stripping away of clothing may have had the unintended consequence of dehumanizing detainees in the eyes of those who interacted with them. As discussed earlier, the process of dehumanization lowers the moral and cultural barriers that usually preclude the abusive treatment of others.

(1) Haney, C., Banks, C., and Zimbardo, P., Interpersonal Dynamics in a Simulated Prison, *International Journal of Criminology and Penology,* 1973, 1, 69-97.

(2) Haney, C. and Zimbardo, P., The Past and Future of U.S. Prison Policy, Twenty-Five Years after the Stanford Prison Experiment, *American Psychologist,* July 1998, 709-27.

(3) Bandura, A., Barbaranelli, C., Caprara, G., and Pastorelli, C., Mechanisms of Moral Disengagement in the Exercise of Moral Agency, *Journal of Personality and Social Psychology,* Vol. 71(2), August 1996, 364-74.

ETHICAL ISSUES

Introduction

For the United States and other nations with similar value systems, detention and interrogation are themselves ethically challenging activities. Effective interrogators must deceive, seduce, incite, and coerce in ways not normally acceptable for members of the general public. As a result, the U. S. places restrictions on who may be detained and the methods interrogators may employ. Exigencies in the Global War on Terror have stressed the normal American boundaries associated with detention and interrogation. In the ensuing moral uncertainty, arguments of military necessity make the ethical foundation of our soldiers especially important.

Ethical Foundations of Detention and Interrogation

Within our values system, consent is a central moral criterion on evaluating our behavior toward others. Consent is the manifestation of the freedom and dignity of the person and, as such, plays a critical role in moral reasoning. Consent *restrains*, as well as *enables*, humans in their treatment of others. Criminals, by not respecting the rights of others, may be said to have consented – in principle – to arrest and possible imprisonment. In this construct – and due to the threat they represent – insurgents and terrorists "consent" to the possibility of being captured, detained, interrogated, or possibly killed.

Permissions and Limits on Detentions

This guideline of implied consent for the U.S. first limits who may be detained. Individuals suspected of insurgent or terrorist activity may be detained to prevent them from conducting further attacks and to gather intelligence to prevent other insurgents and terrorists from conducting attacks. This suggests two categories of persons who may be

detained and interrogated: (1) persons who have engaged in or assisted those who engage in terrorist or insurgent activities; and (2) persons who have come by information regarding insurgent and terrorist activity.

By engaging in such activities, persons in the first category may be detained as criminals or enemy combatants, depending on the context. Persons in the second category may be detained and questioned for specific information, but if they do not represent a continuing threat, they may be detained only long enough to obtain the information.

Permissions and Limits on Interrogation Techniques

For the U.S., most cases for permitting harsh treatment of detainees on moral grounds begin with variants of the "ticking time bomb" scenario. The ingredients of such scenarios usually include an impending loss of life, a suspect who knows how to prevent it—and in most versions is responsible for it—and a third party who has no humane alternative to obtain the information in order to save lives. Such cases raise a perplexing moral problem: Is it permissible to employ inhumane treatment when it is believed to be the only way to prevent loss of lives? In periods of emergency, and especially in combat, there will always be a temptation to override legal and moral norms for morally good ends. Many in Operations Enduring Freedom and Iraqi Freedom were not well prepared by their experience, education, and training to resolve such ethical problems.

A morally consistent approach to the problem would be to recognize there are occasions when violating norms is understandable but not necessarily correct —that is, we can recognize that a good person might, in good faith, violate standards. In principle, someone who, facing such a dilemma, committed abuse should be required to offer his actions up for review and judgment by a competent authority. An excellent example is the case of a 4th Infantry Division battalion commander who permitted his men to beat a detainee whom he had good reason to believe had information about future attacks against his unit. When the beating failed to produce the desired results, the commander

fired his weapon near the detainee's head. The technique was successful and the lives of U.S. servicemen were likely saved. However, his actions clearly violated the Geneva Conventions and he reported his actions knowing he would be prosecuted by the Army. He was punished in moderation and allowed to retire.

In such circumstances interrogators must apply a "minimum harm" rule by not inflicting more pressure than is necessary to get the desired information. Further, any treatment that causes permanent harm would not be permitted, as this surely constitutes torture. Moreover, any pain inflicted to teach a lesson or after the interrogator has determined he cannot extract information is morally wrong.

National security is an obligation of the state, and therefore the work of interrogators carries a moral justification. But the methods employed should reflect this nation's commitment to our own values. Of course the tension between military necessity and our values will remain. Because of this, military professionals must accept the reality that during crises they may find themselves in circumstances where lives will be at stake and the morally appropriate methods to preserve those lives may not be obvious. This should not preclude action, but these professionals must be prepared to accept the consequences.

Ethics Education

The instances of detainee abuse in Iraq and Afghanistan do indicate a review of military ethics education programs is needed. This is not to suggest that more adequate ethics education will necessarily prevent abuses. Major service programs such as the Army's "core values," however, fail to adequately prepare soldiers working in detention operations.

While there are numerous ethics education programs throughout the services, almost all refer to certain "core values" as their foundation. Core-values programs are grounded in

organizational efficacy rather than the moral good. They do not address humane treatment of the enemy and noncombatants, leaving military leaders and educators an incomplete tool box with which to deal with "real-world" ethical problems. A professional ethics program addressing these situations would help equip them with a sharper moral compass for guidance in situations often riven with conflicting moral obligations.

Independent Panel to Review DoD Detention Operations

Deputy Executive Director
Colonel Gregory A. Schumacher, USAR

Executive Officer
LCDR Sheila Noles, USN

Executive Assistant
El 'Rita Cook-Harmeling

Director of Analysis
Margaret Munson

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Force Structure Issues

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Review of Department of Defense Detention Operations and Detainee Interrogation Techniques (U)

VADM A.T. Church, III, USN

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OFFICE OF THE SECRETARY OF DEFENSE
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DEPARTMENT OF THE NAVY
OFFICE OF THE CHIEF OF NAVAL OPERATIONS
2000 NAVY PENTAGON
WASHINGTON DC 20350-2000

IN REPLY REFER TO

March 7, 2005

MEMORANDUM FOR THE SECRETARY OF DEFENSE

SUBJECT: Report on DoD Detention Operations and Detainee Interrogation Techniques

Reference: Secretary of Defense, Detention Operations and Detainee Interrogation Techniques, May 25, 2004

Pursuant to your tasking memorandum, I hereby submit the final results of my investigation of DoD detention operations and detainee interrogation techniques in the Global War on Terror (attached).

A. T. CHURCH III
Vice Admiral, U.S. Navy
Director, Navy Staff

Attachment:
As stated

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Table of Contents

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Interrogation Policy Development (U)

(U) Overview

(U) An early focus of our investigation was to determine whether DoD had promulgated interrogation policies or guidance that directed, sanctioned or encouraged the abuse of detainees. We found that this was not the case. While no universally accepted definitions of "torture" or "abuse" exist, the theme that runs throughout the Geneva Conventions, international law, and U.S. military doctrine is that detainees must be treated "humanely." Moreover, the President, in his February 7, 2002 memorandum that determined that al Qaeda and the Taliban are not entitled to EPW protections under the Geneva Conventions, reiterated the standard of "humane" treatment. We found, without exception, that the DoD officials and senior military commanders responsible for the formulation of interrogation policy evidenced the intent to treat detainees humanely, which is fundamentally inconsistent with the notion that such officials or commanders ever accepted that detainee abuse would be permissible. Even in the absence of a precise definition of "humane" treatment, it is clear that none of the pictured abuses at Abu Ghraib bear any resemblance to approved policies at any level, in any theater. We note, therefore, that our conclusion is consistent with the findings of the Independent Panel, which in its August 2004 report determined that "[n]o approved procedures called for or allowed the kinds of abuse that in fact occurred. There is no evidence of a policy of abuse promulgated by senior officials or military authorities."

(U) Nevertheless, with the clarity of hindsight we consider it a missed opportunity that no specific guidance on interrogation techniques was provided to the commanders responsible for Afghanistan and Iraq, as it was to the U.S. Southern Command (SOUTHCOM) for use at Guantanamo Bay. As the Independent Panel noted, "[w]e cannot be sure how the number and severity of abuses would have been curtailed had there been early and consistent guidance from higher levels."

(U) Another missed opportunity that we identified in the policy development process is that we found no evidence that specific detention or interrogation lessons learned from previous conflicts (such as those from the Balkans, or even those from earlier conflicts such as Vietnam) were incorporated into planning for operations in support of the Global War on Terror. For example, no lessons learned from previous conflicts were referenced in the operation orders (OPORDs) for either Operation ENDURING FREEDOM (OEF) in Afghanistan or Operation IRAQI FREEDOM (OIF). These OPORDs did cite military doctrine and Geneva Convention protections, but they did not evidence any specific awareness of the risk of detainee abuse - or any awareness that U.S. forces had confronted this problem before. Though we

did not find evidence that this failure to highlight the inherent risk led directly to any detainee abuse, we recommend that future planning for detention and interrogation operations in the Global War on Terror take full advantage of prior and ongoing experience in these areas.

(U) Set forth below is a brief discussion of the significant events in the development of interrogation policy for Guantanamo Bay, Afghanistan and Iraq.

(U) Guantanamo Bay, Cuba (GTMO)

(U) Interrogation policy for GTMO has been the subject of extensive debate among both the uniformed services and senior DoD policy makers. At the beginning of interrogation operations at GTMO in January 2002, interrogators relied upon the techniques in FM 34-52. In October 2002, when those techniques had proven ineffective against detainees trained to resist interrogation, Major General Michael E. Dunlavey - the Commander of Joint Task Force (JTF) 170, the intelligence task force at GTMO at the time - requested that the SOUTHCOM Commander, General James T. Hill, approve 19 counter resistance techniques that were not specifically listed in FM 34-52. (This request, and descriptions of the 19 techniques, were declassified and released to the public by the Department of Defense on June 22, 2004.) The techniques were broken down into Categories I, II, and III, with the third category containing the most aggressive techniques. The SOUTHCOM Commander forwarded the request to the Chairman of the Joint Chiefs of Staff, General Richard B. Myers, noting that he was uncertain whether the Category III techniques were legal under U.S. law, and requesting additional legal review. On December 2, 2002, on the advice of the DoD General Counsel, William J. Haynes II, the Secretary of Defense approved the use of Category I and II techniques, but only one of the Category III techniques (which authorized mild, non-injurious physical contact such as grabbing, poking in the chest with a finger, and light pushing). The Secretary's decision thus excluded the most aggressive Category III techniques: use of scenarios designed to convince the detainee that death or painful consequences are imminent for him and/or his family, exposure to cold weather or water, and the use of a wet towel and dripping water to induce the misperception of suffocation. (Notably, our investigation found that even the single Category III technique approved was never put into practice.)

(U) Shortly after the December 2, 2002 approval of these counter resistance techniques, reservations expressed by the General Counsel of the Department of the Navy, Alberto J. Mora, led the Secretary of Defense on January 15, 2003 to rescind his approval of all Category II techniques and the one Category III technique (mild, non-injurious physical contact), leaving only Category I techniques in effect. The same day, the Secretary

Executive Summary (U)

Introduction (U)

(U) On May 25, 2004, Secretary of Defense Donald H. Rumsfeld directed the Naval Inspector General, Vice Admiral Albert T. Church, III, to conduct a comprehensive review of Department of Defense (DoD) interrogation operations. In response to this tasking, Vice Admiral Church assembled a team of experienced investigators and subject matter experts in interrogation and detention operations. The Secretary specified that the team was to have access to all documents, records, personnel and any other information deemed relevant, and that all DoD personnel must cooperate fully with the investigation. Throughout the investigation - which included over 800 interviews with personnel serving or having served in Iraq, Afghanistan and Guantanamo Bay, Cuba, and senior policy makers in Washington, as well as review and analysis of voluminous documentary material - an impressive level of cooperation was evident throughout DoD.

(U) Any discussion of military interrogation must begin with its purpose, which is to gain actionable intelligence in order to safeguard the security of the United States. Interrogation is often an adversarial endeavor. Generally, detainees are not eager to provide information, and they resist interrogation to the extent that their personal character or training permits. Confronting detainees are interrogators, whose mission is to extract useful information as quickly as possible. Military interrogators are trained to use creative means of deception and to play upon detainees' emotions and fears even when conducting interrogations of Enemy Prisoners of War (EPWs), who enjoy the full protections of the Geneva Conventions. Thus, people unfamiliar with military interrogations might view a perfectly legitimate interrogation of an EPW, in full compliance with the Geneva Conventions, as offensive by its very nature.

(U) The natural tension that often exists between detainees and interrogators has been elevated in the post-9/11 world. In the Global War on Terror the circumstances are different than those we have faced in previous conflicts. Human intelligence, or HUMINT - of which interrogation is an indispensable component - has taken on increased importance as we face an enemy that blends in with the civilian population and operates in the shadows. And as interrogation has taken on increased importance, eliciting useful information has become more challenging, as terrorists and insurgents are frequently trained to resist traditional U.S. interrogation methods that are designed for EPWs. Such methods - outlined in Army Field Manual (FM) 34-52, *Intelligence Interrogation*, which was last revised in 1992 – have at times proven inadequate in the Global War on Terror; and this has led commanders, working with policy makers, to search for new interrogation techniques to obtain critical intelligence.

(U) Interrogation is constrained by legal limits. Interrogators are bound by U.S. laws, including U.S. treaty obligations, and Executive (including DoD) policy - all of which are intended to ensure the humane treatment of detainees. The vast majority of detainees held by U.S. forces during the Global War on Terror have been treated humanely. However, as of September 30, 2004, DoD investigators had substantiated 71 cases of detainee abuse, including six deaths. Of note, only 20 of the closed, substantiated abuse cases - less than a third of the total - could in any way be considered related to interrogation, using broad criteria that encompassed any type of questioning (including questioning by non-military-intelligence personnel at the point of capture), or any presence of military-intelligence interrogators. Another 130 cases remained open as of September 30, 2004, with investigations ongoing.

(U) The events at Abu Ghraib have become synonymous with the topic of detainee abuse. We did not directly investigate those events, which have been comprehensively examined by other officials and are the subject of ongoing investigations to determine criminal culpability. Instead, we considered the findings, conclusions and recommendations of previous Abu Ghraib investigations as we examined the larger context of interrogation policy development and implementation in the Global War on Terror. In accordance with our direction from the Secretary of Defense, our investigation focused principally on: (a) the development of approved interrogation policy (specifically, lists of authorized interrogation techniques), (b) the actual employment of interrogation techniques, and (c) what role, if any, these played in the aforementioned detainee abuses. In addition, we investigated DoD's use of civilian contractors in interrogation operations, DoD support to or participation in the interrogation activities of other government agencies (OGAs), and medical issues relating to interrogations. Finally, we summarized and analyzed detention-related reports and working papers submitted to DoD by the International Committee of the Red Cross (ICRC). Our primary observations and findings on these issues are set forth below.

(U) Many of the details underlying our conclusions remain classified, and therefore cannot be presented in this unclassified executive summary. In addition, we have omitted from this summary any discussion of ICRC matters in order to respect ICRC concerns, and comply with DoD policy, regarding limitation of the dissemination of ICRC-provided information. Issues of senior official accountability were addressed by the Independent Panel to Review DoD Detention Operations (hereinafter "Independent Panel") - chaired by the Honorable James R. Schlesinger - with which we worked closely. Finally, we have based our conclusions primarily on the information available to us as of September 30, 2004. Should additional information become available, our conclusions would have to be considered in light of that information.

directed that a working group be established to assess interrogation techniques in the Global War on Terror, and specified that the group should comprise experts from the Office of General Counsel of the Department of Defense, the Office of the Under Secretary of Defense for Policy, the military services and the Joint Staff.

(U) Following a sometimes contentious debate, this working group - led by U.S. Air Force General Counsel Mary Walker, and reporting to the DoD General Counsel - produced a series of draft reports from January through March 2003, including a March 6, 2003 draft report recommending approval of 36 interrogation techniques. As many as 39 techniques had been considered during the working group's review, including "water boarding" (pouring water on a detainee's toweled face to induce the misperception of suffocation), which did appear among the 36 techniques in the March 6 draft. Four of the 39 techniques were considered unacceptable, however - including water boarding - and were ultimately dropped from the review, leaving 35 techniques that the working group recommended for consideration by the Secretary of Defense. In late March 2003, the Secretary of Defense adopted a more cautious approach, choosing to accept 24 of the proposed techniques, most of which were taken directly from or closely resembled those in FM 34-52. (The 35 techniques considered were reflected in the working group's final report, dated April 3, 2003.) The Secretary's guidance was promulgated to SOUTHCOM for use at GTMO in an April 16, 2003 memorandum (also declassified in June 2004) that remains in effect today.

(U) As this discussion demonstrates, the initial push for interrogation techniques beyond those found in FM 34-52 came in October 2002 from the JTF-170 Commander who, based on experiences to that point, believed that counter resistance techniques were needed in order to obtain actionable intelligence from detainees who were trained to oppose U.S. interrogation methods. In addition, the Secretary of Defense moderated proposed interrogation policies, cutting back on the number and types of techniques that were presented by some commanders and senior advisors for consideration. This was true when the Secretary rejected the three most aggressive Category III techniques that JTF-170 requested, and was later apparent in the promulgation of the April 16, 2003 policy, which included only 24 of the 35 techniques recommended for consideration by the working group, and included none of the most aggressive techniques.

(U) Military department lawyers were provided the opportunity for input during the interrogation policy debate, even if that input was not always adopted. This was evident during the review of JTF-170's initial request for counter resistance techniques in the lead-up to the December 2, 2002 policy, when service lawyer concerns were forwarded to the Joint Staff, and later in the establishment of the working group in January 2003 that led to the April 16, 2003 policy.

In the first case, in November 2002 the services expressed serious reservations about approving the proposed counter resistance techniques without further legal and policy review, and thus they were uncomfortable with the Secretary's adoption of a subset of these techniques on December 2, 2002. However, in the aftermath of 9/11, the perceived urgency of gaining actionable intelligence from particularly resistant detainees - including Mohamed al Kahtani, the "20th hijacker" - that could be used to thwart possible attacks on the United States, argued for swift adoption of an effective interrogation policy. (In August 2001 Kahtani had been refused entry into the U.S. by a suspicious immigration inspector at Florida's Orlando International Airport, where the lead 9/11 hijacker, Mohamed Atta, was waiting for him.) This perception of urgency was demonstrated, for example, by the SOUTHCOM Commander's October 2002 memorandum forwarding the counter resistance techniques for consideration, which stated, "I firmly believe that we must quickly provide Joint Task Force 170 counter-resistance techniques to maximize the value of our intelligence collection mission."

(U) Afghanistan

(U) Rather than being the subject of debate within the Office of the Secretary of Defense, interrogation techniques for use in Afghanistan were approved and promulgated by the senior command in the theater. (Initially, this was Combined Joint Task Force 180, or CJTF-180, subsequently renamed CJTF-76. At present, Combined Forces Command-Afghanistan, or CFC-A, commands operations in Afghanistan, with CJTF-76 as a subordinate command.)

(U) From the beginning of OEF in October 2001 until December 2002, interrogators in Afghanistan relied upon FM 34-52 for guidance. On January 24, 2003, in response to a Joint Staff inquiry via U.S. Central Command (CENTCOM), the CJTF-180 Acting Staff Judge Advocate forwarded to the CENTCOM Staff Judge Advocate a memorandum that listed and described the interrogation techniques then in use in Afghanistan. Many of these techniques were similar to the counter resistance techniques that the Secretary had approved for GTMO on December 2, 2002; however, the CJTF-180 techniques had been developed independently by interrogators in Afghanistan in the context of a broad reading of FM 34-52, and were described using different terminology.

(U) In addition to these locally developed techniques, however, the January 24, 2003 memorandum tacitly confirmed that "migration" of interrogation techniques had occurred separately. During December 2002 and January 2003, according to the memorandum, interrogators had employed some of the techniques approved by the Secretary of Defense for use at GTMO. Use of the Tier II and single Tier III technique ceased, however, upon the Secretary's rescission of their

approval for GTMO on January 15, 2003.

(U) CJTF-180 did not receive any response to its January 24, 2003 memorandum from either CENTCOM or the Joint Staff, and interpreted this silence to mean that the techniques then in use (which, again, no longer included the tiered GTMO techniques) were unobjectionable to higher headquarters and therefore could be considered approved policy.

(U) On February 27, 2003, the CJTF-180 Commander, Lieutenant General Dan K. McNeill, revised the January 24, 2003 techniques by modifying or eliminating five "interrogator tactics" not found in FM 34-52 in response to the investigation of the December 2002 deaths of two detainees at the Bagram Collection Point. While the abuses leading to the Bagram deaths consisted of violent assaults, rather than any authorized techniques, the CJTF-180 Commander modified or eliminated these five tactics as a precaution, out of a general concern for detainee treatment. This revised policy remained in effect until March 2004, when CJTF-180 issued new interrogation guidance.

(U) The March 2004 guidance was not drafted as carefully as it could have or should have been. First, it revived some of the practices that CJTF-180 had modified or eliminated in February 2003, without explanation and without even referencing the February 2003 modifications. Second, some of the techniques in the new guidance were based upon an unsigned draft memorandum from the Secretary of Defense to CENTCOM (prepared by the Joint Staff) that was substantively identical to the Secretary's April 16, 2003 interrogation policy for GTMO. We found no evidence that the Secretary was ever aware of this draft memorandum, which was never approved.

(U) The March 2004 interrogation policy remained in effect until June 2004, when the CENTCOM Commander, General John Abizaid, directed that all interrogations in CENTCOM be standardized under a single policy. The CFC-A Commander, Lieutenant General David W. Barno, then directed that CJTF-76 adopt the existing interrogation policy used in Iraq, which had been developed in May 2004. This policy relies almost exclusively on interrogation techniques specifically outlined in FM 34-52, and remains in effect today.

(U) Iraq

(U) As in Afghanistan, interrogation policy in Iraq was developed and promulgated by the senior command in the theater, then Combined Joint Task Force-7, or CJTF-7. At the inception of OIF on March 19, 2003, interrogators relied upon FM 34-52 for guidance. In August 2003, amid a growing insurgency in Iraq, Captain Carolyn Wood, the commander of Alpha Company, 519th Military Intelligence Battalion (A/519), stationed at Abu Ghraib, submitted a draft interrogation policy directly to the 205th Military Intelligence Brigade and the CJTF-7 staff. This draft policy

was based in part on interrogation techniques being used at the time by units in Afghanistan. On August 18, 2003, the Joint Staff's Director for Operations (J-3) sent a message requesting that the SOUTHCOM Commander provide a team of experts in detention and interrogation operations to provide advice on relevant facilities and operations in Iraq. As a result, from August 31 to September 9, 2003, the Joint Task Force Guantanamo (JTF-GTMO) Commander, Major General Geoffrey Miller, led a team to assess interrogation and detention operations in Iraq. One of his principal observations was that CJTF-7 had "no guidance specifically addressing interrogation policies and authorities disseminated to units" under its command.

(U) To rectify this apparent problem, the CJTF-7 Commander, Lieutenant General Ricardo Sanchez, published the first CJTF-7 interrogation policy on September 14, 2003. This policy was heavily influenced by the April 2003 JTF-GTMO interrogation policy, which MG Miller had provided during his visit, and was also influenced by the A/519 draft policy which, as noted above, contained some interrogation techniques in use in Afghanistan. However, LTG Sanchez and his staff were well aware that the Geneva Conventions applied to all detainees in Iraq, and thoroughly reviewed the CJTF-7 policy for compliance with the Conventions prior to its approval.

(U) After reviewing the September policy once it was issued, CENTCOM's Staff Judge Advocate considered it overly aggressive. As a result, CJTF-7 promulgated a revised policy on October 12, 2003 that explicitly superseded the previous policy. This new policy removed several techniques that had been approved in the September 2003 policy, rendering the October 2003 policy quite similar to the guidance found in FM 34-52. It should be noted that none of the techniques contained in either the September or October 2003 CJTF-7 interrogation policies would have permitted abuses such as those at Abu Ghraib.

(U) On May 13, 2004, CJTF-7 issued another revised interrogation policy, which remains in effect today. The list of approved techniques remained identical to the October 2003 policy; the principal change from the previous policy was to specify that under no circumstances would requests for the use of certain techniques be approved. While this policy is explicit in its prohibition of certain techniques, like the earlier policies it contains several ambiguities, which - although they would not permit abuse - could obscure commanders' oversight of techniques being employed, and therefore warrant review and correction. (The details of these ambiguities remain classified, but are discussed in the main body of this report.) As noted above, in June 2004 this policy was adopted for use in Afghanistan.

(U) Subsequent to the completion of this

report, we were notified that the Commander, Multi-national Forces Iraq (MNF-I), General George W. Casey, Jr., had approved on January 27, 2005 a new interrogation policy for Iraq. This policy approves a more limited set of techniques for use in Iraq, and also provides additional safeguards and prohibitions, rectifies ambiguities, and – significantly – requires commanders to conduct training on and verify implementation of the policy and report compliance to the Commander, MNF-I.

Interrogation Techniques Actually Employed by Interrogators (U)

(U) Guantanamo Bay, Cuba

(U) In GTMO, we found that from the beginning of interrogation operations to the present, interrogation policies were effectively disseminated and interrogators closely adhered to the policies, with minor exceptions. Some of these exceptions arose because interrogation policy did not always list every conceivable technique that an interrogator might use, and interrogators often employed techniques that were not specifically identified by policy, but nevertheless arguably fell within the parameters of FM 34-52. This close compliance with interrogation policy was due to a number of factors, including strict command oversight and effective leadership, adequate detention and interrogation resources, and GTMO's secure location far from any combat zone. And although conditions at GTMO were initially spartan, relying on improvised interrogation booths and pre-existing detention facilities (Camp X-Ray, constructed in the 1990s to house Cuban and Haitian refugees), these conditions continuously improved over time. The most important development was establishment in November 2002 of a command organization that placed detention and intelligence operations under the command of a single entity, JTF-GTMO, superseding the bifurcated organization which had at times impeded intelligence collection due to lack of proper coordination between interrogators and military police. JTF-GTMO, with its well-developed standard operating procedures and clear lines of authority, enabled effective coordination.

(U) In light of military police participation in many of the abuses at Abu Ghraib, the relationship between military police (MP) and military intelligence (MI) personnel has come under scrutiny. Under the GTMO model of MP/MI relations, military police work closely with military intelligence in helping to set the conditions for successful interrogations, both by observing detainees and sharing observations with interrogators, and by assisting in the implementation of interrogation techniques that are employed largely outside the interrogation room (such as the provision of incentives for cooperation). When conducted under controlled conditions, with specific guidance and rigorous command oversight, as at GTMO, this is an effective model that greatly

enhances intelligence collection and does not lead to detainee abuse. In our view, it is a model that should be considered for use in other interrogation operations in the Global War on Terror. Current MP and MI doctrine, however, is vague on the proper relationship between MP and MI units, and accordingly requires revision that spells out the details of the type of coordination between these units that has proven successful at GTMO.

(U) Finally, we determined that during the course of interrogation operations at GTMO, the Secretary of Defense approved specific interrogation plans for two "high-value" detainees who had resisted interrogation for many months, and who were believed to possess actionable intelligence that could be used to prevent attacks against the United States. Both plans employed several of the counter-resistance techniques found in the December 2, 2002 GTMO policy, and both sucessfully neutralized the two detainees' resistance training and yielded valuable intelligence. We note, however, that these interrogations were sufficiently aggressive that they highlighted the difficult question of precisely defining the boundaries of humane treatment of detainees.

(U) Afghanistan and Iraq

(S) Our findings in Afghanistan and Iraq stand in contrast to our findings in GTMO. Dissemination of interrogation policy was generally poor, and interrogators fell back on their training and experience, often relying on a broad interpretation of FM 34-52. In Iraq, we also found generally poor unit-level compliance with approved policy memoranda even when those units were aware of the relevant memoranda. However, in both Afghanistan and Iraq, there was significant overlap between the techniques contained in approved policy memoranda and the techniques that interrogators employed based solely on their training and experience.

(S) While these problems of policy dissemination and compliance were certainly cause for concern, we found that they did not lead to the employment of illegal or abusive interrogation techniques. According to our investigation, interrogators clearly understood that abusive practices and techniques - such as physical assault, sexual humiliation, terrorizing detainees with unmuzzled dogs, or threats of torture or death - were at all times prohibited, regardless of whether the interrogators were aware of the latest policy memorandum promulgated by higher headquarters. Thus, with limited exceptions (most of which were physical assaults, as described below in our discussion of detainee abuse), interrogators did not employ such techniques, nor did they direct MPs to do so. Significantly, nothing in our investigation of interrogation and detention operations in Afghanistan or Iraq suggested that the chaotic and abusive environment that existed at the Abu

Ghraib prison in the fall of 2003 was repeated elsewhere.

(U) Nevertheless, as previously stated, we consider it a missed opportunity that interrogation policy was never issued to the CJTF commanders in Afghanistan or Iraq, as was done for GTMO. Had this occurred, interrogation policy could have benefited from additional expertise and oversight. In Iraq, by the time the first CJTF-7 interrogation policy was issued in September 2003, two different policies had been thoroughly debated and promulgated for GTMO, and detention and interrogation operations had been conducted in Afghanistan for nearly two years. Yet, CJTF-7 was left to struggle with these issues on its own in the midst of fighting an insurgency. As a result, the September 2003 CJTF-7 interrogation policy was developed, as the CJTF-7 Staff Judge Advocate at the time stated, in an "urgent" fashion. Interrogation policy reflecting the lessons learned to date in the Global War on Terror should have been in place in Iraq long before September 2003.

(U) Finally, there has been much speculation regarding the notion that undue pressure for actionable intelligence contributed to the abuses at Abu Ghraib, and that such pressure also manifested itself throughout Iraq. It is certainly true that "pressure" was applied in Iraq through the chain of command, but a certain amount of pressure is to be expected in a combat environment. As LTG Sanchez has stated, "if I had not been applying intense pressure on the intelligence community to know my enemy I would have been derelict in my duties and I shouldn't have been a commanding general." Our investigation indicated that interrogators in Iraq indeed were under intense pressure for intelligence, but this derived chiefly from a challenging detainee to interrogator (and interpreter) ratio and an inherent desire to help prevent coalition casualties. We agree with MG Fay's observation that pressure for intelligence "should have been expected in such a critical situation," and that it was not properly managed by unit-level leaders at Abu Ghraib. We found no evidence, however, that interrogators in Iraq believed that any pressure for intelligence subverted their obligation to treat detainees humanely in accordance with the Geneva Conventions, or otherwise led them to apply prohibited or abusive interrogation techniques. And although Major General Fay's investigation of the events at Abu Ghraib noted that requests for information were at times forwarded directly from various military commands and DoD agencies to Abu Ghraib, rather than through normal channels, we found no evidence to support the notion that the Office of the Secretary of Defense, the National Security Council staff, CENTCOM, or any other organization applied explicit pressure for intelligence, or gave "back-channel" permission to forces in the field in Iraq (or in Afghanistan) to use more aggressive interrogation techniques than those authorized by either command interrogation policies or FM 34-52.

Detainee Abuse (U)

(U) Overview

(U) We examined the 187 DoD investigations of alleged detainee abuse that had been closed as of September 30, 2004. Of these investigations, 71 (or 38%) had resulted in a finding of substantiated detainee abuse, including six cases involving detainee deaths. Eight of the 71 cases occurred at GTMO, all of which were relatively minor in their physical nature, although two of these involved unauthorized, sexually suggestive behavior by interrogators, which raises problematic issues concerning cultural and religious sensitivities. (As described below, we judged that one other substantiated incident at GTMO was inappropriate but did not constitute abuse. This incident was discarded from our statistical analysis, as reflected in the chart below.) Three of the cases, including one death case, were from Afghanistan, while the remaining 60 cases, including five death cases, occurred in Iraq. Additionally, 109 cases remained open, with investigations ongoing. Finally, our investigation indicated that commanders are making vigorous efforts to investigate every allegation of abuse - regardless of whether the allegations are made by DoD personnel, civilian contractors, detainees, the International Committee of the Red Cross, the local populace, or any other source.

(U) Included among the open cases were several ongoing investigations related to abuse at Abu Ghraib, including the death of a detainee who was brought to Abu Ghraib by a special operations/OGA team in November 2003. Though not included in our abuse analysis, this case was considered in our review of medical issues. Similarly, the open cases include the December 2002 Bagram Collection Point deaths, as those investigations were not completed until October 2004; however, observations on the Bagram deaths are provided in our discussion below.

(U) We also reviewed a July 14, 2004 letter from an FBI official notifying the Army Provost Marshal General of several instances of "aggressive interrogation techniques" reportedly witnessed by FBI personnel at GTMO in October 2002. One of these was already the subject of a criminal investigation, which remains open. The U.S. Southern Command and the current Naval Inspector General are now reviewing all of the FBI documents released to the American Civil Liberties Union (ACLU) - which, other than the letter noted above, were not known to DoD authorities until the ACLU published them in December 2004 - to determine whether they bring to light any abuse allegations that have not yet been investigated.

(U) For the purposes of our analysis, we categorized the substantiated abuse cases as

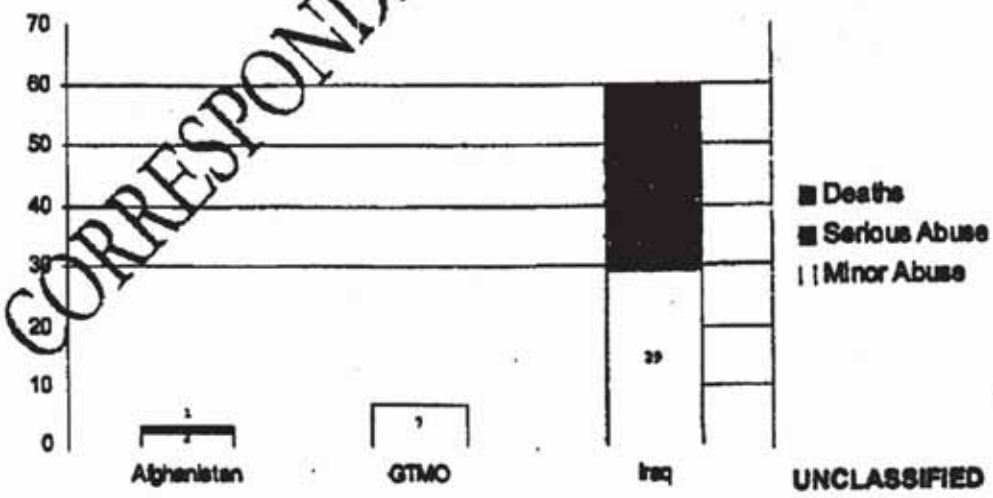
deaths, serious abuse, or minor abuse. We considered serious abuse to be misconduct resulting or having the potential to result in death, or in grievous bodily harm (as defined in the Manual for Courts-Martial, 2002 edition.) In addition, we considered all sexual assaults, threats to inflict death or grievous bodily harm, and maltreatment likely to result in death or grievous bodily harm to be serious abuse. Finally, as noted above, we concluded that one of the 71 cases did not constitute abuse for our purposes: this case involved a soldier at GTMO who dared a detainee to throw a cup of water on him, and after the detainee complied, reciprocated by throwing a cup of water on the detainee. (The soldier was removed from his assignment as a consequence of inappropriate interaction with a detainee.) We discarded this investigation, leaving us 70 substantiated detainee abuse cases to analyze. The chart below reflects the breakdown of these 70 abuse cases.

(U) There are approximately 121 abuse victims in these 70 cases of detainee abuse. As of September 30, 2004, disciplinary action had been taken against 115 service members for this misconduct, including numerous nonjudicial punishments, 15 summary courts-martial, 12 special courts-martial and nine general courts-martial.

(U) No Connection Between Interrogation Policy and Abuse

(U) We found no link between approved interrogation techniques and detainee abuse. Of

Closed Substantiated Abuse Cases (U)



the 70 cases of closed, substantiated abuse, only 20 of these cases, or less than one-third, could be considered "interrogation-related;" the remaining 50 were unassociated with any kind of questioning, interrogation, or the presence of MI personnel. In determining whether a case was interrogation-related, we took an expansive approach: for example, if a soldier slapped a detainee for refusing to answer a question at the point of capture, we categorized that misconduct as interrogation-related abuse - even though it did not occur at a detention facility, the soldier was not an MI interrogator, and there was no indication the soldier was (or should have been) aware of interrogation policy approved for use by MI interrogators.

(U) At GTMO, where there have been over 24,000 interrogation sessions since the beginning of interrogation operations, there are only three cases of closed, substantiated interrogation-related abuse, all consisting of minor assaults in which MI interrogators exceeded the bounds of approved interrogation policy. As noted above, these cases included those of two female interrogators who, on their own initiative, touched and spoke to detainees in a sexually suggestive manner in order to incur stress based on the detainees' religious beliefs. All three cases resulted in disciplinary action against the interrogators.

(U) In Afghanistan, one case of interrogation-related abuse had been substantiated prior to September 30, 2004. On March 18, 2004, when elements of a U.S. infantry battalion conducted a cordon and search operation in the village of Miam Do, the U.S. forces were met with resistance and several Afghans were killed in subsequent fighting. The unit then detained the entire population of the village for four days in order to conduct screening operations. An Army Lieutenant Colonel attached to the Defense Intelligence Agency accompanied the battalion during the screening operations, in which he punched, kicked, grabbed and choked numerous villagers. As a result, he was disciplined and suspended from participating in operations involving detainees.

(U) In addition, there are now two cases of closed, substantiated interrogation-related abuse involving two detainees who died on December 4 and December 10, 2002 at the Bagram Collection Point in Afghanistan. Those investigations were not closed until October 2004, after our data analysis had been completed, and thus are not included in our statistics. We did, however, review the final Army Criminal Investigative Division (CID) Reports of Investigation, which included approximately 200 interviews. We found both investigations to be thorough in addressing the practices and leadership problems that led to the deaths and we note that CID officials have already recommended charges against 15 soldiers (11 MP and four MI) in relation to the December 4 death, and 27 soldiers (20 MP and seven MI) in relation to the

December 10 death. (Some of the same personnel are named in the detention and interrogation of both detainees.) Significantly, our review of the investigations showed that while this abuse occurred during interrogations, it was unrelated to approved interrogation techniques.

(U) In Iraq, there are 16 cases of closed, substantiated interrogation-related abuse. Five of these cases involved MI interrogators. There is no discernible pattern in the 16 cases: the incidents occurred at different locations and were committed by members of different units. The abusive behavior varied significantly among these incidents, although each involved methods of maltreatment that were clearly in violation of U.S. military doctrine and U.S. law of war obligations, as well as U.S. interrogation policy. The most common type of detainee abuse was straightforward physical abuse, such as slapping, punching and kicking. In addition, threats were made in nine of the 16 incidents.

(U) As the preceding discussion illustrates, there is no link between any authorized interrogation techniques and the actual abuses described in the closed, substantiated interrogation-related abuse cases. First, much of the abuse involved the sort of straightforward physical violence that plainly transgressed the bounds of any interrogation policy in any theater, and also violated any definition of "humane" detainee treatment. Second, much of the abuse is wholly unconnected to any interrogation technique or policy, as it was committed by personnel who were not MI interrogators, and who almost certainly did not know (and had no reason to know) the details of such policy. Nevertheless, these personnel either knew or should have known that their actions were improper because they clearly violated military doctrine and law of war obligations. And third, even when MI interrogators committed the abuse, their actions were unrelated to any approved techniques. Even if interrogators were "confused" by the issuance of multiple interrogation policies within a short span of time, as some have hypothesized regarding Abu Ghraib, it is clear that *none* of the approved policies - no matter which version the interrogators followed - would have permitted the types of abuse that occurred.

(U) Underlying Reasons for Abuse

(U) If approved interrogation policy did not cause detainee abuse, the question remains: what did? While we cannot offer a definitive answer, we studied the DoD investigation reports for all 70 cases of closed, substantiated detainee abuse to see if we could detect any patterns or underlying explanations. Our analysis of these 70 cases showed that they involved abuses perpetrated by a variety of active duty, reserve and national guard personnel from three services on different dates and in different locations throughout Afghanistan and Iraq, as well as a small number of cases at GTMO. While this diversity argues against a single, overarching

reason for abuse, we did identify several factors that may help explain why the abuse occurred.

(U) First, 23 of the abuse cases, roughly one third of the total, occurred at the point of capture in Afghanistan or Iraq - that is, during or shortly after the capture of a detainee. This is the point at which passions often run high, as service members find themselves in dangerous situations, apprehending individuals who may be responsible for the death or serious injury of fellow service members. Because of this potentially volatile situation, this is also the point at which the need for military discipline is paramount in order to guard against the possibility of detainee abuse, and that discipline was lacking in some instances. Additionally, the nature of the enemy, and the tactics it has employed in Iraq (and to a lesser extent, in Afghanistan) may have played a role in this abuse. Our service members may have at times permitted the enemy's treacherous tactics and disregard for the law of war - exemplified by improvised explosive devices and suicide bombings - to erode their own standards of conduct. (Although we do not offer empirical data to support this conclusion, a consideration of past counter-insurgency campaigns – for example, in the Philippines and Vietnam – suggests that this factor may have contributed to abuse.) The highly publicized case involving an Army Lieutenant Colonel in Iraq provides an example. On August 20, 2003, during the questioning of an Iraqi detainee by field artillery soldiers, the Lieutenant Colonel fired his weapon near the detainee's head in an effort to elicit information regarding a plot to assassinate U.S. service members. For his actions, the Lieutenant Colonel was disciplined and relieved of command.

(U) Second, there was a failure to react to early warning signs of abuse. Though we cannot provide details in this unclassified executive summary, it is clear that such warning signs were present - particularly at Abu Ghraib - in the form of communiqués to local commanders, that should have prompted those commanders to put in place more specific procedures and direct guidance to prevent further abuse. Instead, these warning signs were not given sufficient attention at the unit level, nor were they relayed to the responsible CJTF commanders in a timely manner.

(U) Finally, a breakdown of good order and discipline in some units could account for other incidents of abuse. This breakdown implies a failure of unit-level leadership to recognize the inherent potential for abuse due to individual misconduct, to detect and mitigate the enormous stress on our troops involved in detention and interrogation operations, and a corresponding failure to provide the requisite oversight. As documented in previous reports (including MG Fay's and MG Taguba's investigations), stronger leadership and greater oversight would have lessened the likelihood of abuse.

Use of Contract Personnel in Interrogation Operations (U)

(U) It is clear that contract interrogators and support personnel are "bridging gaps" in the DoD force structure in GTMO, Afghanistan and Iraq. As a senior intelligence officer at CENTCOM stated: "[s]imply put, interrogation operations in Afghanistan, Iraq and Guantanamo cannot be reasonably accomplished without contractor support." As a result of these shortfalls in critical interrogation-related skills, numerous contracts have been awarded by the services and various DoD agencies. Unfortunately, however, this has been done without central coordination, and in some cases, in an *ad hoc* fashion (as demonstrated, for example, by the highly publicized use of a "Blanket Purchase Agreement" administered by the Department of the Interior to obtain interrogation services in Iraq from CACI Inc.). Nevertheless, we found - with limited exceptions - that contractor compliance with DoD policies, government command and control of contractors, and the level of contractor experience were satisfactory, thanks in large part to the diligence of contracting officers and local commanders.

(U) Overall, we found that contractors made a significant contribution to U.S. intelligence efforts. Contract interrogators were typically former MI or law enforcement personnel, and on average were older and more experienced than military interrogators; many anecdotal reports indicated that this gave contract interrogators additional credibility in the eyes of detainees, thus promoting successful interrogations. In addition, contract personnel often served longer tours than DoD personnel, creating continuity and enhancing corporate knowledge at their commands.

(U) Finally, notwithstanding the highly publicized involvement of some contractors in abuse at Abu Ghraib, we found very few instances of abuse involving contractors. In addition, a comprehensive body of federal law permits the prosecution of U.S. nationals - whether contractor, government civilian, or military - who may be responsible for the inhumane treatment of detainees during U.S. military operations overseas. Thus, contractors are no less legally accountable for their actions than their military counterparts.

DoD Support to Other Government Agencies (U)

(U) For the purposes of our discussion, other government agencies, or OGAs, are federal agencies other than DoD that have specific interrogation and/or detention-related missions in the Global War on Terror. These agencies include the Central Intelligence Agency (CIA), the Federal Bureau of Investigation (FBI), the Drug Enforcement Administration (DEA), U.S. Customs and Border Protection, and the Secret Service. In conducting our investigation, we con-

sidered DoD support to all of these agencies, but we focused primarily on DoD support to the CIA. (The CIA cooperated with our investigation, but provided information only on activities in Iraq.) It is important to highlight that it was beyond the scope of our tasking to investigate the existence, location or policies governing detention facilities that may be exclusively operated by OGAs, rather than by DoD.

(U) DoD personnel frequently worked together with OGAs to support their common intelligence collection mission in the Global War on Terror, a cooperation encouraged by DoD leadership early in Operation ENDURING FREEDOM. In support of OGA detention and interrogation operations, DoD provided assistance that included detainee transfers, logistical functions, sharing of intelligence gleaned from DoD interrogations, and oversight and support of OGA interrogations at DoD facilities. However, we were unable to locate formal interagency procedures that codified the support roles and processes.

(U) In OEF and OIF, senior military commanders were issued guidance that required notification to the Secretary of Defense prior to the transfer of detainees to or from other federal agencies. This administrative transfer guidance was followed, with the notable exception of occasions when DoD temporarily held detainees for the CIA - including the detainee known as "Triple-X" - without properly registering them and providing notification to the International Committee of the Red Cross. This practice of holding "ghost detainees" for the CIA was guided by oral, *ad hoc* agreements and was the result, in part, of the lack of any specific, coordinated interagency guidance. Our review indicated, however, that this procedure was limited in scope. To the best of our knowledge, there were approximately 30 "ghost detainees," as compared to a total of over 50,000 detainees in the course of the Global War on Terror. The practice of DoD holding "ghost detainees" has now ceased.

(U) Aside from the general requirement to treat detainees humanely, we found no specific DoD-wide direction governing the conduct of OGA interrogations in DoD interrogation facilities. In response to questions and interviews for our report, however, senior officials expressed clear expectations that DoD-authorized interrogation policies would be followed during any interrogation conducted in a DoD facility. For example, the Joint Staff J-2 stated that "[o]ur understanding is that any representative of any other governmental agency, including CIA, if conducting interrogations, debriefings, or interviews at a DoD facility must abide by all DoD guidelines." On many occasions, DoD and OGA personnel did conduct joint interrogations at DoD facilities using DoD-authorized interrogation techniques. However, our interviews with DoD personnel assigned to various detention facilities throughout Afghanistan and Iraq demonstrated that they did

not have a uniform understanding of what rules governed the involvement of OGAs in the interrogation of DoD detainees. Such uncertainty could create confusion regarding the permissibility and limits of various interrogation techniques. We therefore recommend the establishment and wide promulgation of interagency policies governing the involvement of OGAs in the interrogation of DoD detainees.

Medical Issues Related to Interrogation (U)

(U) In reviewing the performance of medical personnel in detention and interrogation-related operations during the Global War on Terror, we were able to draw preliminary insights in four areas: detainee screening and medical treatment; medical involvement in interrogation; interrogator access to medical information; and the role of medical personnel in preventing and reporting detainee abuse. We note that the Office of the Secretary of Defense is currently developing specific policies to address all of the issues raised below.

(U) First, the medical personnel that we interviewed understood their responsibility to provide humane medical care to detainees, in accordance with U.S. military medical doctrine and the Geneva Conventions. The essence of these requirements is captured succinctly in a DoD policy issued by the Assistant Secretary of Defense for Health Affairs on April 10, 2002, "DoD Policy on Medical Care for Enemy Persons Under U.S. Control Detained in Conjunction with Operation Enduring Freedom." The policy states, "[i]n any case in which there is uncertainty about the need, scope, or duration of medical care for a detainee under U.S. control, medical personnel shall be guided by their professional judgments and standards *similar to those that would be used to evaluate medical issues for U.S. personnel*, consistent with security, public health management, and other mission requirements" (emphasis added). Few U.S. personnel, however, had received specific training relevant to detainee screening and medical treatment. As a result, in Afghanistan and Iraq we found inconsistent field-level implementation of specific requirements, such as monthly detainee inspections and weight recordings. Thus there is a need for a focused training program in this area so that our medical personnel are aware of and comply with detainee screening and medical treatment requirements.

(U) Second, it is a growing trend in the Global War on Terror for behavioral science personnel to work with and support interrogators. These personnel observe interrogations, assess detainee behavior and motivations, review interrogation techniques, and offer advice to interrogators. This support can be effective in helping interrogators collect intelligence from detainees; however, it must be done within proper limits. We found that behavioral science personnel were not involved in detainee

medical care (thus avoiding any inherent conflict between caring for detainees and crafting interrogation strategies), nor were they permitted access to detainee medical records for purposes of developing interrogation strategies. However, since neither the Geneva Conventions nor U.S. military medical doctrine specifically address the issue of behavioral science personnel assisting interrogators in developing interrogation strategies, this practice has evolved in an *ad hoc* manner. In our view, DoD policy-level review is needed to ensure that this practice is performed with proper safeguards, as well as to clarify the status of medical personnel (such as behavioral scientists supporting interrogators) who do not participate in patient care.

(U) Another area that deserves DoD policy-level review (and that is unaddressed by the Geneva Conventions or current DoD policy) is interrogator access to detainee medical information. Interrogators often have legitimate reasons for inquiring into detainees' medical status. For example, interrogators need to be able to verify whether detainees are being truthful when they claim that interrogations should be restricted on medical grounds. Granting interrogators unfettered access to detainee medical records, however, raises the problem that detainee medical information could be inappropriately exploited during interrogations. Such access might also discourage detainees from being truthful with medical personnel, or from seeking help with medical issues, if detainees believe that their medical histories will be used against them during interrogation. Although U.S. law provides no absolute confidentiality of medical information for any person, including detainees, DoD policy-level review is necessary in order to balance properly these competing concerns. This is especially true given the substantial variation that we found in field-level practices for maintaining and securing detainee medical records. While access to medical information was carefully controlled at GTMO, we found in Afghanistan and Iraq that interrogators sometimes had easy access to such information. Nevertheless, we found no instances where detainee medical information had been inappropriately used during interrogations, and in most situations interrogators had little interest in detainee medical information even when they had unfettered access to it.

(U) Finally, it was not possible for us to assess comprehensively whether medical personnel serving in the Global War on Terror have adequately discharged their obligation to report (and where possible, prevent) detainee abuse. However, our interviews with medical personnel indicated that they had only infrequently suspected or witnessed abuse, and had in those instances reported it through the chain of command. Separately, we performed a systematic review of investigative notes and autopsy results in order to assess the roles of medical personnel, especially in any case where detainee abuse was suspected. We reviewed 68 detainee deaths: 63 in Iraq and five in Afghanistan:

there were no deaths at GTMO. (These deaths were not all abuse-related, and therefore do not correlate directly to the death cases described in our analysis of abuse.) Of these deaths, we identified three in which it appeared that medical personnel may have attempted to misrepresent the circumstances of death, possibly in an effort to disguise detainee abuse. Two of these were the previously described deaths in Bagram, Afghanistan in December 2002, and one was the aforementioned death at Abu Ghraib in November 2003. The Army Surgeon General is currently reviewing the specific medical handling of these three cases.

Conclusion (U)

(U) Human intelligence in general, and interrogation in particular, are indispensable components of the Global War on Terror. The need for intelligence in the post-9/11 world, and our enemy's ability to resist interrogation, have caused our senior policy makers and military commanders to reevaluate traditional U.S. interrogation methods and search for new and more effective interrogation techniques. According to our investigation, this search has always been conducted within the confines of our armed forces' obligation to treat detainees humanely. In addition, our analysis of 70 substantiated detainee abuse cases found that no approved interrogation techniques caused these criminal abuses; however, two specific interrogation plans approved for use at GTMO did highlight the difficulty of precisely defining the boundaries of humane treatment.

(U) It bears emphasis that the vast majority of detainees held by the U.S. in the Global War on Terror have been treated humanely, and that the overwhelming majority of U.S. personnel have served honorably. For those few who have not, there is no single, overarching explanation. While authorized interrogation techniques have not been a causal factor in detainee abuse, we have nevertheless identified a number of missed opportunities in the policy development process. We cannot say that there would necessarily have been less detainee abuse had these opportunities been acted upon. These are opportunities, however, that should be considered in the development of future interrogation policies.

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Introduction (U)

(U) In early 2004, revelations of detainee abuse in Iraq's Abu Ghraib prison, potentially involving U.S. Army military intelligence as well as military police personnel, suggested the need for an investigation of Department of Defense interrogation policy and implementation. On May 25, 2004, the Secretary of Defense directed the Naval Inspector General, through the Secretary of the Navy, to conduct a comprehensive review of Department of Defense interrogation techniques related to the following:

- (U) Guantanamo Bay detainee and interrogation operations from January 6, 2002;
- (U) Operation ENDURING FREEDOM;
- (U) Operation IRAQI FREEDOM;
- (U) Joint Special Operations in the U.S. Central Command area of responsibility; and
- (U) The Iraq Survey Group.

Specifically, the Naval Inspector General was tasked to identify and report on all Department of Defense interrogation techniques. The Secretary's directive specified that the Review must:

- (U) Examine all DoD interrogation techniques considered, authorized, prohibited, and employed during the Operations listed above;
- (U) Determine whether (and if so, to what extent) techniques prescribed for use in one command or Operation were adopted for use in another; and
- (U) Inquire into any DoD support to, or participation in, the interrogation operations of non-DoD entities.

In subsequent meetings with the Naval Inspector General, the Secretary of Defense emphasized his desire to investigate thoroughly and present all relevant facts to the Congress and the American people.

Scope of the Review (U)

(U) This independent review is intended to provide a comprehensive chronology regarding the development, approval and implementation of interrogation techniques. In order to meet desired timelines, minimize impact to ongoing operations, and avoid conducting multiple interviews of the same personnel, a decision was made to draw upon numerous other investigations and reviews of interrogation and detention operations, which are summarized in a later section of this report.

(U) Additionally, the Naval Inspector General was designated as the Secretary of Defense's principal representative to the Independent Panel to Review DoD Detention Operations (hereinafter referred to as the "Independent Panel"). Secretary Rumsfeld asked the Independent Panel, which was chaired by the Honorable James R. Schlesinger – a former Director of Central Intelligence, Secretary of Defense, and Secretary of Energy – to provide "independent, professional advice on the issues that you

consider most pertinent related to the various allegations [of abuse at DoD detention facilities], based on [a] review of completed and pending investigative reports and other materials and information." During the course of our review, information was shared with the Independent Panel to facilitate its deliberations and to avoid duplication of effort in studying interrogation policy and procedures. (In addition to the Honorable James Schlesinger, the Independent Panel included the Honorable Harold Brown, former Secretary of Defense; the Honorable Tillie K. Fowler, former U.S. Representative from Florida; and retired Air Force General Charles A. Horner, who commanded coalition air forces during Operation DESERT STORM, and subsequently commanded the North American Aerospace Defense Command.)

(U) Our review focuses on the specific tasking in the Secretary's memorandum of May 25, 2004. As such, it does not address some issues that may be of importance but are nevertheless not directly related to our tasking. Issues dealing with the interpretation of international law, rationale for specific decisions by senior officials, the value and success of ongoing strategic intelligence efforts, and legal definitions are only addressed when specifically and directly determined to be relevant to our tasking. Finally, any information discovered that was related to potential abuse of detainees was referred to the appropriate criminal investigative authority.

Investigative Approach (U)

(U) On June 1, 2004, the Naval Inspector General, Vice Admiral Albert T. Church III, USN, assembled a planning staff that brought together experienced investigators, interrogation and detention subject matter experts, and representatives of the Office of the Secretary of Defense, the Joint Staff, the Services, and the applicable Combatant Commands (the U.S. Southern, Central and Special Operations Commands). The planning staff developed a nucleus of background knowledge that facilitated the creation of traveling assessment teams, organized to conduct field interviews and document collection, and a Washington team, which would merge and analyze the data collected. The planning staff included Dr. James Blackwell, Executive Director of the Independent Panel, in order to ensure the smooth coordination of our activities with those of the Independent Panel. In addition, William McSwain, an Assistant United States Attorney, was selected to serve as the Executive Editor for our report. Collectively, this group was designated the Interrogation Special Focus Team (ISFT).

(U) The ISFT's intent was to conduct a thorough investigation, including in-theater interviews, with a minimum of disruption to ongoing military operations. To that end, during the month of June 2004, the ISFT began detailed research into DoD interrogation policy and doctrine, as well as available information concerning specific interrogation operations in Guantanamo Bay, Afghanistan, and Iraq. The research encompassed

informational interviews with interrogation subject matter experts and the review of policy and doctrine documents (many provided by multiple DoD agencies in response to ISFT data calls). This enabled the development of standard interview templates used to collect statements from interrogation-related personnel in the theaters of operation, as well as key senior military and civilian officials. Persons interviewed or who provided written responses would include:

- (U) Senior DoD policymakers, including the Deputy Secretary of Defense, the Under Secretary of Defense for Intelligence, and the General Counsel of the Department of Defense, and others (see figure below)
- (U) General and Flag officers, including the Vice Chairman of the Joint Chiefs of Staff, the Commander, U.S. Central Command, and others (see figure below)
- (U) Military Intelligence leaders
- (U) Interrogators, interpreters and intelligence analysts
- (U) Military Police
- (U) Staff judge advocates
- (U) Medical personnel
- (U) Chaplains
- (U) Interrogation instructors
- (U) Personnel involved in "point of capture" questioning of detainees (*e.g.*, infantry soldiers)

Senior-Level ISFT Interviewees and Respondents (U)

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Senior Civilians

- Dr. Paul Wolfowitz, Deputy Secretary of Defense
- Dr. Stephen Cambone, Under Secretary of Defense for Intelligence
- Mr. Douglas Feith, Under Secretary of Defense for Policy
- Mr. William Haynes, General Counsel of the Department of Defense
- Mr. Matt Waxman, Deputy Assistant Secretary of Defense for Detainee Affairs
- Ms. Mary Walker, General Counsel, Department of the Air Force
- Mr. Steven Morello, General Counsel, Department of the Army
- Mr. Alberto Mora, General Counsel, Department of the Navy
- Mr. Jacques Grimes, SES, Chief of Survey Center, Iraq Survey Group (ISG)

General and Flag Officers

- Gen Peter Pace, USMC, Vice Chairman of the Joint Chiefs of Staff
- GEN John Abizaid, USA, Commander, U.S. Central Command
- GEN Dan McNeill, USA, United States Army Forces Command, former Commander, JTF-180
- LTG Anthony Jones, USA, Deputy CG/Chief of Staff, USA Training & Doctrine Command
- LTG Ricardo Sanchez, USA, CG, V Corps, former Commander, CJTF-7 (Iraq)

- LTG Keith Alexander, USA, Deputy Chief of Staff of the Army, G-2
- LTG David Barno, USA, Commander, Combined Forces Command, Afghanistan (CFC-A)
- LtGen James Conway, USMC, Director, J-3, Joint Staff, former Commanding General, I MEF
- VADM Lowell Jacoby, USN, Director, Defense Intelligence Agency
- VADM David Nichols, USN, Commander, NAVCENT/Commander, FIFTH Fleet
- MG Geoffrey Miller, USA, DCG Detainee Ops/CG, TF 134 MNF-I, former CJTF-GTMO
- MG Keith Dayton, USA, Director of Strategy, Plans and Policy, G-3; Former Commander, Iraq Survey Group
- MG Thomas Romig, USA, Judge Advocate General of the Army
- MG Eric Olson, USA, CG, CJTF-76, Afghanistan
- MG Peter Chiarelli, USA, Commanding General, 1st Cavalry Division
- MG Walter Wojdakowski, USA, Deputy Commanding General, V Corps
- MG George Fay, USA, Deputy Commander (IMA), USA Intelligence & Security Command
- MG Ronald Burgess, USA, Director J-2, Joint Staff
- MG Stanley McChrystal, USA, CG, Joint Special Operations Command (JSOC)
- MG Barbara Fast, USA, former C-2, MNF-I
- MG Martin Dempsey, USA, CG, 1st Armored Division
- MG Michael Dunlavey (Retired), USAR, former CJTF-170 and CJTF-GTMO
- MajGen Thomas Fiesua, USAF, Judge Advocate General of the Air Force
- MajGen James Mattis, USMC, CG, Marine Corps Combat Development Command, former Commanding General, 1st Marine Division
- RADM Michael Lohr, USN, Judge Advocate General of the Navy
- BG Jay Hood, USA, Commander, JTF-GTMO
- BG John Custer, USA, Director for Intelligence, J-2, U.S. Central Command
- BG Charles Jacoby, USA, DCG Support, CJTF-76, Afghanistan
- BGen Michael Ennis, USMC, Deputy Director for Human Intelligence, DIA
- BGen Joseph McMenamin, USMC, Director, Iraq Survey Group
- BGen Kevin Sandkuhler, USMC, SJA to the Commandant of the Marine Corps
- RADM William McRaven, USN, Deputy CG for Operations, JSOC

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(U) We made a decision not to interview the detainees themselves in order to minimize any impact on ongoing interrogation operations; however, we did review many reports provided by the International Committee of the Red Cross (ICRC).

(U) In late June through early July 2004, the assessment teams traveled to Guantanamo Bay, Afghanistan and Iraq in order to conduct interviews and first-hand examinations of detention and interrogation facilities and operations. In total, the ISFT collected more than 800 statements from personnel involved in detainee operations. In addition, a series of follow-on questions was asked of senior officials in the Office of the Secretary of Defense and the Joint Staff during the course of the investigation. The information thus collected provided the foundation for the findings presented in this report. Throughout our effort, we were impressed by the high level of cooperation and accommodation we received, particularly from combat forces in the field.

(U) Following this introduction, the report is divided into nine main sections.

- (U) The first section discusses the legal, policy and doctrinal framework within which DoD detention and interrogation operations take place.
- (U) The second section provides a summary of previous reports that address detention and interrogation operations in the Global War on Terror.
- (U) The third section provides an analysis of detainee abuse investigations during the Global War on Terror.
- (U) The fourth, fifth, and sixth sections describe the evolution of interrogation techniques considered, authorized, prohibited, and employed in the course of the Global War on Terror in Guantanamo Bay, Afghanistan, and Iraq respectively.
- (U) The seventh section examines the role of contractors in DoD interrogations.
- (U) The eighth section examines DoD support to, or participation in, the interrogation operations of non-DoD entities, also termed other government agencies, or OGAs.
- (U) The ninth section examines the role of U.S. medical personnel in interrogation.

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Department of Defense Interrogation: Law, Policy, Doctrine and Training (U)

(U) Timely and accurate intelligence is essential to the effective conduct of military operations. Defense Department interrogators, both military and civilian, seek to gain human intelligence (HUMINT) from enemy prisoners of war and other detainees in order to support DoD missions, from the tactical (*e.g.*, counter-insurgency patrols in Iraq or Afghanistan) to the strategic (*e.g.*, defense of the U.S. homeland against a catastrophic terrorist attack).

(U) This section of our report provides the background for our subsequent discussion of interrogation operations in GTMO, Afghanistan, and Iraq. It begins with an overview of international law, U.S. law, Department of Defense policy, and doctrine governing DoD interrogations, including a discussion of the President's February 7, 2002 determination regarding the legal status of al Qaeda and Taliban members under the Geneva Conventions. It then provides a summary of DoD doctrine for detention operations, including the doctrinal relationship between military police (MP) and military intelligence (MI) personnel. Next, this section provides a summary of the limited doctrine pertaining to joint, coalition and interagency interrogation facilities. It concludes with an overview of the force structure and training for DoD interrogators.

Interrogation: Law and Policy (U)

(U) Army Field Manual 34-52, *Intelligence Interrogation*, states that "the goal of any interrogation is to obtain reliable information *in a lawful manner*, in a minimum amount of time, and to satisfy intelligence requirements of any echelon of command" (emphasis added). Interrogators are at all times bound by applicable U.S. laws, including treaty-based laws, and U.S. policies.

(U) Applied to detention and interrogation operations in time of armed conflict, this body of law and policy is intended to ensure the humane treatment of individuals who fall into the hands of a party to the conflict. In the following paragraphs, we will review the legal and policy framework governing detention and interrogation before turning to the subject of interrogation doctrine.

(U) DoD personnel are bound by U.S. law, including the law of armed conflict, found in treaties to which the U.S. is party. Among other things, these laws prohibit torture or other cruel, inhumane or degrading treatment of detainees. International and U.S. laws define torture in the *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* and in Title 18, Section 2340 of U.S. Code, respectively; note, however, that there is no treaty-defined or universally accepted definition of cruel, inhumane or degrading treatment.

(U) It is U.S. policy to use the Geneva Conventions as a baseline for humane treatment even when the Conventions are not legally binding (in the words of DoD Directive 5100.77, "during all armed conflicts, however such conflicts are characterized"). The Geneva Conventions indicate that the irreducible minimum standard of treatment is "humanity," without further defining the term. Thus, the concept of humane treatment remains undefined, and well-meaning individuals analyzing interrogation techniques might differ on whether certain techniques are in fact humane.

(U) In addition, DoD personnel engaged in armed conflict are bound by the law of war, enumerated in the Geneva Conventions of 1949. The law of war is intended to "diminish the evils of war" by regulating the means of warfare, and by protecting the victims of war, both combatant and civilian. An overview of the purpose and scope of the Geneva Conventions, their implementation in DoD policy, and their application in the Global War on Terror is provided below.

(U) Purpose and Scope of the Law of War

(U) The Geneva Conventions pertinent to detention and interrogation operations are the *Geneva Convention Relative to the Treatment of Prisoners of War*, herein abbreviated as GPW, and the *Geneva Convention Relative to the Protection of Civilian Persons in Time of War*, abbreviated as GC. The GPW provides protection for captured enemy military personnel, including military medical personnel and chaplains (referred to as "retained persons"). The GC protects civilian internees captured in a belligerent's home state or occupied territory. Private citizens who engage in unauthorized acts of violence and who fail to meet the criteria set forth in the GPW are unprivileged belligerents.

(U) Detainees meeting Geneva criteria are entitled to the protection commensurate with their category (prisoner of war or civilian protected person). The figure on the next page provides a list which, while not all-inclusive, describes the protections that are most relevant to interrogation operations. In all cases, DoD personnel are obliged to uphold the basic standard of humane treatment of detainees, and to obey laws prohibiting assault, torture, homicide, and other forms of maltreatment.

(U) GPW explicitly addresses those instances when capturing forces cannot immediately determine the status of a detainee: "should any doubt exist as to whether persons, having committed a belligrent act and having fallen into the hands of the enemy, belong to the categories enumerated in [GPW] Article 4, such persons shall enjoy the protection of [prisoners of war] until such time as their status has been determined by a com-

Geneva Convention Protections: Prisoners of War and Protected Persons (U)

(U) Protections afforded to prisoners of war (GPW):
- (U) Shall be humanely treated at all times. (GPW, Article 13)
- (U) No 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 who refuse to answer may not be threatened, insulted, or exposed to unpleasant or disadvantageous treatment of any kind. (GPW, Article 17)

(U) Protections afforded to protected persons (GC):
- (U) Shall be humanely treated at all times. (GC, Article 27)
- (U) No physical or moral coercion shall be exercised against protected persons, in particular to obtain information from them or from third parties. (GC, Article 31.)

petent tribunal" (GPW, Article 5). Though the Geneva Conventions do not describe the composition of such a tribunal, DoD policy provides specific guidance, as will be described below.

(U) In sum, DoD personnel are always bound to treat detainees humanely, at a minimum; and enemy prisoners of war and civilians covered by the Geneva Conventions are to be granted the additional protections prescribed by Geneva.

(U) The following section provides a survey of the DoD policy documents that amplify and assign responsibilities with regard to U.S. law of war obligations.

(U) DoD Policy

(U) Two Department of Defense Directives, or DoDDs, specify DoD policy regarding the law of war and detainee operations: DoDD 5100.77, *DoD Law of War Program*, and DoDD 2310.1, *DoD Program for Enemy Prisoners of War and Other Detainees*. These directives highlight several key points:

- (U) It is DoD policy to ensure that the law of war obligations of the United States are observed and enforced by the DoD Components.

- (U) It is DoD policy to comply with the principles, spirit and intent of the international law of war, both customary and codified, to include the Geneva Conventions.

- (U) Captured or detained personnel must be accorded an appropriate legal status under international law. In addition, DoD personnel must comply with the law of war during all armed conflicts, however such conflicts are characterized, and with the principles and spirit of the law of war during all other operations.

These directives assign executive responsibility for the DoD law of war and detainee programs to the Secretary of the Army, and specify that individuals captured or detained by U.S. military forces should normally be handed over for safeguarding to U.S. Army MPs as soon as practical.

(U) Army Regulation (AR) 190-8, *Enemy Prisoners of War, Retained Personnel, Civilian Internees, and Other Detainees*, implements the detainee program and policies outlined in DoDD 2310.1. AR 190-8 has been adopted by all four Services, and is applicable with regard to treatment of detainees in the custody of the U.S. armed forces. In addition to describing the administration of the DoD detainee program, AR 190-8 establishes standard DoD terminology for detainee categories, derived from the Geneva Conventions (see figure on the next page). (The current edition of AR 190-8 was approved in 1997.)

(U) In addition, AR 190-8 sets forth the requirements for "competent tribunals" for the determination of detainee status when such status is in doubt, as mandated by the Geneva Conventions. AR 190-8 requires that tribunals be convened by commanders holding general court-martial authority, be composed of three commissioned officers (at least one of whom must be field grade—a major or equivalent—or higher), and hear the testimony of the detainee, if so requested. Detainees determined not to be EPWs may not, as a matter of DoD policy (subject to other direction by higher authority) be imprisoned or otherwise penalized without further proceedings to determine what act they have committed and what the punishment should be.

(U) Army FM 34-52, *Intelligence Interrogation*, provides further amplification of Geneva Convention obligations pertaining directly to interrogation operations: "[the Geneva Conventions] and US policy expressly prohibit acts of violence or intimidation, including physical or mental torture, threats, insults, or exposure to inhumane treatment as a means of or aid to interrogation." Further, FM 34-52 prohibits physical or mental coercion, defined in the manual as "actions designed to unlawfully induce another...to act against one's will. Such actions would include, for example, committing or threatening torture, or implying that rights accorded by the Geneva Conventions will not be provided unless the detainee cooperates with the interrogator.

Army Regulation 190-8: Detainee Categories (U)

(U) Detainee Categories:

- **(U) EPW:** Enemy prisoners of war.
- **(U) CI:** Civilian internees.
- **(U) RP:** Retained persons (medical personnel and chaplains).
- **(U) OD:** Other detainees. (AR 190-8 defines ODs as detainees who have not yet been classified as EPW, CI, or RP. ODs are entitled to EPW treatment until such a classification has been made by a competent tribunal.)

(U) Geneva and the War on Terror

(U) In a memo dated February 7, 2002, President George W. Bush determined that Taliban detainees were "unlawful combatants" not legally entitled to prisoner of war status, and al Qaeda members also did not qualify as prisoners of war, for the following reasons:

1. (U) *The Taliban.* Afghanistan is a party to the Geneva Conventions; however, members of the Taliban have not fulfilled the obligations of lawful combatants laid out in GPW.
2. (U) *Al Qaeda.* As a non-state organization, al Qaeda is not–and cannot be–a party to any international treaty, including the Geneva Conventions.

(U) Notwithstanding their legal status, the President determined that al Qaeda and Taliban detainees were to be treated "humanely and, to the extent appropriate and consistent with military necessity, in a manner consistent with the principles of Geneva."

(U) As the foregoing discussion demonstrates, U.S. military operations since September 11, 2001 have taken place within an established legal and policy framework. The Global War on Terror is distinct from traditional conflicts such as the World Wars because of our adversaries' disregard for the law of war; however, U.S. forces continue to be governed by the law of war and by U.S. policy with an emphasis on the humane treatment of all detainees.

Interrogation: Doctrine (U)

(U) There is no master DoD interrogation doctrine; however, the U.S. Army tactical interro-

gation doctrine forms the *de facto* basis for interrogations conducted by DoD intelligence personnel. This doctrine is currently codified in the 1992 Army Field Manual 34-52, *Intelligence Interrogation*, and consists of seventeen interrogation techniques - called "approaches" in the manual - which may be used singly or in combination in order to elicit information from detainees. FM 34-52 specifies that these techniques, listed in the figure on the next page, are not intended to constitute an all-inclusive list; rather, they constitute a compilation of methods and procedures that have proven successful over time. Additionally, the techniques are described in broad terms, and leave room for creativity in their implementation. However, FM 34-52 explicitly requires that all interrogations be conducted in accordance with the detainee protections guaranteed by the laws and policies described above: "The approach techniques are not new nor are all the possible or acceptable techniques discussed below. Everything the interrogator says and does must be in concert with the [Geneva Conventions] and [the Uniform Code of Military Justice]."

(U) Although they have not officially adopted FM 34-52 as doctrine, other DoD components remain bound to work within the legal and policy limits associated with the law of war during interrogations. (FM 34-52 also notes that within any military unit that includes interrogators, the senior intelligence officer is assigned the responsibility of ensuring that all interrogations are performed in accordance with the Geneva Conventions and U.S. policies. FM 34-52 suggests that this may be effected through the review of oral or written interrogation plans by senior interrogators "when possible;" however, review of interrogation plans is not mandatory.) Within these bounds, interrogators may employ "psychological ploys, verbal trickery, or other nonviolent [and] non-coercive ruses...in the interrogation of hesitant or uncooperative sources."

(U) Prior to its approval in 1992, FM 34-52 was reviewed for legal sufficiency by the Office of the Judge Advocate General of the Army. Though FM 34-52's 17 techniques are not inherently legal or illegal, the stipulation that interrogators must adhere at all times to the Geneva Conventions and the Uniform Code of Military Justice (UCMJ) provides the backstop intended to prevent abuse.

(U) As previously noted, there is no official DoD-wide interrogation doctrine. Though the Joint Staff is developing a Joint interrogation doctrine, at present FM 34-52 constitutes the standard guide for conducting interrogations.

(U) Questioning and Interrogation: From Capture to Internment

(U) Recognizing that the value of intelligence information may decrease with time, U.S. military doctrine states that detainees may be

Interrogation Techniques (U)

(U) Source: U.S. Army Field Manual 34-52, *Intelligence Interrogation*

1. (U) **Direct.** The interrogator asks questions directly related to information sought, making no effort to conceal the interrogation's purpose. Always the first approach to be attempted, and reportedly highly effective during past conflicts (*e.g.*, Operation DESERT STORM).

2. (U) **Incentive.** The interrogator uses luxury items (*e.g.*, cigarettes) above and beyond those required by Geneva to reward the detainee for cooperation, with the implication that such items will be withheld for failure to cooperate. FM 34-52 cautions that any withholding of items must not amount to a denial of basic human needs - thus food, medicine, *etc.* may not be withheld.

3. (U) **Emotional Love.** The interrogator plays on the detainee's existing emotional tendencies to create a psychological "burden" which may be eased by cooperation with the interrogator. An "Emotional Love" technique might involve telling a detainee with apparent high regard for his fellow soldiers that cooperation will help shorten the conflict and ease their suffering.

4. (U) **Emotional Hate.** An "Emotional Hate" technique might involve telling a detainee with apparent contempt for his fellow soldiers that cooperation with the interrogator will allow allied forces to destroy the detainee's old unit, thus affording him a measure of revenge.

5. (U) **Fear Up (Harsh).** The "Fear Up" technique takes advantage of a detainee's preexisting fears to promote cooperation. For example, an interrogator might exploit a detainee's fear of being prosecuted for war crimes. "Fear Up (Harsh)" involves the interrogator behaving in an overpowering manner with a loud and threatening voice, perhaps even throwing objects around the interrogation room. The intent is to convince the detainee that he does in fact have something to fear, but that the interrogator offers a possible way out of the "trap." FM 34-52 notes that of the 17 doctrinal approaches, "Fear Up"

approaches have the greatest potential to violate the law of war, and that interrogators must take great care to avoid threatening or coercing a detainee in violation of the Geneva Convention. In addition, "Fear Up (Harsh)" is generally recommended only as a last resort, because other approaches may not be effective in generating rapport with the detainee once it has been used.

6. (U) **Fear Up (Mild).** "Fear Up (Mild)" uses a calm, rational approach to take advantage of the detainee's pre-existing fears, again in an attempt to convince the detainee that cooperation with the interrogator will have positive consequences.

7. (U) **Fear-Down.** The detainee is soothed and calmed in order to build rapport and a sense of security regarding the interrogator.

8. (U) **Pride and Ego-Up.** The detainee is flattered by the interrogator, prompting him to provide information in order to gain further praise (*e.g.*, by demonstrating how important he was to his country's war effort).

9. (U) **Pride and Ego-Down.** The interrogator goads the detainee by challenging his loyalty, intelligence, *etc.*; the detainee may then reveal information in an attempt to demonstrate that the interrogator is wrong.

10. (U) **Futility.** The interrogator rationally persuades the detainee that it is futile to resist questioning, because (for example) the U.S. will inevitably win the conflict; everyone talks eventually; *etc.* This technique is not used by itself; rather, it is used to paint a bleak picture for the detainee, which can be exploited using other techniques (*e.g.*, Emotional Love).

11. (U) **We Know All.** The interrogator employs test questions to which answers are already known in order to convince the detainee that the interrogator is all-knowing and resistance to questioning is therefore pointless.

12. (U) **File and Dossier.** The interrogator prepares a dossier with complete information on the detainee's background, possibly padding the file with additional paper to increase its bulk. If this technique is successful, the detainee will be intimidated by the size of the file, and conclude that everything is already known and that resistance is pointless.

13. (U) **Establish Your Identity.** The interrogator insists that the detainee is not who he says he is, but rather an infamous person wanted on serious charges by higher authorities. The detainee may divulge information in an attempt to clear his name.

14. (U) **Repetition.** The interrogator repeats each question and answer multiple times until, in order to satisfy the interrogator and break the monotony, the detainee answers questions fully and candidly.

15. (U) **Rapid Fire.** The interrogator asks questions in rapid succession so that the detainee does not have time to answer fully. This may confuse and annoy the detainee, leading to contradictory answers; ultimately, the detainee may begin to speak more freely in order to make himself heard and explain inconsistencies pointed out by the interrogator.

16. (U) **Silent.** The interrogator silently looks the detainee squarely in the eye for an extended period, until the detainee becomes nervous or agitated. The interrogator breaks the silence when the detainee appears ready to talk.

17. (U) **Change of Scene.** The interrogator engages the detainee in an environment other than an interrogation room in order to ease the detainee's apprehension, or catch him with his guard down. For example, an interrogator might invite the detainee to another setting for coffee and pleasant conversation; alternatively, an interrogator might pose as a guard in the detention area and engage the detainee in conversation there.

interrogated prior to their arrival at detention facilities, as noted in AR 190-8: "Prisoners may be interrogated in the combat zone. The use of physical or mental torture or any coercion to compel prisoners to provide information is prohibited...Interrogations will normally be performed by intelligence or counterintelligence personnel." Additionally, non-MI personnel may doctrinally conduct "tactical questioning" of detainees in the field prior to their delivery to short- or long-term detainee holding facilities.

(U) Detainees may be captured or collected in the field by any U.S. service member. Therefore, doctrine provides for basic, direct questioning of detainees by capturing forces to ascertain information of immediate tactical value. The figure on the following page provides an example of two memory aids created for U.S. Army soldiers for these purposes.

(U) After capture and tactical questioning by MI personnel (collectively termed "field processing"), detainees are normally transferred to Army MP units trained and organized to operate detention or internment/resettlement (I/R) facilities. (Though the Army has the primary responsibility for detention operations within DoD, other services may operate detention facilities as long as all of the provisions of the Geneva Conventions and AR 190-8 are fulfilled.) Detention and I/R doctrine is contained in Army Field Manual 3-19.40, *Military Police Detention and Internment/Resettlement Operations*.

(U) By doctrine, there are three broad categories of detention facility: collecting points (normally operated by MP companies attached to Army divisions), holding areas (normally operated by MP companies attached to Army corps), and I/R facilities (normally operated by specially trained MP I/R battalions under MP brigades reporting to the theater commander). Division collecting points (CPs) and corps holding areas (CHAs) are intended to provide for the immediate safety and well-being of detainees, while preventing them from impeding combat operations on the battlefield. CP size may vary depending on the detainee capture rate, and facilities may range from simple concertina wire enclosures to existing structures such as abandoned schools or warehouses. CHAs may hold up to 2,000 detainees, and are established in existing structures or specially constructed camps. Internment/resettlement (I/R) facilities are intended to provide for long-term detention away from the combat zone, and normally consist of semi-permanent structures capable of holding up to 4,000 detainees.

(U) Division collecting points are further classified as either forward or central CPs. Closest to the battlefield, forward CPs are typically the most austere detention facilities, and by doctrine, should not house detainees for more than 12 hours

Basic Detainee Capture and Questioning Procedures (U)

(U) Source: U.S. Army Special Text 2-91.6, *Small Unit Support to Intelligence*

(U) Handling of Enemy Prisoners of War and Detainees: "The Five S's"

- (U) **Search** - A thorough search of the person for weapons and documents.
- (U) **Silence** - Do not allow the EPWs/detainees to communicate with one another, either verbally or with gestures. Keep an eye open for potential troublemakers and be prepared to separate them.
- (U) **Segregate** - Keep civilians and military separate and then further divide them by rank, gender, nationality, ethnicity, and religion.
- (U) **Safeguard** - Provide security for and protect the EPWs/detainees. Get them out of immediate danger and allow them to keep their personal chemical protective gear, if they have any, and their identification cards.
- (U) **Speed** - Information is time sensitive. It is very important to move personnel to the rear as quickly as possible. An EPW/detainee's resistance to questioning grows as time goes on. The initial shock of being captured or detained wears off and they begin to think of escape. HUMINT soldiers who are trained in detailed exploitation, who have the appropriate time and means, will be waiting to talk to these individuals.

(U) Tactical Questioning: "JUMPS"

- (U) **J - Job**: What is your job? What do you do? If military: what is your rank? If civilian: what is your position title?
- (U) **U - Unit**: What is your unit or the name of the company you work for? Ask about chain of command and command structure.
- (U) **M - Mission**: What is the mission of your unit or element? What is the mission of the next higher unit or element? What mission or job were you performing when you were captured or detained?
- (U) **P - Priority Questions**: Ask questions based on small unit's tasking as briefed before patrol, roadblock, etc. Ensure questions are asked during natural conversation so unit's mission is not disclosed.
- (U) **S - Supporting Information**: Anything not covered above.

prior to their transfer to a central CP. Central CPs are located further from the battlefield, and are intended to house detainees for up to 24 hours prior to their transfer to CHAs.

(U) Corps holding areas normally retain detainees for up to 72 hours, but may retain detainees for the duration of hostilities if required. Typically, one CHA is to be established per division conducting combat operations. Detainees in CHAs may be transferred to I/R facilities, where they remain until hostilities end or they are otherwise released.

(U) In sum, a detainee captured on the battlefield would typically be processed as follows: tactical questioning at the point of capture, followed by detention and possible interrogation at a forward CP for up to 12 hours, a central CP for up to 24 hours, a CHA for up to 72 hours (or longer as required), and finally an I/R facility (or CHA) until hostilities end or the detainee is approved for release. Detainees may also be turned over to facilities at any higher echelon immediately following capture. By doctrine, detainees are not to be released until they have been fully processed for control and accounting purposes by I/R-trained MP units.

(U) As noted in AR 190-8 and FM 34-52, interrogation by properly trained intelligence personnel may be conducted at any stage of the capture and detention process. In addition, AR 190-8 specifies that commanders of I/R facilities must provide an area for intelligence collection efforts (*i.e.*, interrogation).

(U) Doctrinal Relationship Between Military Police and Military Intelligence

(U) *Doctrine does not clearly and distinctly address the relationship between the Military Police (MP) operating [internment/resettlement] facilities and the Military Intelligence (MI) personnel conducting intelligence exploitation at those facilities.*

- from the Detainee Operations Inspection Report, Department of the Army Inspector General, July 21, 2004

(U) *The [Geneva Conventions] and US policy expressly prohibit acts of violence or intimidation, including physical or mental torture, threats, insults, or exposure to inhumane treatment as a means of or aid to interrogation.*

- from Field Manual 34-52, *Intelligence Interrogation*

(U) *Coercion is not inflicted upon captives and detainees to obtain information...Inhumane treatment, even if committed under stress of combat and with deep provocation, is a serious and punishable violation under national law and international law...*

— from Field Manual 3-19.40, *Military Police Internment/Resettlement Operations*

(U) Previous investigations of detainee abuse, such as the Department of the Army Inspector General report quoted above, have correctly pointed out that MP and MI doctrine do not completely describe the functional relationship between detention and interrogation operations. Existing guidance regarding the direct involvement of MPs in the interrogation mission - as opposed to external support for interrogation - is vague (see figure on the next page), and non-existent with regard to the implementation of techniques that are employed outside the interrogation room. (Examples of such techniques include environmental and dietary manipulation, as described in the declassified April 16, 2003 Secretary of Defense memorandum approving interrogation techniques for use at Guantanamo Bay.) However, the second and third excerpts cited above - one drawn from an MI manual, the other from an MP manual - demonstrate that doctrine clearly and specifically forbids the inhumane treatment of detainees.

(U) As previously described, MPs are responsible for establishing and operating detention facilities, which are typically found at the division, corps and theater levels (collecting points, corps holding areas and internment/resettlement facilities respectively). Within these facilities, MPs are responsible for the security, discipline, health, welfare, and humane treatment of detainees. In addition, MPs must maintain complete accountability for all detainees, assigning each an internment serial number (ISN) and forwarding it to the National Detainee Reporting Center (NDRC), as mandated by Army Regulation 190-8.

(U) As the subsequent figure illustrates, MPs are also responsible for coordinating with MI personnel to facilitate the collection of intelligence from detainees. The most extensive discussion of this responsibility is contained in FM 3-19.40, *Military Police Internment/Resettlement Operations*. MP responsibilities related to detainee intelligence collection, including interrogation, drawn from FM 3-19.40 are summarized in the subsequent figure.

(U) The figure demonstrates that MP administrative procedures pertaining to interrogation operations are well defined, and stress accountability for detainees at every stage of the detention and interrogation process. (FM 3-19.40 goes so far as to specify that if a detainee is removed from the receiving/processing line at a detention facility by MI personnel, the detainee and his or her possessions must first be accounted for on DD Form 2708 - *Receipt for Inmate or Detained Person* - and Department of the Army (DA) Form 4137, *Evidence/Property Custody Document*.) In directing MPs to "assist MI personnel by identifying detainees who may have useful information," doctrine clearly permits MPs to conduct passive intelligence collection within deten-

MP, MI and Detainee Intelligence Collection: Existing Doctrine (U)

(U) From Army Regulation 190-8, *Enemy Prisoners of War, Retained Personnel, Civilian Internees and Other Detainees*

"The [enemy prisoner of war/civilian internee] facility commander will provide an area for intelligence collection efforts."

(U) From Field Manual 3-19.1, *Military Police Operations*

"The MP perform their...function of collecting, evacuating, and securing EPWs throughout the [area of operations]. In this process, the MP coordinate with MI to collect information that may be used in current or future operations."

(U) From Field Manual 3-19.40, *Military Police Internment/Resettlement Operations*

"The MP work closely with military intelligence interrogation teams...to determine if captives, their equipment, and their weapons have intelligence value."

(U) From Field Manual 34-52, *Intelligence Interrogation*

"Screeners coordinate with MP holding area guards on their role in the screening process. The guards are told where the screening will take place, how EPWs and detainees are to be brought from the holding area, and what types of behavior on their part will facilitate the screenings." (NOTE: FM 34-52 defines screening as "the selection of sources for interrogation." Screening is not interrogation.)

tion facilities. In addition, both MI and MP doctrine repeatedly emphasize the requirement for humane treatment of all detainees.

(U) However, there is a lack of doctrine regarding MP and MI roles in the application of the "outside-the-interrogation-room" interrogation techniques approved by DoD and service authorities in the course of the Global War on Terror. The techniques set forth in FM 34-52, such as direct questioning and fear up, are generally described in the context of an "interrogation site." In contrast, many of the "new" techniques - such as the substitution of Meals-Ready-to-Eat (MREs) for hot meals, or reversing a detainee's sleep cycle from night to day - are applied outside the interrogation area in an effort to render the detainee more cooperative during subsequent interrogations. Neither MP nor MI doctrine prescribes specific responsibilities for the employment of techniques requiring

MP Responsibilities Related to Detainee Intelligence Collection (U)

(U) Source: Field Manual 3-19.40, *Military Police Internment/Resettlement Operations*

(U) Facilitate collection of enemy tactical information by allowing MI to station interrogation teams at detention facilities. MI personnel may be permitted to observe arriving detainees in order to expedite the collection process.

(U) Work closely with MI interrogators to determine whether detainees have intelligence value.

(U) Coordinate with MI to establish operating procedures that ensure accountability for detainees and their equipment and documents. (Before MI conduct interrogations, detainees must be provided with DoD (DD) Form 2745, *EPW Capture Tag*, and documented on DD Form 2708, *Receipt for Inmate or Detained Person*.)

(U) Assist MI personnel by identifying detainees who may have useful information.

(U) Conduct personal searches of detainees when requested by MI. (Within detention facilities, FM 3-19.40 specifies that this must be done out of sight of other detainees, by guards of the same gender as the detainee being searched.)

(U) Plan "MI screening sites" including interrogation areas. Interrogation areas should accommodate an interrogator, a captive, a guard and an interpreter.

(U) Escort captives to and from the interrogation area.

(U) Establish procedures to inform MI which detainees will be moved to, from or within the facility, and when the movement is to take place.

coordination outside the interrogation room. For example, it is not clear under existing doctrine whether MP or MI personnel should effect an altered detainee sleep cycle. In the absence of a clear doctrinal division of labor, commanders must develop local policies for the employment of such techniques. A particular hazard of this arrangement is that if MPs are not adequately trained on approved interrogation techniques and their limits, they may make inappropriate individual judgments regarding the appropriateness of techniques ordered or implied by MI personnel.

(U) Similarly, doctrine appears to permit the presence of MP guards during interrogations (see FM 3-19.40's requirement that interrogation areas accommodate guards in addition to intelligence personnel), but does not describe what role they should play or prohibit any particular roles. This could also lead to inappropriate behavior if the limitations of interrogation techniques and requirements related to detainee treatment are not well understood by all parties involved.

(U) Two additional areas of MP doctrine that warrant discussion are the employment of military working dogs (MWD) and strip searches. Though MP doctrine prescribe these for security purposes only, their misuse could lead to abuse, as we have seen at Abu Ghraib.

(U) Military Working Dogs

(U) Existing MWD doctrine pertaining to detainee operations (codified in Army Regulation 190-12, *Military Working Dogs*, and Department of the Army Pamphlet 190-12, *Military Working Dog Program*) notes that patrol dogs may be used to secure the perimeter of EPW detention facilities, and to deter escape. The presence of dogs during interrogation is neither specifically authorized nor specifically prohibited. As with other interrogation techniques that are not described in FM 34-52, the presence of dogs - even if approved by appropriate authorities - could become problematic in the absence of additional, specific training.

(U) Strip Searches

(U) FM 3-19.40 not only permits, but actually prescribes the strip-searching of both EPWs and CIs during in-processing into detention or internment facilities. No particular cautions are listed; however, the manual does state that MPs of the same gender as the detainee should perform the searches.

(U) Finally, doctrine does not address the variety of detainee classifications that have arisen in the course of the Global War on Terror. Terms such as "unlawful combatant," "security internee," "high-value detainee," *etc.*, are not always easily paired with the Geneva Convention categories. Without specific instruction by commanders, this could cause confusion regarding whether and which Geneva Convention protec-

tions apply to individual detainees.

(U) Despite the concerns noted above, however, MP and MI doctrine clearly states the requirement that, at a minimum, all detainees must be treated humanely. The excerpts that introduce this section illustrate that it leaves no doubt that abusive behavior is prohibited.

Interrogation Facilities: Joint, Interagency, and Coalition Policy (U)

(U) Though U.S. military doctrine permits (and in fact requires) the provision of intelligence collection areas at I/R facilities, and also permits interrogations at any point in the capture-internment continuum, there is no DoD policy or doctrine that specifically addresses the establishment and operation of Joint, interagency, or coalition interrogation facilities. The Army Inspector

Doctrine Related to Joint/Interagency Interrogation Facilities (U)

(U) **From Field Manual 34-52, *Intelligence Interrogation*:**

(U) **Theater Interrogation Facility:** Established above the corps level (*e.g.*, at an I/R facility); may support a Joint or Unified Combatant Command. Staffed by multiple Services and national agencies as required; may include interrogators from allied nations. Interrogates prisoners of war, high-level political and military personnel, civilian internees, defectors, refugees, and displaced persons.

(U) **From Field Manual 3-31, *Joint Force Land Component Commander Handbook*:**

(U) **Joint Interrogation Facility:** Conducts initial screening and interrogation of prisoners of war. Forwards key reports to the Joint Interrogation and Debriefing Center.

(U) **Joint Interrogation and Debriefing Center:** Conducts follow-on exploitation of prisoners of war in support of Joint Task Force and higher requirements. May also interrogate civilian detainees, refugees, and other non-prisoner sources.

General's report of 21 July 2004, *Detainee Operation Inspection*, found that the two relevant doctrinal publications - FM 34-52, *Intelligence Interrogation*, and FM 3-31, *Joint Force Land Component Commander Handbook* (also adopted by the Marine Corps), contain inconsistent guidance on the structure and function of facilities variously termed Theater Interrogation Facilities (TIFs), Joint Interrogation Facilities (JIFs) and Joint Interrogation and Debriefing Centers (JIDCs). Outside of the described Army and Marine Corps doctrine (summarized in the figure above), there are no standard DoD policies governing the interaction of the military Services within interrogation facilities, nor are there policies governing the interaction of DoD interrogators and CIA, FBI, or other U.S. Government law enforcement and intelligence personnel. (There are, however, various directives issued since the inception of the Global War on Terror that govern specific, unique interrogation-related DoD organizations such as the Criminal Investigative Task Force, or CITF.) As the figure shows, the limited existing doctrine pertaining to joint or interagency interrogation facilities is not specific or consistent, and makes implicit distinctions between categories of detainees that do not correspond to international law or DoD policy. The Department of Defense is now developing doctrine for the establishment and manning of joint, interagency, and coalition interrogation facilities.

DoD Interrogators: Force Structure and Training (U)

(U) Department of Defense intelligence interrogators are found in each military service, and in the Defense HUMINT Service (DIA/DH), a component of the Defense Intelligence Agency (DIA). Though we did not conduct a detailed review of DoD interrogator force structure, our interviews with MI leaders and interrogators firmly supported the conclusions of previous reports - namely, that there are not enough interrogators and linguists to meet the demands of the Global War on Terror. We are aware, however, that significant efforts are underway within DoD to address and rectify the shortfall of interrogators and associated support personnel, particularly linguists.

(U) Within the military services, enlisted personnel are the primary interrogators, with warrant officer interrogators in technical supervisory positions. Commissioned MI officers charged with overall command of intelligence units typically receive overviews of interrogation techniques during their training. Our interviews confirmed that warrant officers were typically the senior service members directly involved in interrogations. As the reader will learn in later

sections of this report, individual interrogators' compliance with approved interrogation policies was often proportional to the "fidelity of transmission" from higher headquarters to the unit level, and then to the interrogators via warrant officer and senior enlisted leadership. Our interviews indicated that the details of approved theater interrogation policies were often lost during this process, frequently during the latter stage (though many units never received the approved policies at all). In these cases, interrogators generally fell back on schoolhouse training, which focused on FM 34-52 and the law of war. Nevertheless, to a significant degree this left implementation of interrogation techniques up to individual interrogators' judgment. (This will be described at length later in the report.)

(U) In contrast with military interrogators, Defense HUMINT Service (DH) personnel are trained as "strategic debriefers" - focusing on strategic intelligence, rather than the tactical intelligence that forms the focus of service interrogation training, and using primarily the Direct Questioning technique - but are generally familiar with FM 34-52. In some cases, DH personnel have received service interrogation training prior to details assigning them to support MI operations.

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Summary of Previous Reports Relating to Interrogation or Detainee Abuse (U)

(U) There have been a number of previous reports—some completed before the misconduct at Abu Ghraib came to light, or otherwise unrelated to Abu Ghraib, and others in response to Abu Ghraib—that provide the backdrop to our report. Several of these reports were concerned with detainee operations in a broad sense, and none addressed interrogation techniques or detainee abuse at a level of detail similar to this report. These reports do inform our analysis, however, as they often contain observations and recommendations that bear directly on interrogation operations or detainee abuse. Furthermore, in order to avoid duplication of effort, we have where possible leveraged the interviews and witness statements collected by others. These previous reports are listed below, followed by a summary of their major conclusions, with an emphasis on those aspects that shed light upon our investigation of interrogation techniques and detainee abuse.

(U) There have been three previous reports concerning interrogation operations at GTMO.

- (U) First, Stuart Herrington, a retired Army colonel with a military intelligence background, visited GTMO on March 16-21, 2002, and on March 22, 2002 provided MG Michael Dunlavey, USA, the Commander of JTF-170 at GTMO, an assessment of the intelligence collection efforts of JTF-170 (hereinafter "Herrington GTMO Report"). COL Herrington also provided a copy of this report to MG Gary Speer, USA, then the Acting Commander, U.S. Southern Command (SOUTHCOM).

- (U) Second, COL John Custer, USA, led a Joint Staff team from August 14 through September 4, 2002, in reviewing intelligence collection operations at GTMO, and on September 10, 2002 issued a report to the Chairman of the Joint Chiefs of Staff, Gen. Richard Myers (hereinafter "Custer Report"). The Custer Report was originally requested by MG Speer at SOUTHCOM.

- (U) Third, VADM Church led a review on May 4-7, 2004 into the treatment of enemy combatants detained at GTMO (and at the Naval Consolidated Brig in Charleston, South Carolina), and on May 11, 2004, briefed Secretary Rumsfeld with his findings (hereinafter "Church Review").

(U) There have been eight previous reports on interrogation or detainee operations focusing on Iraq that are relevant to our investigation.

- (U) First, MG Geoffrey Miller, the Commander, JTF-GTMO, led a team to Iraq from August 31 to September 9, 2003 and issued a report that assessed the ability of military intelligence forces in Iraq "to rapidly exploit internees for actionable intelligence" (hereinafter "Miller Report"). The appointing

authority for the Miller Report is not clear from the report itself, but it was apparently commissioned at the request of the Commander of CJTF-7, LTG Ricardo Sanchez, USA.

- (U) Second, MG Donald Ryder, USA, the Army Provost Marshal General, conducted an assessment from October 13 to November 6, 2003 of detainee operations in Iraq, and on November 6, 2003 issued a report to LTG Sanchez (hereinafter "Ryder Report").

- (U) Third, COL Herrington visited Iraq on December 2-9, 2003 to evaluate intelligence operations, and on December 12, 2003, provided his report to MG Barbara Fast, the senior intelligence officer for CJTF-7 (hereinafter "Herrington Iraq Report").

- (U) Fourth, LTC Natalie Lee, USA investigated from January 23 to February 23, 2004 reports of detainee abuse that had allegedly occurred in the summer of 2003 at the Joint Interrogation and Debriefing Center (JIDC) facility at Camp Cropper, Iraq. On February 23, 2004 LTC Lee issued her report, pursuant to the procedures of AR 15-6, to the Deputy Commanding General, CJTF-7, MG Walter Wojdakowski (hereinafter "Lee Report").

- (U) Fifth, MG Antonio Taguba, USA, Deputy Commanding General for Support, Coalition Forces Land Component Command (CFLCC), led an investigation from January 31 to February 28, 2004 into the detention operations of the 800th Military Police Brigade, with particular emphasis on operations at the Abu Ghraib detention facility, and provided his report on March 9, 2004 to the Commander, CFLCC, LTG David McKiernan (hereinafter "Taguba Report"). The Taguba Report was originally requested by the Commander of CJTF-7, LTG Sanchez.

- (U) Sixth, the Army Inspector General, LTG Paul T. Mikolashek, conducted an inspection from February to June 2004 of detainee operations in Iraq and Afghanistan. LTG Mikolashek issued his report on July 21, 2004 to Acting Secretary of the Army R.L. Brownlee (hereinafter "Mikolashek Report").

- (U) Seventh, the Assistant Deputy Chief of Staff, Army, G2, MG George Fay, USA, was appointed by LTG Sanchez on March 31, 2004 to investigate potential misconduct by 205th Military Intelligence Brigade personnel at Abu Ghraib between August 15, 2003 and February 1, 2004. MG Fay's report was released in August 2004 (hereinafter "Fay Report").

- (U) Eighth, in June 2004, as a result of the evidence MG Fay had gathered to that point, LTG Sanchez, the Commander, CJTF-7,

requested that a more senior investigating officer be appointed to examine whether actions of the commander and staff of CJTF-7 contributed to any misconduct related to interrogation operations at Abu Ghraib. The Acting Secretary of the Army selected GEN Paul Kern, USA, the Commander of Army Material Command, to act as the new appointing authority. LTG Anthony Jones, USA, the Deputy Commanding General of the U.S. Army Training and Doctrine Command, was appointed as an additional investigating officer. LTG Jones' report was released in August 2004 (hereinafter "Jones Report").

(U) In addition to the Mikolashek Report, which addressed detainee operations in both Iraq and Afghanistan, one other report focused on detainee operations and facilities in Afghanistan. BG Charles Jacoby, USA, the Combined Joint Task Force 76 (CJTF-76) Deputy Commanding General, was appointed on May 19, 2004 by the Commander, CJTF-76, MG Eric Olson, USA, to conduct a "top to bottom review of ... detainee operations" in the Combined Forces Command Afghanistan Area of Responsibility. BG Jacoby's assessment was completed in August 2004 (hereinafter "Jacoby Report").

(U) Finally, in May 2004, the Secretary of Defense appointed former Secretaries of Defense James Schlesinger and Harold Brown, former Congresswoman Tillie Fowler, and retired Air Force Gen. Charles Horner to an Independent Panel "to provide independent professional advice on detainee abuses, what caused them and what actions should be taken to preclude their repetition." The Independent Panel was charged with examining detention and interrogation operations worldwide. The Independent Panel's report was released on August 24, 2004 (hereinafter "Independent Panel" or "Independent Panel Report").

GTMO Reports (U)

(U) Herrington GTMO Report

(U) The JTF-170 Commander at GTMO, MG Dunlavey, USAR, invited COL Herrington to GTMO in March 2002 to assess the status of JTF-170's intelligence collection effort. This short, nine-page report was prepared only a few months after interrogation operations at GTMO began, and thus it offers some general observations about the strengths and weaknesses of JTF-170, as well as recommendations for the future.

(U) The most important aspect of this report is that it came out strongly in favor of subordinating the security function (*i.e.*, military police, represented by JTF-160) to the intelligence collection function (*i.e.*, military intelligence, represented by JTF-170). More specifically, the report stated that "to effectively carry out its intelligence exploitation mission, JTF-170 and its interagency collaborators *need to be in full control of the*

detainees' environment. Treatment, rewards, punishment, and anything else associated with a detainee should be centrally orchestrated by the debriefing team responsible for obtaining information from that detainee" (emphasis added). For example, the report explained, "[i]f a security guard wants to adopt a hard line with a detainee, single him out for a shakedown, or take any measures . . . that impact on that detainee's state of mind, the authority to either approve, disapprove, or postpone the planned action should be the call of the intelligence entity."

(U) Moreover, the report stated broadly that "[t]here is unanimity among all military and interagency participants in JTF-170 that *the security mission is sometimes the tail wagging the intelligence dog (i.e., impacting negatively)*" (emphasis added). The report took pains to explain that this was not a criticism of JTF-160 personnel, but instead *"a basic principle of human intelligence exploitation"* (emphasis added). COL Herrington drew upon his own experience in both Panama and the Persian Gulf, noting that "one day, we might instruct the guards to be particularly warm and cheerful toward a given detainee - because that approach would work on that day to the advantage of the debriefer. On another day, with a different detainee, a cold, firm demeanor by the guards might be more suitable - again, depending upon where the debriefer might be in his efforts to unlock the information possessed by the detainee." In contrast to these examples, JTF-170 was "currently caught between two separate efforts, security and exploitation," and only by "deconflicting" these efforts could the intelligence exploitation effort achieve success.

(U) The other significant conclusion of the Herrington GTMO Report was that the youth and inexperience of the Defense HUMINT Service (DH) and Army interrogators, and their lack of foreign language training, inhibited their ability to extract intelligence from the detainees. The report noted that "a young debriefer normally will have a problem establishing the kind of controlling relationship required with an older, trained, and savvy detainee," and recommended that the JTF Commander put out a request for "senior, older debriefers with experience and refined language skills." In this regard, COL Herrington pointed out that the U.S. Army INSCOM "contract linguist augmentees on site are one of the brightest stars on the ground," and that the interrogators "could not function without them."

(U) Custer Report

(S) The Acting Commander of SOUTHCOM, MG Gary Speer, in June 2002 requested through the Chairman of the Joint Chiefs of Staff, Gen. Richard Myers, an external review [redacted] (b)(1)

[redacted]

(b)1

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(U) Church Review

(U) In the wake of revelations of prisoner abuse at Abu Ghraib, the Secretary of Defense commissioned this brief "review" of detainee operations at GTMO (and the Naval Consolidated Brig in Charleston, SC). The review culminated in a series of slides briefed to Secretary Rumsfeld on May 11, 2004, and was not accompanied by a separate, written report.

(U) The Church Review described itself as a "snapshot" of existing conditions at GTMO, and not a comprehensive historical review. The review found that detainees at GTMO were being treated properly and humanely. The review found "no evidence, or even suspicion, of serious or systemic problems," and no evidence of non-compliance with DoD orders. More specifically, there was no indication that unauthorized interrogation techniques were being used on the detainees.

(U) The Church Review concluded that appropriate procedures were in place at GTMO to detain, interrogate and report information, supported by effective SOPs and a strong chain of command. GTMO also had an effective training program, including instruction on the principles of the Geneva Conventions, and a positive command climate in which personnel appeared willing to report any concerns. In addition, the review noted that the roles of military police and military intelligence were separate and well-defined, yet still coordinated.

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(U) While the Church Review was primarily a snapshot of current conditions, it also summarized the reported instances of detainee abuse, whether as a result of inappropriate interrogation techniques or otherwise, since the initiation of intelligence operations at GTMO in January 2002. The review cited three instances of inappropriate interrogation techniques that led to abuse.

- (U) First, a female interrogator sexually assaulted a detainee on April 17, 2003, by running her fingers through a detainee's hair, and made sexually suggestive comments and body movements, including sitting on the detainee's lap, during an interrogation. The female interrogator was given a written admonishment for her actions.

- (U) Second, on April 22, 2003, an interrogator, using the fear-up harsh technique, assaulted a detainee by having MPs repeatedly bring the detainee from standing to a prone position and back. A review of medical records indicated superficial bruising to the detainee's knees. The interrogator was issued a letter of reprimand; furthermore, MG Miller, the Commander of JTF-GTMO, prohibited further use of the fear-up harsh technique, and also specifically prohibited MPs from direct involvement in interrogations.

- (U) Third, a female interrogator at an unknown date, in response to being spat upon by a detainee, assaulted the detainee by wiping dye from a red magic marker on the detainee's shirt and telling the detainee that the red stain was blood. The female interrogator received a verbal reprimand for her actions.

(U) The Church Review also summarized three incidents of alleged misconduct by MPs, two of which resulted in substantiated abuse.

- (U) First, an MP assaulted a detainee on September 17, 2002, by attempting to spray him with a hose after the detainee had thrown an unidentified, foul-smelling liquid on the MP. The MP received non-judicial punishment in the form of seven days restriction and reduction in rate from E-4 to E-3.

- (U) Second, on March 23, 2003, an MP sprayed pepper spray on a detainee who was preparing to throw an unidentified liquid on another MP. The MP who had used the pepper spray requested a court martial in lieu of non-judicial punishment and was acquitted at a special court martial.

- (U) Finally, on April 10, 2003, after a detainee had struck an MP in the face (causing the MP to lose a tooth) and bitten another MP, the MP who was bitten had struck the detainee with a handheld radio. This

MP was given non-judicial punishment in the form of 45 days extra duty and reduced in rate from E-4 to E-3.

(U) The Church Review noted that the MP force generally operated under significant stress, as assaults against MPs were common, averaging fourteen per week. Detainees, for example, routinely physically assaulted MPs, spat upon them, and threw liquid, foods, or bodily fluids.

(U) In addition to the above incidents, the Church Review also identified two minor infractions.

- (U) First, on February 10, 2004, an MP inappropriately joked with a detainee, dared the detainee to throw water on him, and engaged in inappropriate casual conversations with the detainee. The MP was removed from duty.
- (U) Second, on February 15, 2004, a barber intentionally gave two detainees unusual haircuts, including an "inverse Mohawk," in an effort to frustrate the detainees' requests for similar haircuts as a sign of unity. The barber and his company commander were both counseled as a result of this incident.

Iraq Reports (U)

(U) Miller Report

(U) From August 31 to September 9, 2003, the JTF GTMO commander, MG Geoffrey Miller, led a team to assess interrogation and detention operations in Iraq. (MG Miller's visit was the result of an August 18, 2003 message from the Joint Staff's Director for Operations [J-3], requesting that the SOUTHCOM commander provide a team of experts in detention and interrogation operations to provide advice on relevant facilities and operations in Iraq. The need for such assistance in light of the growing insurgency had originally been expressed by CJTF-7 and CENTCOM, and the Joint Staff tasking message was generated following discussions with both CENTCOM and SOUTHCOM.)

(U) The overarching theme of the Miller Report was that "[t]actical interrogation operations differ greatly from strategic interrogation operations." While CJTF-7 had proven itself effective in accomplishing the tactical mission, it was now necessary to transition to strategic interrogation operations as CJTF-7 entered a new, counter-insurgency phase in the conflict in Iraq. This new phase involved a different "category of internees to interrogate," and required new "analytical backstopping," as well as a "clear strategy for implementing a long-term approach and clearly defined interrogation policies and authorities." In this regard, the report observed that CJTF-7 had not

disseminated to its units any "written guidance specifically addressing interrogation policies and authorities." The Miller Report cautioned that such guidance should be accompanied by a legal review, as the "application of emerging strategic interrogation strategies and techniques contain new approaches and operational art." Therefore, "[l]egal review and recommendations of internee interrogation operations by a dedicated command staff judge advocate is required to maximize interrogation effectiveness."

(U) The Miller Report's most significant recommendation for making the transition from tactical to strategic interrogation was that "the detention operations function must act as an enabler for interrogation," by helping to "set conditions for successful interrogations." Significantly, the report did not offer any specifics on what MPs should or should not do in their role as "enablers," but it did state that "[i]t is essential that the guard force be actively engaged in setting the conditions for successful exploitation of the internees," and that "[j]oint strategic interrogation operations are hampered by lack of active control of the internees within the detention environment" (emphasis added). In sum, the report observed, "[d]etention operations must be structured to ensure [the] detention environment focuses the internee's confidence and attention on their interrogators," and the "MP detention staff should be an integrated element supporting the interrogation functions."

(U) The Miller Report made several other recommendations that drew upon lessons learned at GTMO. For example, the report recommended that CJTF-7 establish and train "Interrogation Tiger Teams comprised of [sic] one interrogator and one analyst, both with SCI access." The report also recommended the establishment of a Behavioral Science Consultation Team (BSCT), composed of behavioral psychologists and psychiatrists who could help develop "integrated interrogation strategies and assess interrogation intelligence production." In addition, MG Miller recommended the interrogation mission be consolidated at "one Joint Interrogation Debriefing Center (JIDC)/strategic interrogation facility under CJTF-7 command," and noted that "[t]his action has been initiated." Finally, the report offered a number of training recommendations, to include training the "MP detention staff [on] training programs utilized by JTF-GTMO."

(U) Ryder Report

(S) LTG Sanchez commissioned the Ryder Report in August 2003, to assess detention and corrections operations in Iraq. The Ryder Report, like the Miller Report, was an outgrowth of LTG Sanchez' interest in identifying and implementing improvements in detention and interrogation operations in August 2003, when these operations were taking on increased importance in light of the insurgency in Iraq and the need to rebuild Iraq's prison system. The Ryder Report, which was com-

pleted on November 6, 2003, just two months after the Miller Report, was a detailed review of detention and corrections operations in Iraq. A key objective of the report was "developing recommendations on how to bridge from current operations to an Iraqi-run prison system," and thus much of the information in the report was not directly relevant to interrogation operations. Nevertheless, the report did address several detention issues that bear at least indirectly on interrogations or potential detainee abuse, which are summarized below.

(S) One of the most significant, and certainly the most surprising, aspects of this report is that the assessment team members did not identify any military police units purposely applying inappropriate confinement practices. The Ryder team conducted its assessment from October 13 to November 6, 2003, and as MG Taguba pointed out in his report on military police operations at Abu Ghraib, the most serious abuses at Abu Ghraib occurred in late October and early November 2003. It should be noted, however, that the team's visit to Abu Ghraib was an announced, escorted walk-through.

(S) The Ryder Report did, however, identify several problem areas within detention operations in Iraq. For example, the 800th MP Brigade - which was tasked to secure the detainee population throughout Iraq, and was at that time supporting 15 separate detention facilities, including Abu Ghraib - was struggling to adapt its organizational structure, training and equipment resources from a unit designed to conduct standard EPW operations, to its current mission of essentially running an entire country's prison system. Making matters worse was that the Brigade did not receive Internment/Resettlement (I/R) and corrections specific training during its mobilization period. This problem was further exacerbated by the fact that the Battalions within the Brigade were generally undermanned. Moreover, the report observed, "[s]everal Division/Brigade collection points and US monitored Iraqi prisons had flawed or insufficiently detailed use of force and other standing operating procedures or policies."

(S) The Ryder Report also weighed in on the debate about the proper relationship between military intelligence and military police units, concluding that military police should not be subordinate to military intelligence. The report explained that according to Army doctrine, "AR 190-8 requires military police to provide an area for intelligence collection efforts within EPW facilities. Military police, though adept at passive collection of intelligence within a facility, do not participate in Military Intelligence supervised interrogation sessions." While not mentioning the Miller Report by name, the Ryder Report nonetheless rejected the Miller Report's central recommendation, stating that "[r]ecent intelligence collection in support of Operation

ENDURING FREEDOM has posited a template whereby military police actively set favorable conditions for subsequent interviews. Such actions generally run counter to the smooth operation of a detention facility, attempting to maintain its population in a compliant and docile state." MG Ryder therefore recommended that procedures be established "that define the role of military police soldiers securing the compound, *clearly separating the actions of the guards from those of the military intelligence personnel*" (emphasis added). Significantly, the report concluded that the 800th MP Brigade had not been asked to change its procedures "to set the conditions for MI interviews, nor participate in those interviews."

(S) An additional, interrogation-related problem that the report identified was that Iraqi criminal detainees were sometimes co-located with other types of detainees, including security internees and EPWs. This was generally due to the lack of prison facilities and ongoing consolidation efforts at Abu Ghraib. The report noted that this was in violation of the Geneva Convention, and as a practical matter, "the management of multiple disparate groups of detained persons in a single location by members of the same unit invites confusion about handling, processing, and treatment, and typically facilitates the transfer of information between different categories of detainees." The report stated flatly that "[d]etainees must be segregated and managed by their designation," and pointed out that doing so would establish "better control over the [detainees'] environment," which should "increase their intelligence yield."

(U) Herrington Iraq Report

(U) The highest ranking intelligence officer in Iraq at the time, then-BG Barbara Fast, the C2 for CJTF-7, requested COL Herrington's assistance via the Army G-2 to evaluate human intelligence operations in Iraq. In his 14-page report, COL Herrington, the author of the first GTMO report, provided a summary of his site-specific impressions gained from a week-long visit to Iraq in December 2003. The most significant aspect of the report was the observations about the lack of resources and poor conditions at Abu Ghraib. The prison overcrowding and lack of MP personnel sometimes forced "MI soldiers with inadequate training and equipment" to assume the MP mission. Adding to the tension at the prison complex were "dangerous and difficult conditions," including frequent mortar attacks. Security at the facility was also compromised by the presence of Iraqi police, some of whom were apparently inadequately vetted and had on one occasion smuggled a weapon to a detainee. The situation was so dire that COL Thomas Pappas, the 205th MI Brigade Commander (and forward operating base commander for Abu Ghraib), LTC Steven Jordan, the Deputy Director of the Joint Interrogation and Debriefing Center (JIDC), and MAJ Michael Sheridan of the 800th MP Brigade expressed the

view that if the overcrowding – which they referred to as a "pressure cooker" that could lead to a prisoner uprising – was not alleviatated, "bad things" were likely to result, to include death, injury, or hostage situations involving U.S. personnel. COL Herrington recommended that CJTF-7 "urgently devote more resources to the Abu Ghraib challenge."

(U) The report credited JIDC personnel with doing the best they could under difficult conditions, and obtaining and reporting "significant information from detainees." And despite the conditions at Abu Ghraib, COL Herrington nonetheless stated that, "we neither saw nor learned of any evidence that detainees are being illegally or improperly treated at Abu Ghraib." The report acknowledged, however, that "on occasion," JIDC personnel had at the request of OGA personnel held "ghost detainees" (those without any ISN number assigned to them) at Abu Ghraib. COL Herrington warned that this practice "carries with it certain risks, not the least of which is that it may be technically illegal or in violation of C2 policy," and recommended that C2 staff address the issue.

(U) The report commented on the relationship between MP and MI units at various facilities, and consistent with his observations in his GTMO report, COL Herrington argued that military intelligence should be directing military police. For example, he complimented the "organized, clean, well-run, and impressive" Division Interrogation Facility of the 1st Armor Division, where the "MP/MI interface was as it should be, with the MI people in the lead." In contrast, he was unimpressed with the Iraq Survey Group (ISG) JIDC, which "fell far short of what we expected to see," and where the MPs were "the visible masters (versus the interrogators)" and the detainees were permitted too much communication with one another.

(S) The report referenced allegations that prisoners arriving at the [redacted] who had been captured by [redacted] showed signs of being beaten by their captors. Medical personnel had documented these signs of abuse, and the Officer-in-Charge of the [redacted] at Camp Cropper stated that he had not reported the alleged abuse up the chain of command because "[e]verybody knows about it." [redacted]

(b)(1)

(U) Finally, the report made two recommendations of note. First, high-ranking and senior Iraqi detainees held by the ISG (such as general officers, or ministerial-level officers) should be housed in better facilities, commensurate with their status. This was not only required by the Geneva Convention, but also made sense from an intelligence exploitation perspective. Second, the

report suggested that the Army "build a corps of strategic interrogators/debriefers who are officers or senior civilians." This would help to eliminate the incongruity of capturing enemy leadership and archives, and then relying for intelligence on "tactical interrogator [non-commissioned officers] who are too young and inexperienced" for such a mission.

(U) Lee Report

(S) The Deputy Commanding General of CJTF-7, MG Wojdakowski, appointed LTC Lee on February 23, 2004 to investigate allegations of detainee abuse at Camp Cropper in Iraq. This extremely brief, three-page report found no evidence to substantiate allegations that [redacted] personnel had in the summer of 2003 abused detainees in its custody before bringing them to the [redacted] at Camp Cropper. These were essentially the same allegations that COL Herrington addressed in his report, which noted that medical personnel had documented the signs of abuse, and that the Officer-in-Charge of the [redacted] had considered the abuse common knowledge. The allegations were originally brought to light by [redacted] who worked in the [redacted] at Camp Cropper for approximately five weeks, beginning in June 2003. The [redacted] had not witnessed any abuse (or signs of abuse) first hand, but based his allegations on a handful of reports that he had heard from others working at Camp Cropper.

(b)(1)

(U) The Lee Report "did not find information that would lead to a finding that there was a systematic problem." LTC Lee stated that she "was sure that there were isolated incidents where detainees arrived in less than pristine conditions," but she "would attribute some of these to the results of combative detentions at the time of capture." In any event, she could "find no proof to substantiate the allegations against the [special operations forces] or Army community." Nor could she find any evidence to suggest a "lack of knowledge of Geneva Convention requirements."

(S) The Lee Report itself was extremely brief and cursory, and there were obvious gaps in the investigation methodology. For example, LTC Lee noted that she had been unable to find contact information for certain key personnel (and in one case had not received responses to her questions), yet did not describe her efforts to procure the information. In fairness, the passage of time between the principal allegations (summer 2003) and the assignment of the investigation (January 23, 2004) made LTC Lee's work more difficult. This passage of time is unexplained, and represents a lost opportunity to address potential detainee abuse in Iraq early on.

(U) Taguba Report

(U) On January 31, 2004, the Commander of the Combined Forces Land Component

Command (CFLCC), LTG McKiernan, appointed MG Taguba, the CFLCC Deputy Commanding General for Support, to investigate the 800th Military Police Brigade's "detention and internment operations" since November 1, 2003. LTG Sanchez, the Commander, CJTF-7, requested the investigation based upon the accumulation of a wide range of incidents and prior investigations, culminating in an Army Criminal Investigation Command investigation "into specific allegations of detainee abuse committed by members of the 372d MP Company" at Abu Ghraib. The 372d MP Company was then a subordinate unit of the 320th Military Police Battalion and the 800th Military Police Brigade. While portions of the Taguba Report remain classified, the bulk of the report, and almost all of its annexes, have become available to the public through unauthorized disclosure to several major media organizations (as well as official release of a redacted version of the report and many of its annexes). MG Taguba and other officials associated with the investigation have also provided public testimony before Congress on the matters contained in the report.

(U) MG Taguba's overall conclusion was that "several U.S. Army Soldiers have committed egregious acts and grave breaches of international law at Abu Ghraib/BCCF [Baghdad Central Confinement Facility] and Camp Bucca, Iraq. Furthermore, key leaders in both the 800th MP Brigade and the 205th MI Brigade failed to comply with established regulations, policies and command directives in preventing detainee abuses at Abu Ghraib (BCCF) and at Camp Bucca during the period August 2003 to February 2004." Although MG Taguba endorsed the team's psychiatrist's determination that "there was evidence that the horrific abuses suffered by the detainees at Abu Ghraib (BCCF) were wanton acts of select soldiers in an unsupervised and dangerous setting," and were from a behavioral perspective the product of "a complex interplay of many psychological factors and command insufficiencies," he also found that there was "sufficient credible information to warrant an inquiry" to "determine the extent of culpability" of military intelligence personnel.

(U) MG Taguba made a number of preliminary observations on the Miller Report and the Ryder Report, including the comment that "the recommendations of MG Miller's team that the 'guard force' be actively engaged in setting the conditions for successful exploitation of the internees would appear to be in conflict with the recommendations of MG Ryder's Team and AR 190-8 that the military police 'do not participate in military intelligence supervised interrogation sessions.'" MG Taguba cited with approval the Ryder Report's conclusion "that the OEF template whereby military police actively set the favorable conditions for subsequent interviews runs counter to the smooth operation of a detention facility."

(U) As a reflection of his tasking, MG

Taguba divided his specific findings and recommendations into three sections. First, he examined "all the facts and circumstances surrounding ... allegations of detainee abuse," with particular emphasis on "maltreatment at Abu Ghraib." Second, he examined "detainee escapes and accountability lapses," again with particular emphasis on "events at Abu Ghraib." Third, he investigated "the training, standards, employment, command policies, internal procedures, and command climate of the 800th MP Brigade."

(U) With regard to the allegations of detainee abuse, MG Taguba found "that between October and December 2003" the military police guard force at Tier 1A of Abu Ghraib "inflicted ... numerous incidents of sadistic, blatant, and wanton criminal abuses ... on several detainees." While MG Taguba did not set out deliberate definition of conduct that he considered to be "abuse," he referred exclusively to "intentional" acts of "criminal" misconduct.

(U) MG Taguba found that "the intentional abuse of detainees by military police personnel included:"

- (U) "punching, slapping, kicking ...;"
- (U) "videotaping and photographing naked male and female detainees;"
- (U) "forcibly arranging detainees in ... sexually explicit positions ...;"
- (U) "forcing detainees to remove their clothing and keeping them naked for several days at a time;"
- (U) "forcing naked male detainees to wear women's underwear;"
- (U) "forcing groups of male detainees to masturbate ...;"
- (U) "arranging naked male detainees in a pile and then jumping on them;"
- (U) "positioning a naked male detainee on an MRE Box, with a sandbag on his head, and attaching wires to his fingers, toes, and penis to simulate electric torture;"
- (U) "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;"
- (U) "placing a dog chain or strap around a naked detainee's neck and having a female Soldier pose for a picture" with the prisoner;"
- (U) "a male MP guard having sex with a female detainee;"
- (U) "using military working dogs (without muzzles) to intimidate and frighten detainees, and in at least one case biting and severely injuring a detainee;" and
- (U) "taking photographs of dead Iraqi detainees" for other than official purposes."

MG Taguba did not provide a precise count of the number of incidents of abuse, or of the numbers of soldiers, contractors or detainees involved.

(U) MG Taguba found that a contributing factor in the abuses was the failure of the 800th

Military Police Brigade leadership to communicate clear standards to their soldiers, or to ensure their tactical proficiency. MG Taguba cited as an example the fact that although "an extensive CID investigation determined that four soldiers from the 320th Military Police Battalion had abused a number of detainees during inprocessing at Camp Bucca" well before the battalion assumed responsibility for detention operations at Abu Ghraib, neither the battalion nor the brigade leadership took "any steps to ensure that such abuse was not repeated."

(U) MG Taguba made nine recommendations regarding detainee abuse. The first was that the appropriate headquarters "immediately deploy to the Iraq Theater an integrated multi-discipline Mobile Training Team (MTT) comprising subject matter experts in internment/resettlement operations, international and operational law ..., interrogation and intelligence gathering techniques ..." and others "to oversee and conduct comprehensive training in all aspects of detainee and confinement operations." MG Taguba also recommended that "a single commander ... be responsible for overall detainee operations throughout ... Iraq ...." His remaining recommendations related to deficiencies in training, manning, resourcing, and leadership.

(U) With regard to detainee escapes and accountability lapses, MG Taguba found that there was "a general lack of knowledge, implementation and emphasis of basic legal regulatory, doctrinal, and command requirements within the 800th MP Brigade and its subordinate units." By and large, accountability standard operating procedures "were not fully developed and ... were widely ignored." At Abu Ghraib in particular, "there was a severe lapse in the accountability of detainees." This lack of accountability made it impossible for the 800th Military Police Brigade to determine how many detainees had escaped from the facility.

(U) MG Taguba found that "the Abu Ghraib and Camp Bucca detention facilities" were "significantly over their intended maximum capacity while the guard force" was "undermanned and under resourced." Although these conditions contributed to poor accountability and increased escapes, MG Taguba also found that "no lessons learned" from previous incidents and escapes "seem to have been disseminated ... to enable corrective action." In MG Taguba's evaluation, "had the findings and recommendations contained within" the Brigade's "own investigations been analyzed and actually implemented ... many of the subsequent escapes, accountability lapses and causes of abuse may have been prevented."

(U) MG Taguba observed that "the various detention facilities operated by the 800th MP Brigade have routinely held persons brought to them by Other Government Agencies (OGAs)," referring to the Central Intelligence Agency, "without accounting for" the detainees, "knowing their identities, or even the reason for their detention." MG Taguba reported that "the Joint Interrogation and Debriefing Center (JIDC) at Abu Ghraib called

these detainees 'ghost detainees.'" MG Taguba noted that "on at least one occasion, the 320th MP Battalion at Abu Ghraib held a handful of 'ghost detainees' (6-8) ... that they moved around within the facility to hide them from a visiting International Committee of the Red Cross (ICRC) survey team." MG Taguba characterized "this maneuver" as "deceptive, contrary to Army doctrine, and in violation of international law."

(U) MG Taguba made 17 recommendations regarding accountability lapses and escapes, generally related to leadership, training and resourcing. He also observed that units conducting detainee operations "must know of, train on, and constantly reference the applicable Army doctrine and ... command policies," noting that "the references provided in [his] report cover nearly every deficiency ... enumerated." "Although," MG Taguba offered, the references "do not, and cannot, make up for ... leadership shortfalls, all soldiers, at all levels, can use them to maintain standardized operating procedures and efficient accountability practices."

(U) With regard to the "the training, standards, employment, command policies, internal procedures, and command climate of the 800th MP Brigade," MG Taguba found a host of deficiencies. "Morale suffered" in the brigade, apparently as a result of the widespread but erroneous belief that the unit would be redeployed from Iraq once the Iraqi armed forces had been defeated. However, he observed, "there did not appear to have been any attempt by the Command to mitigate this problem." MG Taguba found that in general, "the 800th MP Brigade was not adequately trained." "Soldiers throughout the 800th MP Brigade were not proficient in their basic [Military Occupational Specialty] skills," yet there was "no evidence that the Command, although aware of these deficiencies, attempted to correct them in any systematic manner." "Almost every individual witness we interviewed," he noted, "had no familiarity with the provisions of AR 190-8 or FM 3-19.40," the Army regulation and field manual that describe and govern detention operations. Despite these obvious shortfalls, no "Mission-Essential Task List (METL) based on their ... missions was ever developed, nor was a training plan implemented throughout the Brigade."

(U) MG Taguba found that "without adequate training for a civilian internee detention mission, Brigade personnel relied heavily upon individuals within the Brigade who had civilian corrections experience." Further, "because of past associations and familiarity of soldiers within the Brigade, it appears that friendship often took precedence over appropriate leader and subordinate relationships."

(U) MG Taguba found that these internal shortcomings were exacerbated by the fact that "the 800th MP Brigade as a whole was understrength for the mission for which it was tasked," a

problem that grew progressively worse as the units suffered attrition through casualties, statutorily mandated demobilizations, and other separations. These losses could not be replaced because "Reserve Component units do not have an individual replacement system to mitigate ... losses." What is more, "the quality of life for soldiers assigned to Abu Ghraib (BCCF) was extremely poor." A "severely undermanned" unit staffed a "severely overcrowded prison," with no dining facility, exchange, barbershop, or recreational facilities. "There were numerous mortar attacks, random rifle and RPG attacks, and a serious threat to soldiers and detainees in the facility."

(U) "With respect to the 800th MP Brigade mission at Abu Ghraib," MG Taguba found, "there was clear friction and a lack of effective communication between the Commander, 205th MI Brigade, who controlled" Forward Operating Base (FOB) "Abu Ghraib ... after 19 November 2003, and the Commander, 800th MP Brigade, who controlled detainee operations inside the FOB." "There was no clear delineation of responsibility between commands, little coordination at the command level, and no integration of the two functions." MG Taguba observed that "coordination occurred at the lowest possible levels with little oversight by commanders." Further, in his view, the decision to place the Military Intelligence Brigade in control of the security of detainees and force protection at Abu Ghraib was "not doctrinally sound due to the different missions and agendas assigned to each of these respective specialties."

(U) MG Taguba also cited an extensive list of disciplinary actions involving leaders within the 800th Military Police Brigade as further evidence of the dysfunctional nature of the command. MG Taguba made numerous recommendations regarding disciplinary actions to be taken against members of the 800th Military Police Brigade and the military intelligence personnel assigned to duties at Abu Ghraib, up to and including the commander of the 205th Military Intelligence Brigade, COL Thomas Pappas, and the commander of the 800th Military Police Brigade, BG Janis Karpinski.

(U) MG Taguba noted that he "found particularly disturbing" BG Karpinski's "complete unwillingness to either understand or accept that many of the problems inherent in the 800th MP Brigade were caused or exacerbated by poor leadership and the refusal of her command to both establish and enforce basic standards and principles among its soldiers." MG Taguba recounted, discussed, and refuted a number BG Karpinski's assignments of blame to her subordinates, the military intelligence leadership, the Civil Affairs Command, and the court-martial convening authority of the soldiers involved in the Camp Bucca incidents for the shortcomings of her command. For the failures discussed above, as well as "material representations to the Investigation Team," MG Taguba recommended BG Karpinski be relieved for cause.

(U) Mikolashek Report

(U) On February 10, 2004, Acting Secretary of the Army Brownlee ordered the Army Inspector General, LTG Mikolashek, to assess "detainee operations in Afghanistan and Iraq." This inspection was not intended to be "an investigation of any specific incidents or units, but rather a comprehensive review of how the Army conducts detainee operations in Afghanistan and Iraq." The assessment did not extend to "Central Intelligence Agency (CIA) or Defense HUMINT Services (DHS) [sic] operations," nor did it include "operations at Guantanamo Bay Naval Base."

(U) The Acting Secretary of the Army approved the Mikolashek Report on July 21, 2004, releasing the unclassified bulk of the report to the public, withholding only Appendix G, which is classified due to discussion of current operations and sensitive intelligence. LTG Mikolashek and other officials associated with the investigation have also provided public testimony before Congress on the matters contained in the report.

(U) In the course of their inspection, LTG Mikolashek's team "conducted interviews, sensing sessions, and a survey," inspected units involved in detention and interrogation operations, and examined "policies, plans, records ... and other related documents." A "sensing session" is a moderated, guided discussion of a designated topic by moderately-sized groups of designated soldiers. While the "inspection tools," the blank interview questionnaires, sensing prompts, survey questions, *etc.*, are included in the report, the soldiers' and leaders' statements are not. The report also does not indicate how many soldiers and leaders were interviewed, sensed, and surveyed, or precisely who they were. The report did indicate, however, that "all interviewed and observed commanders, leaders and soldiers treated detainees humanely and emphasized the importance of humane treatment."

(U) LTG Mikolashek's team "reviewed 103 summaries of Criminal Investigative Division (CID) reports of investigation and 22 unit investigation summaries ... involving detainee death or alleged abuse." Of those 125 investigations, 71 had been completed as of the time of LTG Mikolashek's analysis. Abuse, defined by LTG Mikolashek as "wrongful death, assault, battery, sexual assault, sexual battery, or theft," was substantiated in 40 of the 71 completed investigations. "No abuse was determined to have occurred in 31 cases," and 54 cases remained "open or undetermined" at the time of the report "Based upon" his team's "review and analysis and case summaries of investigations" from all 125 investigations, founded, unfounded, and pending, LTG Mikolashek "could not identify a systemic cause for the abuse incidents."

(U) In a foreword to the report, LTG Mikolashek urged that "these abuses ... be viewed as what they are - unauthorized actions taken by a few individuals," actions that "in a few cases" were "coupled with the failure of a few leaders to provide

adequate supervision and leadership." Further, in LTG Mikolashek's estimation, "the abuses that occurred" were "not representative of policy, doctrine, or soldier training."

(U) Despite his conclusion that he was "unable to identify system failures that resulted in incidents of abuse," LTG Mikolashek recounted numerous "system failures" in his detailed findings that echo problems previously described by MG Taguba as significant contributing factors in the abuse of detainees. Specifically, LTG Mikolashek found that:

(U) Policy

- (U) theater interrogation policies "generally met legal obligations under ... law, treaty ... and policy, if executed carefully, by trained soldiers, under the full range of safeguards," yet acknowledged that the interrogation policies "were not clear and contained ambiguities" and "implementation, training and oversight of these polices was inconsistent;"
- (U) "some ... units were unaware of the correct command policy;"
- (U) "commanders ... published high-risk policies that presented a significant risk of misapplication if not trained [to] and executed carefully."

(U) Training

- (U) "The potential for abuse increases when interrogations are conducted in an emotionally charged environment by untrained personnel who are unfamiliar with the approved interrogation techniques;"
- (U) "Not all interrogators were trained;"
- (U) "To satisfy the need to acquire intelligence as soon as possible, some officers and noncommissioned officers ... with no training in interrogation techniques began conducting their own interrogation sessions;"
- (U) "Military Intelligence officers are not adequately trained on ... human intelligence."

(U) Doctrine

- (U) "detainee ... policy and doctrine do not address ... operations conducted in the current operating environment;"
- (U) current "doctrine does not clearly specify the interdependent ... roles, missions, and responsibilities of Military Police and Military Intelligence units in the ... operation of interrogation facilities;"
- (U) "failure of MP and MI personnel to understand each other's specific missions and duties could undermine the effectiveness of safeguards associated with interrogation techniques and procedures;"
- (U) "tactical ... leaders ... held detainees

longer than doctrinally recommended" at Forward Operating Bases because the leaders believed the intelligence infrastructure was failing to provide "timely tactical intelligence," despite the fact that such locations lacked the "infrastructure, medical care, ... trained personnel, logistics and security" required to hold detainees for more than a brief period of time and that the "personnel at these locations ... were unaware of or unable to comply with ... detainee processing ... and interrogation" policies and legal standards;

(U) Resources

- (U) "Military Intelligence units are not resourced with sufficient interrogators and interpreters."

(U) With regard to broader issues related to detention and interrogation operations, LTG Mikolashek recommended that:

- (U) the U.S. Army Training and Doctrine Command, in coordination with the Deputy Chief of Staff for Intelligence and The Judge Advocate General of the Army, "revise doctrine to identify interrogation ... techniques that are acceptable, effective and legal for non-compliant detainees;"

- (U) the U.S. Army Training and Doctrine Command and the Deputy Chief of Staff for Operations "update the Military Intelligence force structure at the division level and below" to ensure adequately trained personnel are available in sufficient numbers to accomplish the mission;

- (U) the U.S. Army Training and Doctrine Command and the Provost Marshal General revise doctrine and policy "for the administrative processing of detainees to improve accountability, movement, and disposition in a non-linear battlespace;"

- (U) the U.S. Army Training and Doctrine Command "establish and identify resource requirements for a standardized 'Detainee Field Processing Kit' that will enable capturing units to properly secure and process detainees quickly, efficiently, and safely;"

- (U) the Deputy Chief of Staff for Operations "integrate a prescribed detainee operations training program into unit training," and

- (U) the Deputy Chief of Staff for Operations, "in coordination with the Office of the Judge Advocate General, mandate that ... Law of War training have specific learning objectives, be conducted by an instructor/evaluator in a structured manner, and be presented and evaluated annually using the established training conditions and performance standards."

(U) Fay Report

(U) As a result of MG Taguba's findings, the Commander, CJTF-7, LTG Sanchez, appointed the Assistant Deputy Chief of Staff, Army, G2, MG Fay, on March 31, 2004 to investigate potential misconduct by 205th Military Intelligence Brigade personnel at Abu Ghraib between August 15, 2003 and February 1, 2004. LTG Sanchez specifically tasked MG Fay to examine whether 205th Military Intelligence Brigade personnel "requested, encouraged, condoned, or solicited Military Police" to abuse detainees, and whether 205th Military Intelligence Brigade personnel "comported with established interrogation procedures and applicable laws and regulations" during interrogation operations at Abu Ghraib.

(U) While portions of the Fay Report remain classified, a redacted version of the bulk of the report has been released to the public. MG Fay and other officials associated with the investigation have also provided public testimony before Congress on the matters contained in the report.

(U) In his report, MG Fay found military intelligence personnel "not to have fully comported with established interrogation procedures and applicable laws and regulations." He identified 44 "alleged instances or events of detainee abuse" by soldiers and contractors at Abu Ghraib during the period under investigation. In 16 of those 44 instances, MG Fay found the alleged abuse was "requested, encouraged, condoned or solicited" by military intelligence personnel, although "the abuse ... was directed on an individual basis and never officially sanctioned." In 11 of those 16 instances, MG Fay found military intelligence personnel were "directly involved" in the alleged abuse.

(U) MG Fay defined abuse to include not only clearly criminal acts, such as the various forms of assault that occurred, but also the application of certain "non-doctrinal interrogation techniques" that he deemed to be unlawful: the use of military working dogs, nudity, and isolation. While the purposeless terrorization of minors by two particular Military Working Dog handlers, described in Incident 26, was grossly abusive by any measure, MG Fay also termed the mere presence of a silent, muzzled Military Working Dog during an interrogation, described in Incident 29, "abuse."

(U) In his findings, MG Fay provided a brief description of each of the 44 alleged instances of abuse, identifying a total of 50 individual soldiers and 4 individual contractors as either "responsible" or criminally "culpable" for each of the events. Of the 54 named as responsible or culpable, 10 soldiers had already been referred for disciplinary action under the Uniform Code of Military Justice. Of the remaining 44 soldiers and contractors, MG Fay believed 27 to be "culpable" in one or more instance of abuse, while he assessed 17 soldiers and contractors to have become involved in abuse as a result of "misunderstanding of policy, regulation or law." MG Fay found that responsibility for the abuse extended up to the commanders of the 205th

OFFICE OF THE SECRETARY OF DEFENSE
COPY NUMBER ONE

Military Intelligence Brigade and the 800th Military Police Brigade.

(U) MG Fay also found that "systemic problems ... also contributed to the volatile environment in which the abuse occurred." By MG Fay's count, he made 24 additional findings and two observations regarding "systemic failures." The major contributing factors "included inadequate interrogation doctrine and training," a "lack of a clear interrogation policy for the Iraq Campaign," "acute" shortages of military police and military intelligence personnel, a "lack of clear lines of responsibility" between military police and military intelligence, in doctrine, training, and operations, and "intense pressure felt by personnel on the ground to produce actionable intelligence from detainees."

(U) MG Fay found that "inadequacy of doctrine for detention ... and interrogation operations was a contributing factor to the situations that occurred at Abu Ghraib." Noting that existing Army interrogation doctrine, published in the 1992 Field Manual 34-52, "Intelligence Interrogation," is designed for the tactical interrogation of Enemy Prisoners of War in a conventional conflict, MG Fay observed that various "non-doctrinal approaches, techniques and practices were developed and approved" for the strategic interrogation of unlawful combatants "in the Global War on Terrorism." According to MG Fay, the soldiers and contractors at Abu Ghraib "were not trained on non-doctrinal interrogation techniques" used in Afghanistan and Guantanamo, yet "the non-doctrinal, non-field manual approaches and practices" approved for limited use in those other theaters of operation were introduced into Abu Ghraib by the transfer of both "documents and personnel" from Afghanistan and Guantanamo. "These techniques became confused at Abu Ghraib and were implemented without proper authorities or safeguards," contributing both directly and indirectly to the conduct defined by MG Fay as abuse.

(U) MG Fay also found that what he called "theater Interrogation and Counter-Resistance Policies (ICRP)," the interrogation policies promulgated by CJTF-7, were "poorly defined, and changed several times," and that "as a result, interrogation activities sometimes crossed into abusive activity." He observed that "by October 2003," just prior to the most egregious abuses at Abu Ghraib, the Combined Joint Task Force 7 "interrogation policies in Iraq had changed three times in less than thirty days and it became very confusing as to what techniques could be employed and at what level non-doctrinal approaches had to be approved."

(U) MG Fay found that "acute" shortages of both military intelligence and military police personnel also contributed to abuses at Abu Ghraib. By his count, 6 different military intelligence battalions and groups were called upon to provide the 160 military intelligence personnel conducting and

supporting interrogation operations in the Joint Interrogation and Debriefing Center (JIDC) at Abu Ghraib by December 2003. These soldiers were supported at various times by a Mobile Training Team from Fort Huachuca, Arizona, three Tiger Teams from Guantanamo Bay, contract interrogators from CACI International, and contract linguists from the Titan Corporation. Because "the JIDC was created in a very short period of time with parts and pieces," MG Fay found, "it lacked unit integrity, and this lack was a fatal flaw."

(U) MG Fay found that clear conflicts between military police and military intelligence doctrine, training and guidance caused "predictable tension and confusion" which "contributed to abusive interrogation practices at Abu Ghraib." "The military police," he noted, "referenced DoD-wide regulatory and procedural guidance that clashed with the theater interrogation and counter-resistance policies that the military intelligence interrogators followed." "Further," MG Fay concluded, "it appeared that neither group knew or understood the limits of the other group's authority. He also found that the "lack of clear lines of responsibility" between military police and military intelligence, combined with "the leadership's failure to monitor operations adequately," caused the systemic "safeguards to ensure compliance and to protect against abuse" to fail.

(U) MG Fay found that "intense pressure felt by personnel on the ground to produce actionable intelligence from detainees" was a "contributing factor to the environment that resulted in abuses." He found that the "pressure for better results" manifested itself at least in part in "directed guidance and prioritization from 'higher' ... to pursue specific lines of questioning with specific detainees, and high priority 'VFR Direct' taskings to the lowest levels in the JIDC." Although "this pressure should have been expected in such a critical situation," MG Fay concluded that it "was not managed by the leadership."

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OFFICE OF THE SECRETARY OF DEFENSE
COPY NUMBER ONE

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(U) Jones Report

(U) In June 2004, as a result of the evidence he had gathered to that point, MG Fay requested that a more senior investigating officer be appointed to examine whether actions of the commander and staff of CJTF-7 contributed to any misconduct related to the interrogation operations at Abu Ghraib. MG Fay's request was passed by LTG Sanchez to the Commander, U.S. Central Command, who in turn forwarded the request to the Secretary of Defense. The Secretary of Defense directed the Acting Secretary of the Army to designate a new appointing authority and a new or additional investigating officer, senior to LTG Sanchez. The Acting Secretary of the Army selected GEN Paul Kern, the Commander of U.S. Army Materiel Command, to act as the new appointing authority. LTG Anthony Jones, the Deputy Commanding General of the U.S. Army Training and Doctrine Command, was appointed as an additional investigating officer. MG Fay continued to serve as an investigating officer until completion of the action. MG Fay and LTG Jones produced separate reports, each with separate but related series of findings and recommendations. While portions of the Jones Report remain classified, a redacted version of the bulk of the report has been released to the public. LTG Jones and other officials associated with the investigation have also provided public testimony before Congress on the matters contained in the report.

(U) GEN Kern appointed LTG Jones "specifically ... to focus on whether organizations or personnel higher than the 205th Military Intelligence Brigade were involved, directly or indirectly, in the ... detainee abuse at Abu Ghraib" on June 25, 2004. LTG Jones reviewed the material developed by MG Fay, as well as the majority of the reports discussed above. He then interviewed LTG Sanchez and MG Barbara Fast, the Commander and Deputy Chief of Staff for Intelligence, respectively, of CJTF-7 at the time of the alleged abuse.

(U) Noting in his report that the "events at Abu Ghraib cannot be understood in a vacuum," LTG Jones made several preliminary findings related to the "background and operational environment" in Iraq at the time of the abuses. First, LTG Jones found that "throughout the period

under investigation," the CJTF-7 headquarters "was not resourced adequately to accomplish the missions," lacking "adequate personnel and equipment." Second, the mission of "providing operational support to the Coalition Provisional Authority ... required greater resources than envisioned." Third, "operational plans envisioned ... a relatively non-hostile environment," when, "in fact, opposition was robust," a circumstance which required that Combined Joint Task Force 7 conduct "tactical counter-insurgency operations, while also executing ... planned missions" in support of the Coalition Provisional Authority and general stabilization.

(U) LTG Jones found that "no organization or individual higher than the chain of command of the 205th MI Brigade was directly involved in the questionable activities regarding alleged detainee abuse at Abu Ghraib." Further, in LTG Jones' assessment, "no policy, directive or doctrine directly or indirectly caused violent or sexual abuse," the most egregious misconduct. Rather, "the primary causes of these actions were relatively straight-forward - individual criminal misconduct."

(U) LTG Jones did find, however, that CJTF-7 "leaders and staff actions ... contributed indirectly to ... detainee abuse." Specifically, "policy memoranda promulgated by the ... Commander led indirectly to some of the non-violent and non-sexual abuses;" the CJTF-7 "Commander and Deputy Commander failed to ensure proper staff oversight of detention and interrogation operations," and; some "staff elements reacted inadequately to earlier indications and warnings that problems existed at Abu Ghraib."

(U) LTG Jones found that "the existence of confusing and inconsistent interrogation techniques contributed to the belief that additional interrogation techniques were condoned in order to gain intelligence." This was compounded by "Soldier knowledge of interrogation techniques permitted in GTMO and Afghanistan," "the availability of information on Counter-Resistance Techniques used in other theaters," and interactions with "non-DoD agencies" where "there was at least the perception, and perhaps the reality, that non-DoD agencies had different rules."

(U) LTG Jones' finding that the failure of the CJTF-7 "Commander and Deputy Commander ... to ensure proper staff oversight of detention and interrogation operations" was manifested by "the lack of a single ... staff proponent for detention and interrogation operations" and dispersion of "staff responsibility ... among the Deputy Commanding General, the C2, C3, C4 and SJA." This dispersion of staff responsibility "resulted in no individual staff member focusing on these operations."

(U) LTG Jones' finding that some "staff elements reacted inadequately to earlier indications and warnings that problems existed at Abu Ghraib" is related to the dispersion of staff respon-

sibility. As examples, LTG Jones cited "the investigation of an incident at Camp Cropper," presumably referring to the subject of the Lee Report, discussed above; "the International Committee of the Red Cross .. reports on ... subordinate units" and "Abu Ghraib;" criminal investigations; "disciplinary actions being taken by commanders;" the death of a detainee under the control of an OGA at Abu Ghraib; "the lack of ... accountability of detainees," and; "continual concerns that intelligence information was not returning to the tactical level."

(U) LTG Jones tempered his finding that CJTF-7 "leaders and staff actions ... contributed indirectly to ... detainee abuse" with the caution that "command and staff actions and inaction must be understood in ... context." "In light of the operational environment," the "under-resourcing" of the CJTF-7 "staff and subordinate units, and increased missions," LTG Jones determined that the "Commander had to prioritize efforts." As a matter of "professional judgment," LTG Jones concluded that CJTF-7 appropriately "devoted its resources to fighting the counter-insurgency and supporting the CPA." "In the over-all scheme of OIF," LTG Jones concluded, "the CJTF-7 Commander and staff performed above expectations."

(U) In contrast, LTG Jones found that although the "205th MI Brigade and 800th Military Police Brigade," like their higher headquarters, "also had missions throughout the Iraqi Theater of Operations," the operational environment did not excuse the fact that their "leaders at Abu Ghraib failed to execute their assigned responsibilities." LTG Jones found that "leaders from these units located at Abu Ghraib or with supervision over Soldiers and units at Abu Ghraib failed to supervise subordinates or provide direct oversight of this important mission." Specifically, "these leaders failed to properly discipline their soldiers, ... failed to learn from prior mistakes and failed to provide continued mission-specific training." "The absence of effective leadership" specifically "at the brigade level and below," in LTG Jones' judgment, "was a factor in not sooner discovering and taking actions to prevent both the violent/sexual abuse incidents and the misinterpretation/confusion incidents."

(U) In findings similar to those of MG Fay, LTG Jones had also found that "facilities at Abu Ghraib ... created a poor climate to conduct interrogation and detention operations to standard" and that "force protection" was a major concern; that the intelligence units were "undermanned, under-equipped, and inappropriately organized" to complete the mission, with shortages "specifically in the interrogator, analyst and linguist fields," and the 800th Military Police Brigade suffered from "under-resourcing of personnel," and; that both the military intelligence and military police missions were significantly different from those

originally planned.

(U) Given these observations, the finding that the leadership of the 205th Military Intelligence Brigade and the 800th Military Police Brigade should be held responsible because they contributed to "both the violent/sexual abuse incidents and the misinterpretation/confusion incidents" through their inaction, regardless of "operational circumstances," while the leadership of CJTF-7, who "contributed indirectly to the questionable activities regarding alleged detainee abuse" through their "actions and inaction," should be excused as a result of "operational circumstances" is difficult to reconcile. It also appears that significant aspects of the operational circumstances of the military intelligence and military police brigades that contributed to the incidents at Abu Ghraib, such as the selection of Abu Ghraib as the interrogation operations site and the under-resourcing of the interrogation center, were within the direct control of their higher headquarters, CJTF-7.

(U) Like MG Fay, LTG Jones concluded that "interaction with ... other agency interrogators who did not follow the same rules" as the Military Intelligence interrogators was among the "contributing factors" that led to the abuse of detainees. "There was at least the perception, and perhaps the reality, that non-DOD agencies had different rules regarding interrogation and detention operations." LTG Jones found that "such a perception encouraged soldiers to deviate from prescribed techniques."

Afghanistan Reports (U)

(U) Jacoby Report

(U) On May 19, 2004, the Commander of Combined Joint Task Force 76 (CJTF-76), MG Eric Olson, appointed BG Charles Jacoby, the CJTF-76 Deputy Commanding General, to conduct a "top to bottom review of ... detainee operations" in the Combined Forces Command Afghanistan (CFC-A) Area of Responsibility. Specifically, BG Jacoby was directed to identify "best practices," make "recommendations, both specific and general, for ... changes," list "corrective actions," and provide "suggestions with regard to future command ... initiatives ... to ensure adherence to operational and regulatory guidance."

(U) BG Jacoby found that "while theater forces understood the need for humane treatment and unit processes ... consistent with the spirit of extant doctrine, there was otherwise a consistent lack of knowledge regarding theater detention operations guidance." This "lack of thoroughly authorized, disseminated, and understood guidance and procedures," in BG Jacoby's assessment, "created opportunities for detainee abuse and the loss of intelligence value throughout the process."

(S) BG Jacoby noted that he was not directed to investigate "detainee abuse allegations," a task that is the province of military law enforcement, but rather to inspect "current detainee operations." Nonetheless, acknowledging that "allegations of detainee abuse have been substantiated," many of his findings examine the relationship of areas of concern to the potential abuse of detainees. [redacted]

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(U) "Very significantly," BG Jacoby found, there was "inadequate authority for the interrogation techniques and approaches authorized by the Detainee Operations SOP" in effect at the time of his investigation. The impact of the lack of authority for some of the measures authorized by the policy, however, was mitigated by the fact that "only one-third of the bases had the SOP" and "it was generally not ... known or relied upon in the field." Most interrogators, BG Jacoby found, looked to their training rather than the command policy for guidance. He cautioned that the "inconsistent and unevenly applied standards" that result from such circumstances "increase the possibility of the abuse of detainees, especially in the forward battle area."

(S) [redacted] He recommended the establishment of clear criteria and procedures for the transfer of detainees.

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(S) [redacted] His recommendations included modification of interrogation and detention procedures, increases in manning and resourcing detention operations, and structural changes with the task force. BG Jacoby concluded with the observation that while his inspection had "revealed no systematic or widespread mistreatment of detainees, opportunities for mistreatment, ... ongoing investigations, and a maturing battlefield argue for modifications to the

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current detainee operations process" in Afghanistan.

Independent Panel Report (U)

(U) In May 2004, the Secretary of Defense appointed an Independent Panel to Review Detention Operations "to provide independent professional advice on detainee abuses, what caused them and what actions should be taken to preclude their repetition." Unlike the Taguba, Fay and Jones Reports, the Independent Panel was charged with examining detention and interrogation operations worldwide. The members of the Independent Panel were former Secretaries of Defense James Schlesinger and Harold Brown, former Congresswoman Tillie Fowler, and retired Air Force Gen. Charles Horner. During the course of their investigation, the members of the Independent Panel reviewed the reports of investigations completed prior to the Panel's report, the statements, documents and other evidence gathered by the Fay/Jones investigations and our inquiry, and conducted a series of interviews of senior officers and defense officials, up to and including the Secretary of Defense. The Independent Panel Report, dated August 24, 2004, is unclassified and has been released to the public.

(U) The Independent Panel found that "the pictured abuses" at Abu Ghraib, "unacceptable even in wartime, were not part of authorized interrogations nor were they even directed at intelligence targets." In the Panel's evaluation, the abuse photographed at Abu Ghraib represented "deviant behavior and a failure of military leadership and discipline." However, the Panel also found that there were other abuses that "were not photographed" that "did occur during interrogation," at Abu Ghraib and at other locations.

(U) The panel estimated that as of the date of their report our forces had detained approximately 50,000 individuals during operations in Afghanistan and Iraq. Of the approximately 300 abuse allegations lodged against our forces in that time, the Panel reported that commanders and law enforcement agents had completed investigations into 155 of the allegations, and had substantiated 66 of the allegations. The Panel noted that of the substantiated cases, "approximately one-third ... occurred at the point of capture or tactical collection point, frequently under uncertain, dangerous and violent circumstances." Nonetheless, the Panel emphasized that despite the fact that the abuses were "inflicted on only a small percentage of those detained," were "of varying severity," and "occurred at differing locations and in differing circumstances and context," the abuses "were serious in both number and effect."

(U) Although the Independent Panel found that "there is no evidence of a policy of abuse promulgated by senior officials or military authorities,"

and "no approved procedures called for or allowed the kinds of abuse that in fact occurred," the Panel nonetheless concluded that "the abuses were not just the failure of some individuals to follow known standards, and they are more than the failure of a few leaders to enforce proper discipline." In the Panel's view, "there is both institutional and personal responsibility at higher levels."

(U) The Independent Panel prefaced their discussion of interrogation operations with the observation that "any discussion of interrogation techniques must begin with the simple reality that their purpose is to gain intelligence that will help protect the United States, its forces and interests abroad." Recounting the development of the policies that have framed the Global War on Terror at the national level and within the Department of Defense, the Panel observed that with "the events of September 11, 2001, the President, Congress and the American people recognized we were at war with a different kind of enemy." The nature and "severity of the post-September 11, 2001 terrorist threat and the escalating insurgency in Iraq," threats which are essentially different from an enemy force composed of massed troops, tanks, artillery, ships, and aircraft, made "information gleaned from interrogations especially important." The panel noted, "interrogations are inherently unpleasant, and many people find them objectionable by their very nature." Yet, in the Panel's assessment, "when lives are at stake, all legal and moral means of eliciting information must be considered." Further, the Independent Panel warned, "the conditions of war and the dynamics of detainee operations carry inherent risks for human mistreatment and must be approached with caution and careful planning and training."

(U) The Panel concluded that "in the initial development" of the Interrogation and Counter-Resistance Policies promulgated by the Secretary of Defense for the interrogation of unlawful combatants held at Guantanamo Bay, "the legal resources of the Services' Judge Advocates General and General Counsels were not used to their full potential." In the Panel's view, "had the Secretary of Defense had a wider range of legal opinions and a more robust debate regarding detainee policies and operations," the fluctuations in policy that occurred between December 2002 and April 2003 might well have been avoided.

(U) The Independent Panel found "it is clear that pressures for additional intelligence ... resulted in stronger interrogation techniques that were believed to be needed and appropriate in the treatment of detainees defined as 'unlawful combatants,'" some of whom were presenting a "tenacious resistance" to doctrinal interrogation methods. "At Guantanamo," the Panel observed, "interrogators used those additional techniques with only two detainees, gaining important and time-urgent information in the process." While a limited application of those more aggressive techniques proved successful in Guantanamo, the

Panel cautioned that "it is important to note that techniques effective under carefully controlled conditions in Guantanamo became far more problematic when they migrated and were not adequately safeguarded."

(U) Inevitably, the Panel found, "interrogators and lists of techniques circulated from Guantanamo and Afghanistan to Iraq." In Afghanistan, the Panel noted, "more aggressive interrogation of detainees appears to have been ongoing" independent of the Guantanamo Counter-Resistance Policies. Standard Operating Procedures containing techniques adopted by Special Operations Forces and conventional Military Intelligence units in Afghanistan migrated to Iraq. Many interrogators served in both operations. In Iraq, the combined knowledge and experience of the interrogators and their leaders, which encompassed operations in both Afghanistan and Guantanamo, were brought together. Combined Joint Task Force 7 promulgated a series of inconsistent policies that "allowed for interpretation in several areas and did not adequately set forth the limits of the interrogation techniques." In the Panel's assessment, "the existence of confusing and inconsistent interrogation ... policies contributed to the belief that additional interrogation techniques were condoned."

(U) Addressing the integration of detention and interrogation operations, the Independent Panel contrasted the operations at Guantanamo to those at Abu Ghraib. At Guantanamo, a system was eventually established where the Military Police and Military Intelligence worked "cooperatively, with the Military Police 'setting the conditions' for interrogations" conducted by Military Intelligence. In concept, the Panel noted, 'setting the conditions' for interrogations "included passive collection on detainees as well as supporting incentives recommended by the military interrogators." In the Panel's assessment, "these collaborative procedures worked well at Guantanamo," where the ratio of Military Police to detainees was "approximately 1 to 1," but failed Abu Ghraib, where the ratio was "at one point 1 to about 75," with the Military Police challenged "even to keep track of prisoners."

(U) The Independent Panel found that "in Iraq, there was not only a failure to plan for a major insurgency, but also to quickly and adequately adapt to the insurgency that followed ... major combat operations." As the insurgency grew, so did the population of the detention facilities. "The largest, Abu Ghraib, housed up to 7,000 detainees in October 2003," when the major abuses began at the facility, yet had "a guard force of only about 90 personnel from the 800th Military Police Brigade." The Panel, like MG Fay and LTG Jones, concluded that "Abu Ghraib was seriously overcrowded, under-resourced, and under continual attack."

(U) The Independent Panel noted that

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"problems at Abu Ghraib" could be traced "in part to the nature and recent history of the military police and military intelligence units" that staffed the operations at the prison. The 800th Military Police Brigade (Enemy Prisoner of War), a Reserve Component unit whose subordinate elements are spread across several states in peacetime, was designed to run prisoners of war facilities. The panel found that as a result of widespread military police mobilizations after September 11, 2001, however, the brigade had been unable to conduct any major training in its primary mission due to "disruption in soldier and unit availability." Further, many of the brigade's soldiers who had been activated "shortly after September 11, 2001, began reaching" the limit of their "two-year mobilization commitment, which, by law, mandated their redeployment and deactivation." In the panel's judgment, the resulting "deterioration in the readiness condition of the brigade should have been recognized by CFLCC and CENTCOM by late summer 2003," and that by "October and November" of 2003, "commanders and staffs all the way to CENTCOM and the Joint Chiefs of Staff knew ... the serious deficiencies of the 800th MP Brigade." "This led the Panel to conclude that the CJTF-7, CFLCC and CENTCOM failure to request additional forces was an avoidable error."

(U) The Independent Panel also found that the 205th Military Intelligence Brigade, an Active Component unit, "was insufficient to provide the kind of support needed ... especially with regard to interrogators and interpreters." Although "some additional units were mobilized" from the reserves, other Active Component units deployed, and contract interpreters and interrogators hired, a large portion of the effort fell to the soldiers of A Company, 519th Military Intelligence Battalion (Airborne), who had only just returned from an extended deployment to Afghanistan where they had conducted interrogation operations at the primary detention facility in that theater. The hodgepodge of "elements of as many as six different units" that were tossed into the interrogation mission at Abu Ghraib lacked "unit cohesion," a flaw that was exacerbated "by friction between military intelligence and military police personnel, including the brigade commanders themselves."

(U) Regarding policy and command responsibilities, the Independent Panel found that "interrogation policies with respect to Iraq, where the majority of the abuses occurred, were inadequate or deficient in some respects at three levels: Department of Defense, CENTCOM/CJTF-7, and Abu Ghraib." Overall, the Panel found, "policies to guide the demands for actionable intelligence lagged behind battlefield needs." Fluctuations in the Counter-Resistance Policy for Guantanamo approved by the Secretary of Defense, "although specifically limited ... to Guantanamo," were in the Panel's view "an element contributing to uncertainties in the field as to which techniques were authorized." The Panel found that "in the absence of specific guidance from CENTCOM, interroga-

tors in Iraq relied upon" the field manual "and unauthorized techniques that had migrated from Afghanistan." These conditions, followed by a series of short-lived and poorly drafted CJTF-7 policies "clearly led to confusion on what practices were acceptable." Although "we cannot be sure how much the number and severity of abuses would have been curtailed had there been early and consistent guidance from higher levels," the Independent Panel concluded that "nonetheless such guidance was needed and likely would have had a limiting effect."

(U) Other factors that contributed to the leadership failures at Abu Ghraib included an "unclear Military Intelligence chain of command," the "confusing and unusual assignment of MI and MP responsibilities at Abu Ghraib," and the placement of the 800th Military Police Brigade under the tactical control of CJTF-7 while maintaining the brigade under the CFLCC for all other purposes. Finally, in the view of the Panel, "the failure to react appropriately to the October 2003 ICRC report," which described a number of the abuses that would remain uninvestigated until a soldier reported later incidents to his chain of command, was "indicative of the weakness of the leadership at Abu Ghraib."

(U) The Independent Panel made the following recommendations, among others:

- (U) "The United States should further define its policy ... on the categorization and status of all detainees;"
- (U) "The Department of Defense needs to ... develop joint doctrine to define the appropriate collaboration between Military Intelligence and Military Police in a detention facility;"
- (U) The nation must acquire "more specialists for detention/interrogation operations, including linguists, interrogators," and others;
- (U) "Joint Forces Command should ... develop" a new operational concept for detention operations," including preparation "for conditions in which normal law enforcement has broken down in an occupied or failed state;"
- (U) Although "clearly, the force structure in both MP and MI" in the Army "is inadequate to support the armed forces in this new form of warfare," there are "other forces besides the Army in need of force structure improvements" to accomplish the detention and interrogation missions. Accordingly, the Panel recommended "that the Secretaries of the Navy and Air Force undertake force structure reviews of their own;"

- (U) Because "well-documented policy and procedures on approved interrogation techniques are imperative to counteract the current chilling effect the reaction to the abuses have had on the collection of valuable intelligence through interrogations," such policies must be promulgated;

- (U) A "professional ethics program" must be developed for all who participate in detention and interrogation operations;

- (U) "Clearer guidelines for the interaction of CIA with the Department of Defense in detention and interrogation operations must be defined;"

- (U) "The United States needs to redefine its approach to customary and treaty international humanitarian law, which must be adapted to the realities of the nature of the conflict," and

- (U) "The Department of Defense should continue to foster its operational relationship with the International Committee of the Red Cross."

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Examination of Detainee Abuse (U)

Overview (U)

(U) During our inquiry, we examined individual cases of detainee abuse in order to discern any relationship to detainee operations in general, and to interrogation in particular. We detail some of these cases in the sections covering GTMO, Afghanistan, and Iraq; however, in this section, we will provide an overview of our analytic method, and a high-level summary of DoD abuse investigations.

(U) As of September 30, 2004, the military services and DoD agencies had initiated 317 investigations in response to allegations of detainee abuse by DoD personnel and contractors in GTMO, Afghanistan, and Iraq. (In order to complete our analysis in a timely fashion, we chose September 30 as the cutoff date for the incorporation of investigations in this report. All of the following information is current as of September 30, except where otherwise noted.) For the purposes of our analysis, we define "abuse" as conduct that constitutes Uniform Code of Military Justice (UCMJ) offenses against persons (or would constitute such an offense if the perpetrator were subject to the UCMJ, in the case of contractors). These offenses include murder, manslaughter, negligent homicide, assault, rape, indecent assault, cruelty and maltreatment, reckless endangerment, and communicating a threat. We did not treat thefts from detainees as abuse, unless such misconduct was combined with an assault or other form of maltreatment.

(U) In general, the Army Criminal Investigation Division (CID) and Naval Criminal Investigation Service (NCIS) investigated serious abuse allegations (*i.e.*, misconduct resulting - or potentially resulting - in death or grievous bodily harm), while individual commands investigated lesser allegations. Many of the investigations have multiple victims and multiple suspects; consequently, there is no direct correlation between the number of cases and the numbers of suspects and victims. For example, the primary CID investigation of the abuses at Abu Ghraib (which remains open) has identified 15 suspects and 35 victims.

(U) The status of the 317 investigations is depicted on the chart on the next page.

(U) As the chart demonstrates, 187 investigations have been closed (38 death investigations and 149 for other abuse), of which six have substantiated that death resulted from abuse (five in Iraq and one in Afghanistan), and 65 have substantiated that other abuse occurred. These findings will be discussed in more detail below.

DOD Detainee-Related Investigations Summary (U)

CASES	AFGHANISTAN	IRAQ	GTMO	TOTAL	TOTAL SUBSTANTIATED
DETAINEE DEATHS (OPEN)	4 / 0 / 0	15 / 2 / 0	0 / 0 / 0	23	N/A
DETAINEE ABUSE (OPEN)	5 / 2 / 0	92 / 1 / 1* (* Contractor)	2 / 2 / 0	107	N/A
DETAINEE DEATHS (CLOSED)	1 / 0 / 0	32 / 0 / 0 (Note: Does not include 22 Abu Ghraib mortar attack deaths.)	0 / 0 / 0	38	SUBSTANTIATED 6
DETAINEE ABUSE (CLOSED)	12 / 0 / 0	101 / 3 / 3* (* Contractor)	12 / 0 / 0	149	SUBSTANTIATED 65
TOTAL	27	274	16	317	71

Army Related Cases / Navy Related Cases / USMC Related Cases / Other Related Cases

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(U) The status of the 317 open and closed investigations is again depicted in the following two charts on the next page, which break the investigations into death-related (in the first chart) and non-death related investigations (in the second chart).

(U) As the first chart demonstrates, of the 61 detainee death investigations, 38 have been closed; and in six cases it was determined that the deaths resulted from abuse. The remaining 32 closed death investigations resulted in determinations that the fatalities resulted from either natural causes or justifiable homicides, or that the allegations of wrongdoing were unsubstantiated or unfounded. As the second chart shows, detainee abuse not resulting in death was substantiated in 65 of 149 closed investigations.

(U) Because information provided by open cases may not be reliable, and may ultimately be proven unfounded, we focused our analysis primarily on the 71 closed investigations that substantiated abuse. Of these, eight concerned incidents at

Detainee Death Investigations (U)

CASES	AFGHANISTAN	IRAQ	GTMO	TOTAL	TOTAL SUB-STANTIATED
OPEN					
DETAINEE DEATHS	4 / 0 / 0	15 / 2 / 0	0 / 0 / 0	23	N/A
CLOSED					
DETAINEE DEATHS	1 / 0 / 0	32 / 0 / 0	0 / 0 / 0	38	6
		Note: Does not include 22 Abu Ghraib mortar attack deaths.			
TOTAL	5	56	0	61	6

Army Related Cases / Navy Related Cases / USMC Related Cases / Other Related Cases

All data as of 30 Sep 2004.

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Detainee Non-Death Abuse Investigations (U)

CASES	AFGHANISTAN	IRAQ	GTMO	TOTAL	TOTAL SUB-STANTIATED
OPEN					
DETAINEE ABUSES	5 / 2 / 0	92 / 1 / 1*	2 / 2 / 0	107	N/A
CLOSED					
DETAINEE ABUSES	12 / 0 / 0	101 / 3 / 3*	12 / 0 / 0	149	65
		* Contractor			
TOTAL	22	218	16	256	65

Army Related Cases / Navy Related Cases / USMC Related Cases / Other Related Cases

All data as of 30 Sep 2004.

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GTMO, three concerned incidents in Afghanistan, and 60 concerned incidents in Iraq. These 71 cases involve at least 122 victims, and so far, disciplinary or administrative action has been taken against 115 service members for misconduct. (This action includes numerous non-judicial punishments, 15 summary courts-martial, 12 special courts-martial, and 9 general courts-martial.) Criminal investigation of detainee abuse at Abu Ghraib, which has already resulted in the preferral of court-martial charges against seven service members and a guilty plea from three of those members, remains open.

(U) In addition, we concluded that one closed, substantiated investigation did not constitute abuse for our purposes. This case involved a soldier at GTMO who dared a detainee to throw a cup of water on him, and after the detainee complied, reciprocated by throwing a cup of water on the detainee. The soldier was removed from that camp as a consequence of inappropriate interaction with a detainee. We discarded this investigation, leaving us 70 detainee abuse cases to analyze.

(U) A comparison of our detainee abuse analysis with those of the Jones, Fay, and Taguba reports is provided later, in our section discussing Iraq. Unlike those reports, however, we did not investigate specific allegations of misconduct. Rather, our examination consisted of a broad review of investigative reports, focusing on factors that may have played a role in these incidents of abuse. Our review was intended neither as a legal assessment of specific cases, nor as a recommendation for commanders in the independent exercise of their responsibilities under the Uniform Code of Military Justice (UCMJ) or other administrative procedures.

Categorizing Abuse Cases (U)

(U) As an initial matter, we examined the abuse cases for any trends related to geographic areas or individual units within Afghanistan and Iraq; however, we found no such trends.

(U) We next analyzed the 70 closed, substantiated abuse cases by grouping them by severity and location, and then by whether they were related to interrogation. We also categorized the cases by service and component (*e.g.*, U.S. Army Reserve) of the personnel involved. Our results are described below.

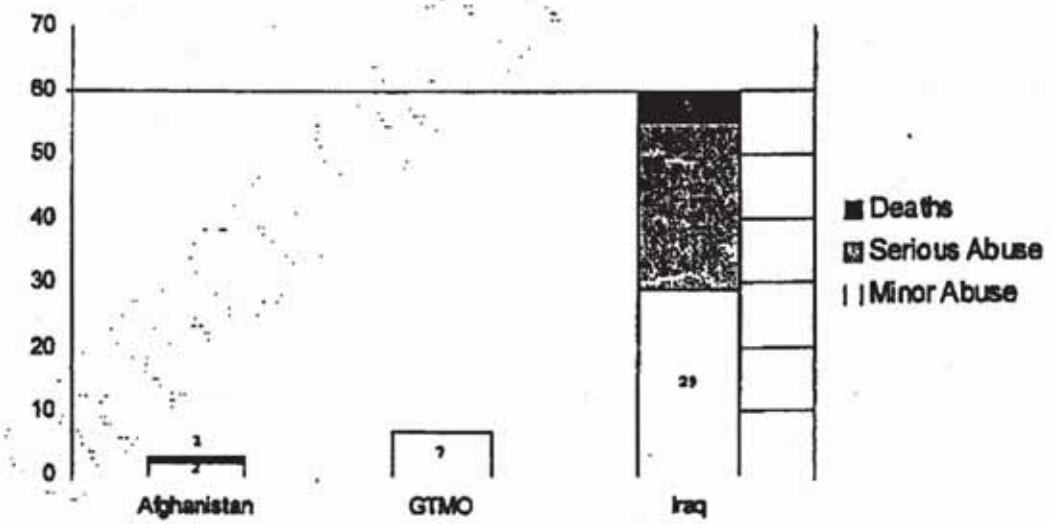
(U) Severity of Abuse

(U) As noted previously, we considered serious abuse to be misconduct resulting, or having the potential to result, in death or grievous bodily harm. We used the definition of "grievous bodily harm" contained in the Manual for Courts-Martial (2002 edition): "Grievous bodily harm' means serious bodily injury. It does not include minor injuries such as a black eye or bloody nose, but does include

fractured or dislocated bones, deep cuts, torn members of the body, serious damage to internal organs, and other serious bodily injuries." In addition, we considered all sexual assaults (in the Manual for Courts-Martial termed "Indecent Assault"), threats to inflict death or grievous bodily harm, and maltreatment likely to result in death or grievous bodily harm to be serious abuse.

(U) As reflected in the chart below, there were a total of six substantiated deaths (one in Afghanistan and five in Iraq), 26 serious abuse incidents that did not result in death (all in Iraq), and 38 minor abuse incidents (two in Afghanistan, seven in GTMO, and 29 in Iraq). (We should note that the cases involving the two Bagram PUC deaths were substantiated and closed on October 8, 2004, after the majority of our analysis had been completed. These cases, therefore, are not included in the data that we analyzed.) Of the 64 non-death abuse cases analyzed, two were sexual assaults. The majority of

Closed Substantiated Abuse Cases (U)



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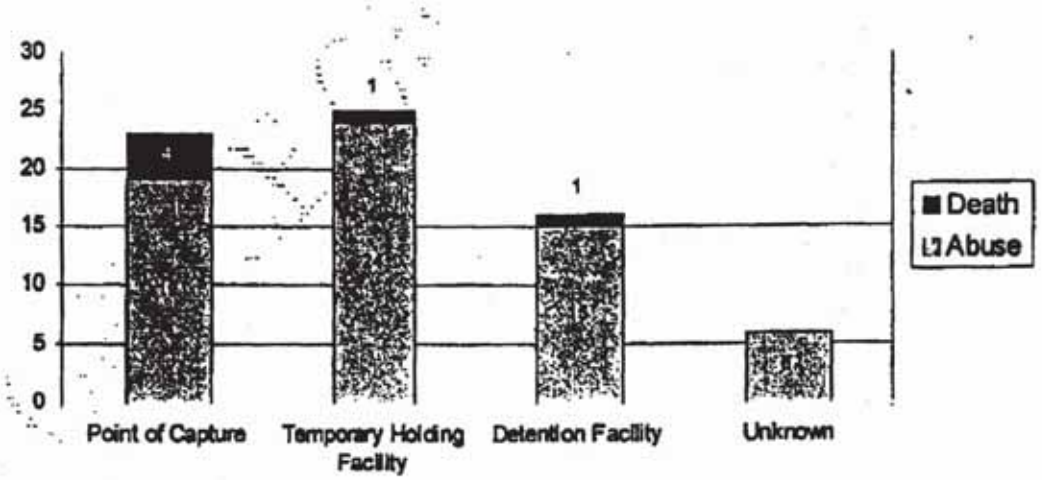
the remaining cases were assaults and other forms of physical abuse.

(U) Location of Abuse

(U) For the purposes of our analysis, we considered "point of capture" (POC) incidents to include any deaths or abuse occurring outside of holding facilities, including those that occurred during detainee transportation. Facilities at the division level and below were considered Temporary Holding Facilities (THF) (*e.g.*, Corps Holding Areas or Division Collection Points), and internment/resettlement facilities were considered Detention Facilities (DF) (*e.g.*, Abu Ghraib). These terms are functional in nature rather than doctrinal and are used here only for the purpose of our analysis.

(U) The chart below depicts abuses by detention locations. Of the 70 cases analyzed, 23

Reported Abuse by Site Type (U)



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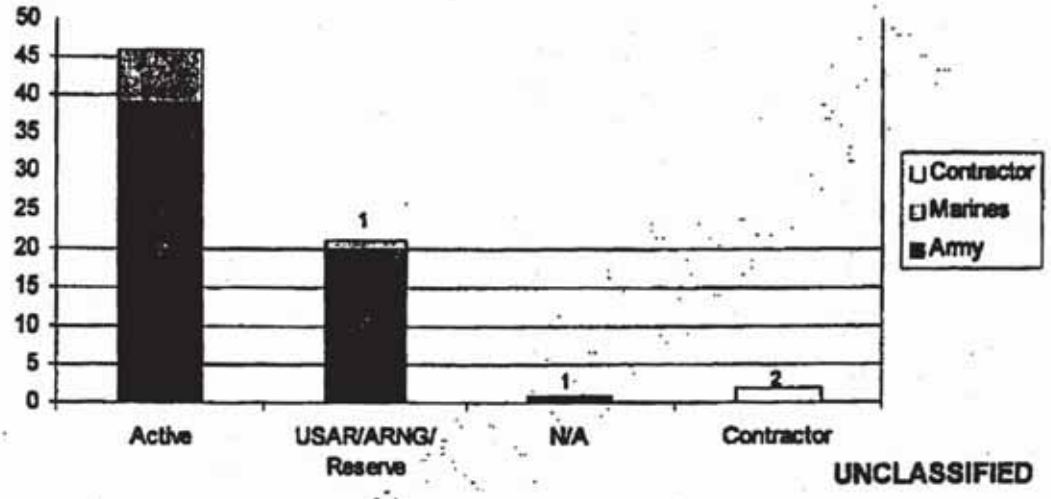
Closed Substantiated Cases by Service Component of Personnel Involved (U)



occurred at POC, 25 at THFs, 16 at DFs, and six at unidentified locations. Included in those figures are the six death cases: four at POC, one at a THF, and one at a DF.

(U) Service and Component

(U) There were 46 Active Component investigations, 21 Reserve/National Guard (nine Reserve, eight National Guard, and four mixed), one from an unknown unit, and two contractor-related cases. The data are displayed in the chart above.

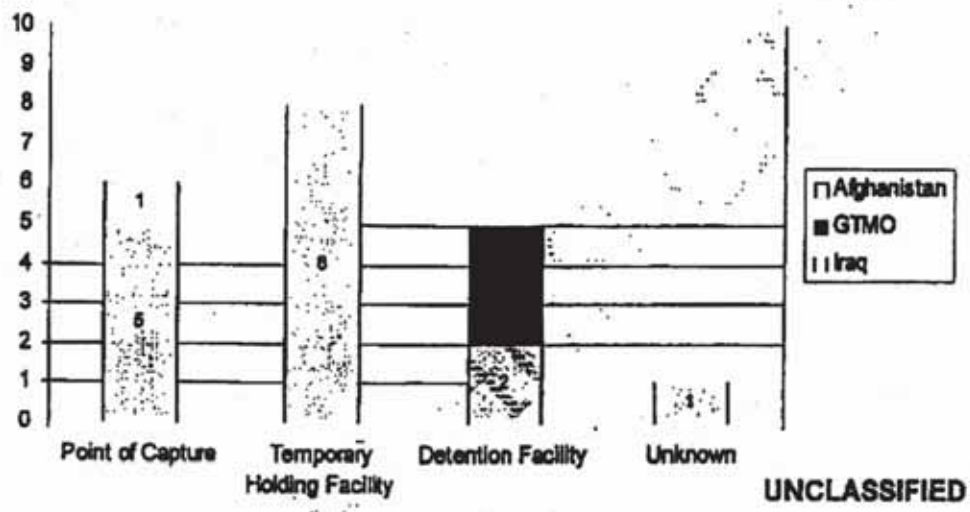
(U) Relationship of Abuse to Interrogation

(U) We categorized abuses arising from questioning of detainees by any DoD personnel, not just MI interrogators, as interrogation-related. In categorizing abuse as "interrogation-related," we took an expansive approach. For example, if a soldier slapped a detainee for failing to answer a question at the point of capture, we treated that misconduct as interrogation-related abuse. Of the 70 investigations analyzed, 20 met this criteria. Closed substantiated interrogation related abuse cases are further categorized by theater of operations and type of site in the chart on the next page.

Analysis of Abuse Investigations (U)

(U) Methodology

Closed Substantiated Interrogation Related Abuse Case by Type of Facility at which the Incident Occurred (U)



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(U) After categorizing the substantiated abuse cases, we reviewed each investigation report to identify possible explanations for the abuse. For abuses investigated by a service criminal investigative agency (CID or NCIS), we reviewed the complete investigative reports. These investigations generally contained statements from eyewitnesses and, in some cases, statements from suspects and purported victims. For investigations conducted by individual commands, which generally addressed the less serious incidents, we reviewed summaries or reports of the substantiated abuse.

(U) Findings

(U) Our review suggested that there is no single explanation for why abuses occurred; rather, a combination of factors played a role. After hundreds of interviews, however, one point is clear - we found no direct (or even indirect) link between interrogation policy and detainee abuse. We note that our conclusion is consistent with the findings of the Independent Panel to Review DoD Detention Operations, chaired by the Honorable James R. Schlesinger, which in its August 2004 report determined that "[n]o approved procedures called for or allowed the kinds of abuse that in fact occurred. There is no evidence of a policy of abuse promulgated by senior officials or military authorities." In fact, interviews that we conducted at point of capture and temporary holding facilities in Iraq and Afghanistan showed that a large majority

of interrogators and most field officers interviewed at those locations were unaware of the specific guidance promulgated and relied solely on their respective training and experience. This point will be reiterated and discussed in more detail in later report sections focused on interrogation operations in Guantanamo Bay, Afghanistan and Iraq.

(U) If approved interrogation policy did not cause detainee abuse, the question remains: what did? While we cannot offer a definitive answer, we studied the DoD investigation reports for all 70 cases of closed, substantiated detainee abuse to see if we could detect any patterns or underlying explanations. Our analysis of these 70 cases showed that they involved abuses perpetrated by a variety of active duty, reserve and national guard personnel from three services at varying dates and in varying locations throughout Afghanistan and Iraq, as well as a small number of cases at GTMO. While this lack of a pattern argues against a single, overarching reason for abuse, we did identify several factors that may help explain why the abuse occurred.

(U) First, 23 of the abuse cases, roughly one third of the total, occurred at the point of capture in Afghanistan or Iraq - that is, during or shortly after the capture of a detainee. This is the point at which passions often run high, as service members find themselves in dangerous situations, apprehending individuals who may be responsible for the death or serious injury of fellow service members. Because of this potentially volatile situation, this is also the point at which the need for military discipline is paramount in order to guard against the possibility of detainee abuse, and that discipline was lacking in some instances.

(U) Second, the nature of the enemy in Iraq (and to a lesser extent, in Afghanistan) may have played a role in the abuse. Our service members may have at times permitted our enemy's treacherous tactics and disregard for the law of war – exemplified by improvised explosive devices and suicide bombings – to erode their own standards of conduct. (Although we do not offer empirical data to support this conclusion, a consideration of past counterinsurgency campaigns – for example, during the Philippine and Vietnam wars – suggests that this factor may have contributed to abuse.) The highly-publicized case involving an Army Lieutenant Colonel in Iraq provides an example. On August 20, 2003, during the questioning of an Iraqi detainee by field artillery soldiers, the Lieutenant Colonel fired his weapon near the detainee's head in an effort to elicit information regarding a plot to assassinate U.S. service members. For his actions, the Lieutenant Colonel was disciplined and relieved of command.

(U) Finally, a breakdown of good order and

discipline in some units could account for other incidents of abuse. This breakdown implies a failure of unit-level leadership to recognize the potential for abuse in detention and interrogation operations, to detect and mitigate the enormous stress on our troops in detention and interrogation operations, and a corresponding failure to provide the requisite oversight to prevent such abuse. As documented in previous reports (including MG Fay's and MG Taguba's investigations), stronger leadership and greater oversight would have lessened the likelihood of abuse.

Chronological Analysis of Abuse Cases (U)

(U) Overview

(U) We also conducted a chronological analysis to determine whether there was any correlation between particular events and the rate of detainee abuse. Specifically, we considered the relationship between the rate of abuse and the issuance of new interrogation-related policy directives to U.S. forces in each theater, and whether intensified combat operations or enemy resistance might help explain increases or decreases in detainee abuses. To determine whether abuse rates could be correlated to such events, we examined abuse cases on a month-to-month basis.

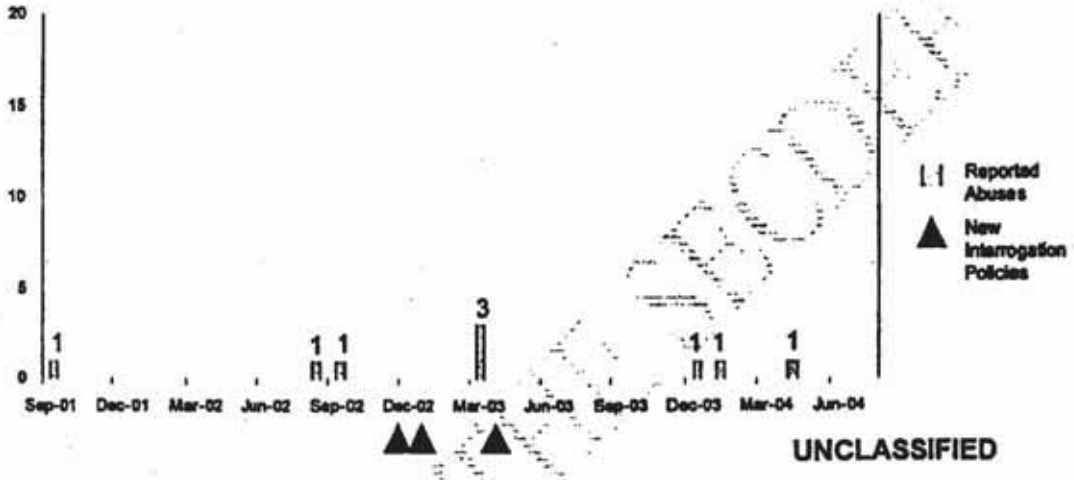
(U) The total number of cases considered in this portion of our analysis is larger than in earlier sections, because we examined not only closed cases, but also certain open cases. In the chronological analysis we considered 189 cases, including 69 of the 71 closed, substantiated cases - one case was omitted because it did not identify the date of abuse, and we again omitted the GTMO water-throwing case - and 120 of 130 open cases (10 did not contain dates or were thefts). We recognize that many of the open cases may be eventually proved unsubstantiated or unfounded; however, we felt that including the open cases in chronological analysis might help identify potential trends.

(U) Results

(U) GTMO

(U) Relatively few abuses have occurred at GTMO. As we will describe at further length in the GTMO section, we believe that this is attributable to, among other things, effective leadership, aggressive oversight, and a highly structured environment. While three of the abuse cases at GTMO occurred in April 2003, the same month that the Secretary of Defense approved a new interrogation policy for use there, the new interrogation policy did not cause those abuses to occur: as the GTMO section will describe, those abuses were completely unrelated to interrogation policy. We also found no correlation with other interrogation policies, issued in December 2002 and January 2003. (In

GTMO (U)



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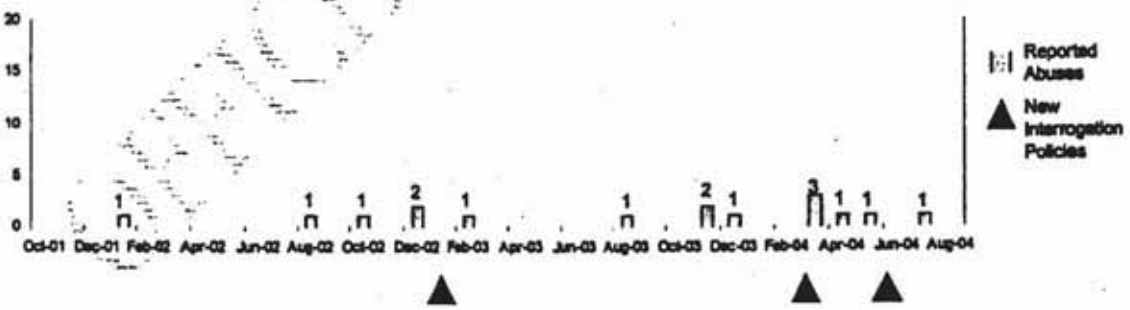
Afghanistan (U)



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the following charts, issuance of new interrogation policies is indicated by red triangles.)

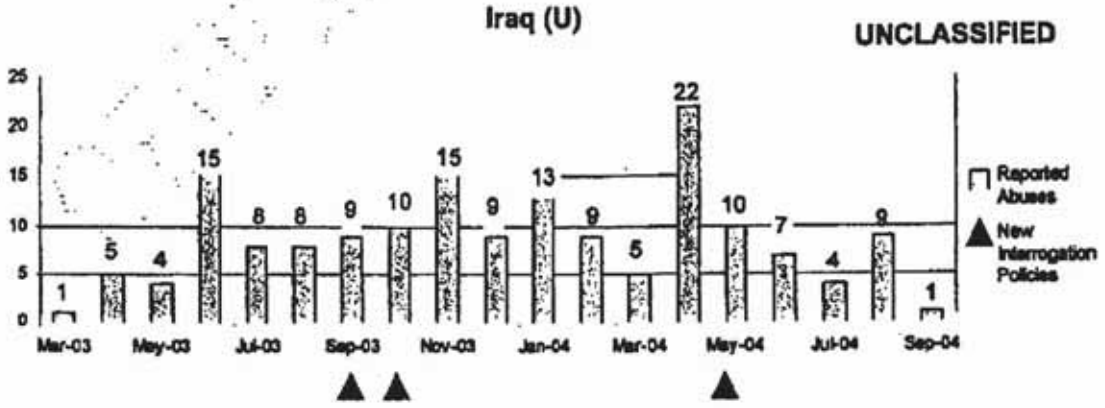
(U) *Afghanistan*

(U) Since Operation ENDURING FREEDOM began in October 2001, in no single month were there more than three cases of alleged abuse. With the limited numbers of reported abuse cases spread over many months, there is no discernable correlation of those abuses to CJTF 180's detention and interrogation policies (issued in January 2003, March 2004, and June 2004), combat operations, or other events.

(U) *Iraq*

(U) The total number of abuses in Iraq far exceeds those in GTMO and Afghanistan, which is not surprising based on the scale of combat operations and the ensuing insurgency. From the beginning of Operation IRAQI FREEDOM in March 2003 through August 2004, the number of abuse cases per month remained relatively close to the average rate of nine per month, with the fewest number of reported abuses in March 2003 (one), July 2004 (four), and September 2004 (one). The issuance of interrogation policy memoranda in September 2003, October 2003, and May 2004, and MG Miller's visit to assess detention operations during August to September 2003 (all of which are described in our section on Iraq) do not appear to be correlated to the rate of detainee abuse, whether interrogation-related or not.

(U) We did observe spikes in abuse allegations in June 2003 (15), November 2003 (15), and April 2004 (22). While not necessarily statistically significant, it is possible that the June 2003 and April 2004 increases are attributable to the following events:



(U) June 2003. Baghdad fell to Coalition Forces in May 2003. Almost immediately thereafter, Iraqis engaged in widespread looting and destruction. In this month, we observed a moderate increase in *alleged* detainee abuse cases; however, we found no evidence that this increase was interrogation-related or associated with U.S. policy changes. Rather, two thirds of the abuse cases in June 2003 involved point of capture abuses: the aggressive efforts of U.S. forces to stop looting and secure the peace appear to be a likely explanation for the increased number of alleged abuse cases that month.

(U) April 2004. This month saw an increase in combat operations, particularly in response to recent kidnappings, roadside bombings, and other attacks by insurgents against coalition forces. The number of U.S. service members killed in April 2004 increased to more than 150, almost a three-fold increase from only one month earlier in March 2004. During April 2004, alleged detainee abuse cases rose from five (all non-interrogation related) in March 2004 to 22 in April 2004 (with 8 of those cases being interrogation-related). It is possible, therefore, that increased combat operating tempo and efforts to stem the tide of the insurgency led to increases in abuses.

Detainee Abuse: Summary (U)

(U) In sum, we found no evidence that detainee abuse was related to any interrogation policies. This explanation is supported by the more detailed descriptions of interrogation-related abuse cases that appear in the following sections on GTMO, Afghanistan and Iraq. Therefore, although interrogation policy has not been a causal factor in detainee abuse, we found several factors that may have contributed to the abuse. For example, much of it occurred at the point of capture in Afghanistan and Iraq, and in many instances our service members clearly lacked the discipline necessary at the point of capture to ensure that detainees were treated appropriately. Another factor may be the nature of the insurgency that we have encountered - one in which our enemy's disregard for the law of war may have at times led to an erosion of our own standards of conduct. Finally, a breakdown in good order and discipline, which may be attributable to the absence of strong leadership or oversight, may have contributed to setting the conditions for abuse.

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Guantanamo Bay, Cuba (U)

(U) This section examines the interrogation techniques approved and those actually employed at the U.S. Naval Base at Guantanamo Bay, Cuba (GTMO), and the relationship between those techniques and any detainee abuse. The section begins with a brief, background discussion below.

Background (U)

(U) GTMO and Operation ENDURING FREEDOM

(U) The first planeload of twenty detainees from Afghanistan arrived at the U.S. Naval Base at Guantanamo Bay, Cuba on January 11, 2002. They had been captured by U.S. forces on the battlefield during Operation ENDURING FREEDOM, which followed closely on the heels of 9/11 and was designed to flush out members of al Qaeda and their Taliban protectors from the hills and caves of Afghanistan. As suspected terrorists, these first detainees were transferred to the base for interrogation. By the summer of 2002, the detainee population at GTMO had quickly grown to nearly 600, a number that has remained fairly steady up until the present.

(U) GTMO was a logical place for the interrogation of al Qaeda and Taliban fighters. It had existing holding facilities at Camp X-Ray, which had originally been built to house Cuban and Haitian refugees who attempted illegally to enter the United States by sea in the mid 1990s. It was close to the United States and under United States control, pursuant to a lease agreement with Cuba dating to 1903. Yet GTMO was in a remote and secure location, far from the battlefields of Afghanistan. And perhaps most importantly, GTMO was considered a place where these benefits could be realized without the detainees having the opportunity to contest their detention in the U.S. courts. This final consideration was negated, however, by the recent U.S. Supreme Court decision in Rasul v. Bush, __ S.Ct. __ (2004), which held that the U.S. courts have jurisdiction to consider challenges to the detention of foreign nationals held at GTMO. At the same time, the Supreme Court held in Hamdi v. Rumsfeld, __ S.Ct. __ (2004), that any U.S. citizens held in the U.S. as enemy combatants have a due process right to have a meaningful opportunity to contest their detention before a neutral decisionmaker.

(U) The combatants captured in Afghanistan during Operation ENDURING FREEDOM did not wear military uniforms or fall into any traditional military hierarchy. This presented the challenge, therefore, of determining which of them possessed (or were likely to possess) the most intelligence or law enforcement value and thus merited transfer to GTMO. Upon capture, a detainee was initially questioned on the battlefield to ascertain his level of participation in the conflict and to determine if he might possess valuable intelligence or be a continuing security threat to U.S. forces. The detainee was then sent from the front

lines to a central holding facility, where he would undergo further screening and interrogation. If this screening indicated that the detainee might meet Secretary of Defense criteria for transfer to GTMO, a screening team of U.S. government officials - consisting of military lawyers, intelligence officers, and federal law enforcement officials - would review the detainee's relevant information, including the facts surrounding capture and detention, the threat posed by the individual, and the intelligence and law enforcement value of the detainee. The screening team, after reviewing all available information, then made a recommendation to retain the captured fighter in-country or transfer him to GTMO. Next, a general officer, designated by the Commander of U.S. Central Command (CENTCOM), reviewed the screening team's recommendation and made a final recommendation to Department of Defense officials in Washington, D.C.

(U) A Department of Defense review panel, including legal advisors and representatives from the Joint Staff and the Office of the Under Secretary of Defense for Policy, assessed this final recommendation and, if necessary, made additional inquiries regarding the detainee. Upon the review panel's recommendation and final authorization by the Secretary of Defense, the individual either remained detained in Afghanistan or was airlifted to GTMO. Since the beginning of Operation ENDURING FREEDOM to the present, more than 10,000 suspected members of al Qaeda or the Taliban have been captured and processed through this screening process. Less than eight percent of these detainees (a total of 752 as of October 28, 2004) were ultimately transferred to GTMO. The most recent transfers occurred in September 2004, as DoD announced on September 22, 2004 that that it had transferred 10 detainees from Afghanistan to GTMO. These were the first transfers since November 2003.

~~(S/NF)~~ As of October 2004, there were 550 detainees at GTMO. Of the detainees sent to GTMO during Operation ENDURING FREEDOM, 202 have departed the base: 146 of these were transferred to other countries for release, and 56 were transferred to the control of other governments [redacted] (seven to Russia, five to Morocco, five to Great Britain, four to France, four to Saudi Arabia, one to Spain, 29 to Pakistan and one to Sweden). In response to the U.S. Supreme Court decision in Rasul, the Secretary of the Navy, the Honorable Gordon England, is currently supervising Combatant Status Review Tribunals and Administrative Review Boards. Each detainee at GTMO will have the opportunity, with the help of a military representative, to contest the enemy combatant designation before a tribunal of three military officers. The detainees at GTMO will also have the opportunity to present information to an Administrative Review Board concerning why the detainee no longer poses a threat to the U.S. or its

OFFICE OF THE SECRETARY OF DEFENSE
COPY NUMBER ONE

allies and should be released or transferred.

(U) It is U.S. policy not to release any detainees that still pose a threat to our country, but recent events have demonstrated the difficulty of making that assessment, and the difficulty now facing the Administrative Review Boards. On September 26, 2004, Afghanistan officials announced that Abdul Ghaffar, a senior Taliban commander who had been released from GTMO over one year ago, was killed on September 25th while apparently leading an ambush on U.S. forces, in which three American soldiers were wounded, one critically. According to Afghan officials, after his release Ghaffar had carried out several attacks on American Special Forces soldiers, as well as an attack on a district chief in Helmand, Afghanistan in which three Afghan soldiers were killed.

(U) Another former Taliban fighter who was held at GTMO for approximately two years and then released in March 2004, Abdullah Mehsud, has reportedly forged ties with al Qaeda and is leading a militant band that is opposing Pakistani forces hunting al Qaeda fighters along the Afghanistan-Pakistan border. In early October 2004, Mehsud's men kidnapped two Chinese engineers who were helping Pakistan to construct a dam near the border. The kidnappers, who were surrounded by Pakistani security forces, strapped explosives to the hostages and threatened to kill them if they were not allowed safe passage to where Mehsud was hiding in the nearby mountains. The crisis ended on October 14th when Pakistani forces moved in and killed five of the kidnappers, but one of the hostages also died, and Mehsud is still at large. Moreover, since his release, Mehsud has bragged to reporters that he tricked his interrogators into believing that he was someone else, and has stated that he will fight America "until the very end."

(U) In addition to Ghaffar and Mehsud, Afghan officials have stated that at least five other Afghan detainees released from GTMO have returned to Afghanistan and again become Taliban commanders or fighters. The number may be higher, as there are uncorroborated reports that an additional seven have participated in attacks or provided support to anti-coalition forces in Afghanistan.

(U) Detention and Interrogation Facilities

(U) The first detainees to arrive at GTMO were held at Camp X-Ray, which had the advantage of being an existing facility. Camp X-Ray, however, had a limited capacity (it could hold only approximately 300 detainees after rapidly expanding from its initial capacity of 40), and also was somewhat primitive. Upon their arrival, the detainees were housed in temporary, eight by eight feet units with a concrete slab floor, a combination wood and metal roof, and open air sides composed of chain link fencing. The detainees slept on the floor, with mats and blankets.

~~(S)~~ The interrogation facilities at Camp X-Ray were also spartan. The interrogation rooms were simple, plywood structures, but they did have air conditioning. These rooms were approximately fifteen by fifteen feet, and commonly referred to as "boxes." The rooms were equipped for audio monitoring only.

~~(S/NF)~~ Due to Camp X-Ray's limited capacity and primitive conditions, plans were put into motion almost immediately after the arrival of the first detainees in GTMO to build a new detention facility, which became known as Camp Delta. This new facility had an initial capacity of 612 detention units, with room to expand as needed. In late April 2002, the detainee population, numbering just over 300 individuals, moved from Camp X-Ray to Camp Delta, whereupon Camp X-Ray was closed. Camp Delta has since expanded to 816 detention units, 84 of which are maximum security.

~~(S/NF)~~ [redacted] (b)(1)

Also within Camp Delta is the detainee hospital, which is dedicated to providing

Aerial Photograph of GTMO ~~(S)~~

[redacted] (b)(1)

medical care to the detainees and has a twenty bed capacity. Additionally, in April 2004 a maximum-security facility, designated as Camp 5, was opened approximately one-half mile from Camp Delta. Camp 5 holds the most uncooperative individuals. The detainees at Camp 5 are housed in a modern, two-story, multi-winged complex that has the capacity to hold approximately 100 detainees. The aerial photograph below shows the relative locations of Camp Delta (which contains Camps 1-4 and the detainee hospital), Camp 5 and Camp X-Ray.

(S) [redacted] Camp Iguana is a lower-security detention facility that at one point held three juvenile combatants, aged 13 to 15 years, who had been captured in Afghanistan. These juveniles were repatriated to their home countries in early 2004. [redacted]

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~~(S/NF)~~ [redacted]

[redacted]

(S) [redacted]

(b)(1)

(U) Evolution of the Command Organization

(U) The command organization at GTMO has evolved significantly over time. Simply stated, the most significant aspect of the current organization is that it places both intelligence and detention operations under the command of a single entity, designated Joint Task Force GTMO (JTF-GTMO), whereas the original organization had separate chains of command for intelligence and detention operations. This new structure has permitted greater cooperation among the military intelligence (MI) units that are responsible for interrogation and the military police (MP) units

that are responsible for detention. In essence, this organization recognizes the primacy of the human intelligence collection mission at GTMO in support of the Global War on Terror, by ensuring a unity of effort between MI and MP units. This unity of effort between MI and MP units has been the subject of recent controversy, in light of MP participation in many of the abuses perpetrated at Abu Ghraib prison in Iraq. The details of the respective MI and MP roles (as well as a discussion of what those roles should be) are addressed elsewhere in the report; the purpose of the discussion here is merely to trace the evolution of the command organization at GTMO.

(U) Just prior to the arrival of the first detainees on January 11, 2002, U.S. Southern Command (SOUTHCOM) established Joint Task Force 160 (JTF-160) to be responsible for the security and detention of the detainees arriving at GTMO. This joint task force was essentially an MP organization. BGen Michael Lehnert, USMC, originally commanded this task force, but was quickly succeeded by BG Rick Baccus, who took command on March 28, 2002.

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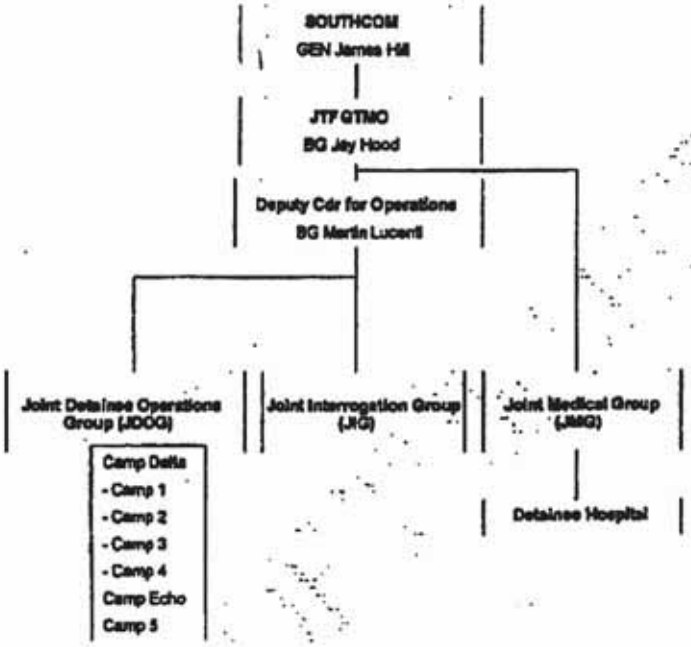
(U) The existence of two, separate joint task forces created a bifurcated chain of command that impeded cooperation between the MI units in JTF-170 and the MP units in JTF-160 and did not establish priorities for their competing interrogation and detention missions. Two external reviews of intelligence operations at GTMO, the Herrington GTMO Report in March 2002 and the Custer Report in September 2002, were critical of this command structure. COL Herrington's Report, which was provided to MG Dunlavey as well as the Acting Commander of SOUTHCOM, MG Gary Speer, USA, was particularly pointed in its remarks. For example, the report called it a "basic principle of human intelligence exploitation" that the intelligence function must be supported by the security function, and observed that in GTMO, "the security mission is sometimes the tail wagging the intelligence dog."

(U) In an effort to address this situation and improve the intelligence collection effort at GTMO, the SOUTHCOM Commander, General James T. Hill, USA, placed MG Dunlavey in charge of both JTF-170 and JTF-160 in October 2002. Shortly thereafter, on November 4, 2002, the two joint task

JTF-GTMO Organization (U)



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forces were combined and renamed Joint Task Force GTMO. MG Geoffrey Miller, USA was appointed to lead this new joint task force. MG Miller was succeeded by BG Jay Hood on March 24, 2004, when MG Miller was transferred to Iraq to be Deputy Commander for Detainee Operations, Multinational Force-Iraq. The structure of JTF-GTMO and its current leadership is depicted in the figure above.

(U) As illustrated above, both the Joint Interrogation Group (JIG), which is responsible for intelligence collection, and the Joint Detention Operations Group (JDOG), which is responsible for detainee security and handling, report to the JTF-GTMO Commander, who in turn reports to SOUTHCOM. The JDOG is composed of six MP companies. The centerpiece of the JIG is the Interrogation Control Element (ICE), which coordinates and supervises the efforts of MI interrogators, analysts and linguists (as well as civilian contract personnel who augment the military interrogation effort), in support of human intelligence exploitation. From the initiation of interrogation and detention

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operations at GTMO to the present, MPs have outnumbered the detainees by a relatively constant ratio of approximately 1.5 to 1. MI and contract interrogators, on the other hand, have been in more limited supply, with each interrogator assigned to approximately 20 to 25 detainees at any one time.

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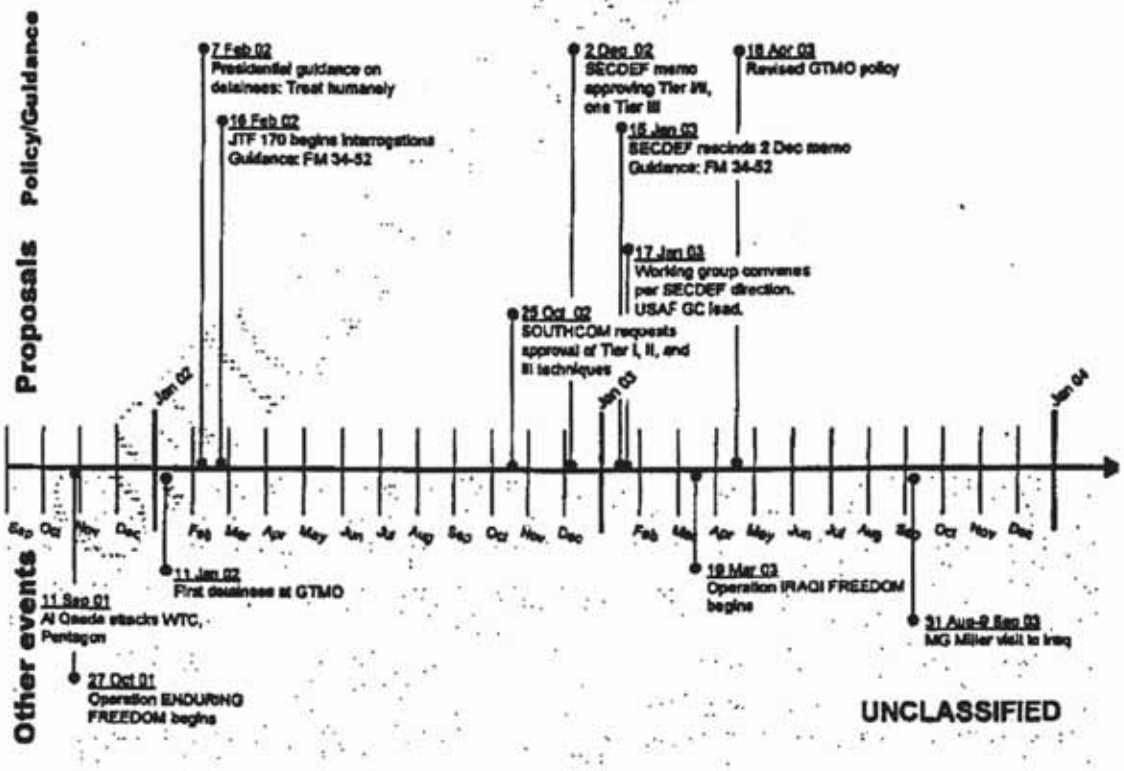
GTMO Counter-Resistance Policy Development (U)



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Evolution of Approved Interrogation Techniques at GTMO (U)

(U) The interrogation techniques approved for use at GTMO have evolved significantly over time, and been the subject of much study and debate within the senior echelons of both the uniformed military and the Office of the Secretary of Defense. The highlights of this evolution are depicted in the figure on the previous page, and described briefly below. This is followed by a detailed, chronological examination of the major events and points of debate that have shaped the development of approved interrogation techniques at GTMO.

(U) When JTF-170 was established at GTMO on February 16, 2002, the military interrogators assigned to the task force relied upon existing interrogation doctrine, found in Army Field Manual 34-52, *Intelligence Interrogation*, when questioning detainees. Over the next several months, however, it became clear that many of the detainees were familiar with these techniques and had been trained to resist them. This eventually led SOUTHCOM on October 25, 2002, to seek Secretary of Defense approval to use additional techniques beyond those specifically listed in FM 34-52, or what we will call "counter resistance" techniques.

(U) On December 2, 2002, the Secretary of Defense approved a limited number of the counter resistance techniques that SOUTHCOM had requested, but rescinded his approval on January 15, 2003. The Secretary then directed the DoD General Counsel to form a working group. The DoD General Counsel requested that the General Council of the Department of the Air Force, Mary Walker, chair the group, to assess the legal, policy and operational issues relating to interrogation of detainees in the Global War on Terror and to make recommendations on the use of specific interrogation techniques.

(U) This working group issued its final report on April 4, 2003, and recommended 35 interrogation techniques to be used against "unlawful combatants outside the United States" subject to limitations described later in this section. In an April 16, 2003 memorandum, however, the Secretary of Defense accepted for use in GTMO only 24 of the proposed techniques,

which included the 17 techniques already found in FM 34-52. This memorandum has remained in effect to the present.

(U) The Initial Development of "Counter Resistance" Techniques

(U) Within the first few months of interrogation operations at GTMO, it became apparent that many of the detainees were skilled at resisting the 17 interrogation techniques enumerated in FM 34-52, and likely had been trained on U.S. interrogation methods. COL John Custer, USA, who led a Joint Staff team from August 14 to September 10, 2002 in reviewing intelligence collection operations at GTMO, reflected this concern in his final report, which observed that "JTF-170 has experienced limited success in extracting information from many of the detainees at GTMO," because "traditional [interrogation] techniques have proven themselves to be ineffective in many cases." The report noted that "[m]any of the detainees have undoubtedly received vigorous resistance to interrogation training," and that the detainees appeared to understand the Geneva Convention rules, as well as the traditional "US rules of engagement (limitations) regarding interrogations."

(U) Members of al Qaeda, in particular, were likely to be schooled in resistance to interrogation. British forces, for example, had recovered an al Qaeda training manual from the apartment of an al Qaeda operative in Manchester, England on May 10, 2000. Now commonly referred to as the Manchester Document, this manual contained detailed information on interrogation resistance, including instructions that an al Qaeda "brother" must:

- (U) "plan for his interrogation by discussing it with his commander"
- (U) maintain his cover story by "saying only the things that you agreed upon with your commander," and "executing the security plan that was agreed upon prior to execution of the operation and not deviating from it"
- (U) "pretend that the pain is severe by bending over and crying loudly" in the event that an interrogator applies physical coercion
- (U) "disobey the interrogator's orders as much as he can by raising his voice [and] cursing the interrogator back"
- (U) "disobey the interrogator's orders and take his time in executing them"
- (U) "proudly take a firm and opposing position against the enemy and not obey the orders"
- (U) "refuse to supply any information and deny his knowledge of the subject in question"
- (U) "not disclose any information, no matter how insignificant he might think it is, in order not to open a door that cannot be closed until he incriminates himself or exposes his Organization"

- (U) "remember the basic rule: even a little disclosure of information would increase your amount of torture and result in additional information for the questioning apparatus," and
- (U) remain "patient, steadfast, and silent about any information whatsoever"

(U) Another difficulty that hampered interrogations at GTMO was that interrogators did not have a clear understanding of the legal limits under which they were operating. While they did have FM 34-52 as a guide, this field manual was intended to guide interrogations of EPWs and therefore arguably was designed for a more restrictive environment than the one at GTMO. The danger, then, was twofold. On the one hand, interrogators might believe that their hands were essentially tied by FM 34-52, and adopt an overly conservative approach that would fail to extract intelligence from resistant detainees. On the other hand, interrogators who believed that they were unconstrained by the dictates of FM 34-52 might adopt overly aggressive strategies that could lead to detainee abuse. Again, the Custer Report acknowledged this problem by observing that interrogators did not "have a clear, delineated understanding of all the tools that are at their disposal when interrogating detainees." COL Custer recommended that SOUTHCOM "produce a 'White Paper' on 'Metrics for Interrogators' delineating what tools and measures are available and permissible to leverage control over the detainees while providing acceptable guidelines for questioning." Such a paper, COL Custer suggested, "could be used as a 'rule of thumb' or 'Rules of Engagement' eliminating interrogator confusion."

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[redacted]

(U) [redacted]

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(U) JTF-170's Request for Counter Resistance Techniques

(S) The concerns described above led the JTF-170 Commander, MG Michael Dunlavey, to forward a request on October 11, 2002 to SOUTHCOM, seeking approval of 19 interrogation techniques not explicitly described in FM 34-52. [redacted]

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[redacted] The October 11, 2002 memorandum was declassified and released to the public on June 22, 2004. In the memorandum, MG Dunlavey noted that although the techniques then employed by interrogators in the Global War on Terror had "resulted in significant actionable intelligence, the same methods had become less effective over time."

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(U) MG Dunlavey's request divided these additional, counter resistance interrogation techniques into three categories, based upon the perceived severity of the techniques. Category I techniques could be employed by an interrogator as part of a normal interrogation plan, vetted by the interrogator's immediate supervisors. Each use of Category II techniques would require the approval of the Interrogation Section Officer in Charge (OIC). Category III techniques, the most aggressive, could only be used after obtaining approval from the JTF-170 Commander. Each use of Category III techniques would also require a legal review by the Command Judge Advocate and notification to the SOUTHCOM Commander. All of these techniques are listed in the figure on the following page.

OFFICE OF THE SECRETARY OF DEFENSE
COPY NUMBER ONE

JTF-170 Proposed Counter Resistance Techniques - October 11, 2002 (U)

(U) Category I techniques

- (U) Yelling at the detainee, but expressly excluding yelling that would cause pain or damage the detainee's hearing
- (U) The use of multiple interrogators
- (U) Deceiving the detainee by having the interrogator present a false identity. The assumption of a false identity would be intended to paint the interrogator as either a citizen of a foreign nation, or as an interrogator from a country with a reputation for harsh treatment of detainees

(U) Category II techniques

- (U) The use of stress positions (like standing), for a maximum of four hours
- (U) The use of falsified documents or reports
- (U) The use of an isolation facility for up to 30 days, with any extensions beyond the 30 days requiring approval from the JTF-170 Commander
- (U) Interrogation of the detainee in an environment other than the standard interrogation booth
- (U) Deprivation of light and auditory stimuli
- (U) The use of a hood placed over the detainee's head during transportation and questioning (the hood should not restrict breathing in any way and the detainee should be under direct observation when hooded)
- (U) The use of 20-hour interrogations
- (U) The removal of all comfort items (including religious items)
- (U) Switching the detainee's diet from hot meals to Meals, Ready-to-Eat (American military field rations)
- (U) Removal of clothing
- (U) Forced grooming (shaving of facial hair, *etc.*)
- (U) The use of a detainee's individual phobias (such as fear of dogs) to induce stress

(U) Category III techniques

- (U) The use of scenarios designed to convince the detainee that death or severely painful consequences are imminent for him and/or his family
- (U) Exposure to cold weather or water (with appropriate medical monitoring)
- (U) The use of a wet towel and dripping water to induce the misperception of suffocation
- (U) The use of mild, non-injurious physical contact such as grabbing, poking in the chest with the finger, and light pushing

(U) MG Dunlavey indicated that the Category III techniques were "required for a very small percentage of the most uncooperative detainees," which he estimated to be "less than three percent" of those held at GTMO. Under the proposed policy, any of the most aggressive techniques that would "require more than light grabbing, poking or pushing" were to "be administered only by individuals specifically trained in their safe application."

(U) The JTF-170 Staff Judge Advocate, [redacted] wrote an extensive legal review of the interrogation and counter resistance policy proposed by MG Dunlavey. This legal review was declassified and released to the public by the Office of the Secretary of Defense on June 22, 2004. As a result of her legal review, which examined the proposed policy in light of domestic criminal law, the Uniform Code of Military Justice, treaties, customary international law, and decisions of the European Court of Human Rights, [redacted] recommended that Category I techniques be approved for general use. She recommended that whenever "interrogations involving Category II and III methods" were planned, however, that the interrogations "undergo a legal review prior to their commencement."

(U) The SOUTHCOM Commander, GEN Hill, forwarded JTF-170's request for approval of counter resistance techniques to the Chairman of the Joint Chiefs of Staff on October 25, 2002. GEN Hill noted that JTF-170 had "yielded critical intelligence support for forces . . . prosecuting the War on Terrorism," but that "despite our best efforts, some detainees have tenaciously resisted our current interrogation methods." He stated that he believed "the first two categories of techniques are legal and humane," but was uncertain whether all the techniques in the third category were "legal under U.S. law, given the absence of judicial interpretation of the U.S. torture statute." GEN Hill was particularly troubled by the use of implied or expressed threats of death against the detainee or his family. He requested, therefore, that the Department of Defense and the Department of Justice review the third category of techniques. Finally, GEN Hill urged quick action on JTF-170's request for counter resistance techniques in view of the pressing need for actionable intelligence.

(U) On October 29, 2002, the Director of the Joint Staff, then-Lieutenant General John P. Abizaid, instructed the J-5 section of the Joint Staff, the Strategic Plans and Policy Directorate, to "take the lead in pulling this together quickly." On October 30, the J-5 section circulated MG Dunlavey's proposed techniques to the Joint Staff Office of Legal Counsel, J-2, J-3 and the service planners for comment, establishing a deadline of

November 7.

(U) The Debate Surrounding the Request for Counter Resistance Techniques

(S/NF) [redacted]

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OFFICE OF THE SECRETARY OF DEFENSE
COPY NUMBER ONE

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had revolted against the four hijackers before they could maneuver the plane into either the White House or the U.S. Capitol. In August 2001, Kahtani had been refused entry by a suspicious immigration inspector at Florida's Orlando International Airport, where the 9/11 lead hijacker, Mohamed Atta, was waiting for him. Thus, Kahtani is commonly referred to as the "20th hijacker." (We note for clarification that some news reports have also referred to Zacarias Moussaoui, who was arrested in connection with the 9/11 attacks, as the "20th hijacker"; however, it is more accurate to use this description with Kahtani.)

(S/NF) Kahtani [redacted]

(b)(1)

(U) The Interrogation Plan for Mohamed al Kahtani

(U) As discussion of JTF-170's request progressed, intelligence gathered from a variety of sources indicated that an al Qaeda operation against targets in the United States was likely or even imminent. Intelligence also indicated that Mohamed al Kahtani, a Saudi citizen and al Qaeda operative held at GTMO, possessed information that could facilitate United States action against that threat. As the 9/11 Commission Report observed, Kahtani was the operative who likely would have rounded out the team that hijacked United Airlines Flight 93, which crashed into an empty field in Shanksville, PA after the passengers

(S/NF) [redacted]

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- ~~(S/NF)~~ [redacted]
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- [redacted]

(U) Secretary of Defense Approval of a Limited Number of Counter Resistance Techniques

(U) [redacted]

(b)(5)

[redacted] (b)(5) In an action memorandum dated November 27, 2002, Mr. Haynes recommended to the Secretary of Defense that he approve for use all of the Category I and II techniques, but only the last of the Category III techniques, authorizing mild, non-injurious physical contact such as grabbing, poking in the chest with a finger, and light pushing. This recommendation therefore excluded the most aggressive Category III techniques - use of scenarios designed to convince the detainee that death or severely painful consequences are imminent for him and/or his family, exposure to cold weather or water, and the use of a wet towel and dripping water to induce the misperception of suffocation - that had particularly concerned both GEN Hill and representatives on the Joint Staff. Mr. Haynes noted in his forwarding memorandum that "[w]hile all Category III techniques may be legally available, we believe that, as a matter of policy, a blanket approval of Category III techniques is not warranted at this time." This reflected Mr. Haynes' view that "[o]ur Armed Forces are trained to a standard of interrogation that reflects a tradition of restraint."

(U) The Secretary of Defense accepted this recommendation on December 2, 2002 by noting his approval on Mr. Haynes' November 27, 2002 memorandum. Below his signature, the Secretary questioned why standing (which was listed as an

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COPY NUMBER ONE

example under Category II stress positions) would be limited to 4 hours when he "stand[s] for 8-10 hours a day." This memorandum, with the Secretary's approval, was declassified and released to the public on June 22, 2004. For ease of reference, the counter resistance techniques approved by the Secretary on December 2, 2002 are listed in the figure below.

December 2, 2002 Approved Counter Resistance Interrogation Techniques (U)

(U) Category I:

1. (U) Yelling
2. (U) Use of multiple interrogators
3. (U) Deceiving the detainee by having the interrogator present a false identity

(U) Category II:

4. (U) Stress positions (like standing), for a maximum of four hours
5. (U) The use of falsified documents or reports
6. (U) Isolation for up to 30 days, with any extensions beyond the 30 days requiring approval from the JTF-GTMO Commander
7. (U) Interrogation of the detainee in an environment other than the standard interrogation booth
8. (U) Deprivation of light and auditory stimuli
9. (U) The use of a hood placed over the detainee's head during transportation and questioning
10. (U) The use of 20-hour interrogations
11. (U) The removal of all comfort items (including religious items)
12. (U) Switching the detainee's diet from hot meals to Meals, Ready-to-Eat (American military field rations)
13. (U) Removal of clothing
14. (U) Forced grooming (shaving of facial hair, *etc.*)
15. (U) The use of a detainee's individual phobias (such as fear of dogs) to induce stress

(U) Category III:

16. (U) The use of mild, non-injurious physical contact such as grabbing, poking in the chest with the finger, and light pushing

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(U) We note for clarification purposes that the Independent Panel apparently was under the impression that the above techniques could only be employed with advance notice to the Secretary and his personal approval, which the Panel believed was "given in only two cases." The December 2, 2002 memorandum, however, approved these techniques for general use and did not require that the Secretary receive advance notice or grant specific approval before the techniques could be employed. Nevertheless, as a practical matter, the Independent Panel was correct that the use of Category II and III techniques was largely limited to Kahtani and one other high-value detainee, as discussed later in this section.

[redacted]

(b)(5)

(U) Rescission of the Counter Resistance Techniques

(U) Shortly after the December 2, 2002 approval of these counter resistance techniques, reservations expressed by the General Council of the Department of the Navy, Alberto J. Mora, led the Secretary of Defense on January 15, 2003 to rescind his approval of all Category II techniques and the one Category III technique (mild, non-injurious physical contact), leaving only Category I techniques in effect.

(U) [redacted]

(U) Concerns Raised by the General Counsel of the Department of the Navy

(b)(5) (U) [redacted]

OFFICE OF THE SECRETARY OF DEFENSE

(b)(5)

[redacted]

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OFFICE OF THE SECRETARY OF DEFENSE
COPY NUMBER ONE

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In response, the Secretary on January 12, 2003 orally rescinded his December 2, 2002 memorandum, and then issued a January 15, 2003 memorandum to the SOUTHCOM Commander, GEN Hill, officially rescinding his approval of the Category II and one Category III techniques described above. As a practical matter, this decision limited the approved techniques at GTMO to the Category I techniques (yelling, the use of multiple interrogators, and deceiving the detainee by having the interrogator present a false identity) in addition to the techniques and guidance found in FM 34-52.

(U) The Secretary did allow, however, that if the SOUTHCOM Commander determined that "particular techniques in either of the two categories are warranted in an individual case, you should forward that request to me," and that such a request "should include a thorough justification for the employment of those techniques and a detailed plan for the use of such techniques." The Secretary also reiterated the underlying imperative, established by the President, that "[i]n all

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interrogations, you should continue the humane treatment of detainees, regardless of the type of interrogation technique employed." Finally, the Secretary advised GEN Hill that he had set in motion "a study to be completed within 15 days," committing himself to "provide further guidance." This January 15, 2003 memorandum, originally classified as secret, not releasable to foreign nationals, was declassified and released to the public on June 22, 2004.

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(U) Effect of the Secretary's Rescission on the Interrogation of Kahtani

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(U) The Development of Current Interrogation Policy

(U) On January 15, 2003, the same day that he officially rescinded the Category II and one Category III techniques, the Secretary of Defense by memorandum directed the General Counsel of the Department of Defense, Mr. Haynes, to establish a working group to assess the legal, policy and operational issues relating to the interrogation of detainees in the Global War on Terror held by United States forces outside the United States territory. The Secretary specified that the working group should consist of experts from the Office of General Counsel, the Office of the Undersecretary of Defense for Policy, the military services and the Joint Staff. The working group was tasked to make "recommendations for employment of particular interrogation techniques by DoD interrogators" within 15 days. The Secretary also directed that the working group address the legal issues relevant to the interrogation of detainees and the policy considerations related to the use of interrogation techniques, including the recommended techniques' "contribution to intelligence collection," their "effect on the treatment of captured U.S. personnel," and their impact on potential detainee prosecutions. The tasking also called for an analysis of the "historical role of U.S. armed forces in conducting investigations." This memorandum, originally classified as secret, not releasable to foreign nationals, was declassified and released to the public on June 22, 2004.

(U) In response to the Secretary's tasking, Mr. Haynes on January 17, 2003 requested that the General Counsel of the Department of the Air Force, Mary Walker, chair an interdepartmental working group to prepare an assessment and recommendations regarding the legal, policy, and operational issues relating to the interrogation of detainees held by the U.S. Armed Forces in the Global War on Terror. On the same date, Ms. Walker issued a memo requesting the participation of the Under Secretary of Defense for Policy, the General Counsels of the Army and Navy, the Director of the Joint Staff, the Director of the Defense Intelligence Agency (DIA), the Counsel for the Commandant of the Marine Corps, the Judge Advocates General of the Army, Navy, Air Force, and the Staff Judge Advocate to the Commandant of the Marine Corps in the "Detainee Interrogation Working Group" (hereinafter "Working Group").

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(U) Initial Discussions of the Working Group

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Working Group Draft Report - Techniques 20-39 (U)

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(U) Military Department Judge Advocates General Objections to the Working Group's Draft Report

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(U) Secretary of Defense Approval of a Limited Number of Working Group Techniques

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(U) Ms. Walker on April 4, 2003 presented to Mr. Haynes the final version of the Working Group Report on Detainee Interrogations in the Global War on Terrorism: Assessment of Legal, Historical, Policy and Operational Considerations.

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The final report of April 4, 2003 was not provided to the Working Group participants, principals or action officers. In fact, the majority of the Working Group participants first saw a copy of the final April 4, 2003 report in June 2004 when it was declassified and released to the public. According to Ms. Walker, her office was instructed by Daniel Dell'Orto, Principal Deputy General Counsel of the Department of Defense, not to provide copies of the final report to the Working Group

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participants. According to Mr. Dell'Orto, he directed that the final report not be distributed because he was concerned that "some might use it in settings other than Guantanamo and thereby cause confusion," particularly since it contained discussion of techniques that had been purposely rejected by the Secretary of Defense on March 28, 2003.

~~(SANF)~~ On April 5, 2003, the Chairman of the Joint Chiefs of Staff, Gen Myers, forwarded to the Secretary of Defense an action memorandum, which enclosed a separate, proposed memorandum on interrogation techniques to the SOUTHCOM Commander for the Secretary's signature. This proposed memorandum to the SOUTHCOM Commander contained 24 interrogation techniques. In his action memorandum, General Myers noted that he was sending the memorandum to the Secretary as a follow-up to "our discussion on 31 March regarding the Working Group Report on Detainee Interrogations in the Global War on Terrorism." On April 8, 2003, Mr. Haynes concurred with Gen Myers' recommendation, and on April 15, 2003, Douglas Feith, the Under Secretary of Defense for Policy, also concurred.

(U) The Secretary of Defense on April 16, 2003 approved the memorandum to the SOUTHCOM Commander. Entitled "Counter-Resistance Techniques in the War on Terrorism," the memorandum noted in its first sentence that the Secretary had "considered the report of the Working Group that I directed be established on January 15, 2003." The memorandum contained 24 approved interrogation techniques that were "limited to interrogations of unlawful combatants held at Guantanamo Bay, Cuba." (We note for clarification purposes that the Mikolashek Report indicated that this memorandum approved 26 specific techniques for use at GTMO; in fact, the memorandum contains only 24 techniques). Interrogations at GTMO continue to be governed by this memorandum to this day. The memorandum, originally classified as secret, not releasable to foreign nationals, was declassified and released to the public on June 22, 2004. The 24 approved techniques are listed in the figure on the following pages, as described verbatim in the memorandum.

April 16, 2003 Approved GTMO Interrogation Techniques (U)

1. (U) Direct: Asking straightforward questions.
2. (U) Incentive/Removal of Incentive: Providing a reward or removing a privilege, above and beyond those that are required by the Geneva Convention, from detainees. [Caution: Other nations believe that detainees are entitled to POW protections may consider that provision and retention of religious items (*e.g.*, the Koran) are protected under international law (see, Geneva III, Article 34). Although the provisions of the Geneva Convention are not applicable to the interrogation of unlawful combatants, consideration should be given to these views prior to application of the technique.]
3. (U) Emotional Love: Playing on the love a detainee has for an individual or group.
4. (U) Emotional Hate: Playing on the hatred a detainee has for an individual or group.
5. (U) Fear Up Harsh: Significantly increasing the fear level in a detainee.
6. (U) Fear Up Mild: Moderately increasing the fear level in a detainee.
7. (U) Reduced Fear: Reducing the fear level in a detainee.
8. (U) Pride and Ego Up. Boosting the ego of a detainee.
9. (U) Pride and Ego Down. Attacking or insulting the ego of a detainee, not beyond the limits that would apply to a POW. [Caution: Article 17 of Geneva III provides, "Prisoners of war who refuse to answer may not be threatened, insulted, or exposed to any unpleasant or disadvantageous treatment of any kind." Other nations that believe that detainees are entitled to POW protections may consider this technique inconsistent with the provisions of Geneva. Although the provisions of the Geneva Convention are not applicable to the interrogation of unlawful combatants, consideration should be given to these views prior to application of the technique.]
10. (U) Futility: Invoking the feeling of futility of a detainee.
11. (U) We Know All: Convincing the detainee that the interrogator knows the answers to questions he asks of the detainee.
12. (U) Establish Your Identity: Convincing the detainee that the interrogator has mistaken the detainee for someone else.
13. (U) Repetition Approach: Continuously repeating the same question to the detainee within interrogation periods of normal duration.
14. (U) File and Dossier: Convincing detainee that that the interrogator has a damning and

inaccurate file, which must be fixed.

15. (U) Mutt and Jeff: A team consisting of a friendly and a harsh interrogator. The harsh interrogator might employ the Pride and Ego Down technique. [Caution: Other nations that believe that POW protections apply to detainees may view this technique as inconsistent with Geneva III, Article 13 which provides that POWs must be protected against acts of intimidation. Although the provisions of the Geneva are not applicable to the interrogation of unlawful combatants, consideration should be given to these views prior to application of the technique.]
16. (U) Rapid Fire: Questioning in rapid succession without allowing detainee to answer.
17. (U) Silence: Staring at the detainee to encourage discomfort.
18. (U) Change of Scenery Up: Removing the detainee from the standard interrogation setting (generally to a location more pleasant, but no worse).
19. (U) Change of Scenery Down: Removing the detainee from the standard interrogation setting and placing him in a setting that may be less comfortable; would not constitute a substantial change in environmental quality.
20. (U) Dietary Manipulation: Changing the diet of a detainee; no intended deprivation of food or water; no adverse medical or cultural effect and without intent to deprive subject of food or water, *e.g.*, hot rations to MREs.
21. (U) Environmental Manipulation: Altering the environment to create moderate discomfort (*e.g.*, adjusting temperature or introducing an unpleasant smell). Conditions would not be such that they would injure the detainee. Detainee would be accompanied by interrogator at all times. [Caution: Based on court cases in other countries, some nations may view application of this technique in certain circumstances to be inhumane. Consideration of these views should be given prior to use of this technique.]
22. (U) Sleep Adjustment: Adjusting the sleeping times of the detainee (*e.g.*, reversing sleep cycles from night to day.) This technique is NOT sleep deprivation.
23. (U) False Flag: Convincing the detainee that individuals from a country other than the United States are interrogating him.
24. (U) Isolation: Isolating the detainee from other detainees while still complying with basic standards of treatment. [Caution: The use of isolation as an interrogation technique requires detailed implementation instructions, including specific guidelines regarding the length of isolation, medical and psychological review, and approval for extensions of the length of isolation by the appropriate level in the chain of command. This technique is not

known to have been generally used for interrogation purposes for longer than 30 days. Those nations that believe detainees are subject to POW protections may view use of this technique as inconsistent with the requirements of Geneva III, Article 13 which provides that POWs must be protected against acts of intimidation; Article 14 which provides that POWs are entitled to respect for their person; Article 34 which prohibits coercion and Article 126 which ensures access and basic standards of treatment. Although the provisions of the Geneva Convention are not applicable to the interrogation of unlawful combatants, consideration should be given to these views prior to application of the technique.]

(U) The Secretary's memorandum specified that four of these techniques - incentive/removal of incentive, pride and ego down, Mutt and Jeff, and isolation - could only be used if the SOUTHCOM Commander specifically determined that military necessity required their use and notified the Secretary in advance. The Secretary also stated all of the 24 techniques must be employed with the following safeguards:

- (U) Limited to use only at strategic interrogation facilities;
- (U) There is a good basis to believe that the detainee possesses critical intelligence;
- (U) The detainee is medically and operationally evaluated as suitable (considering all techniques to be used in combination);
- (U) Interrogators are specifically trained for the technique(s);
- (U) A specific interrogation plan (including reasonable safeguards, limits on duration, intervals between applications, termination criteria and the presence or availability of qualified medical personnel) has been developed;
- (U) There is appropriate supervision; and
- (U) There is appropriate specified senior approval for use with any specific detainee (after considering the foregoing and receiving legal advice).

These safeguards, which the Secretary mandated apply to all approved techniques, were virtually identical to the safeguards that the Working Group Report had recommended for only those techniques that the Working Group had identified as "exceptional."

(U) The Secretary's memorandum also reiterated that "US armed forces shall continue to treat detainees humanely and, to the extent appropriate and consistent with military necessity, in a manner consistent with the principles of the Geneva Conventions." Finally, the Secretary left open the possibility that other interrogation techniques could be approved, noting that if, in the SOUTHCOM Commander's view, he required additional interrogation techniques for a particular detainee, he should provide the Secretary, via the Chairman of the Joint Chiefs of Staff, "a written

request describing the proposed technique, recommended safeguards, and the rationale for applying it with an identified detainee.* For ease of reference, the 24 techniques are listed in summary form in the figure below, with those techniques requiring advance notice to the Secretary in bold.

April 16, 2003 Approved Interrogation Techniques (U)
(Techniques requiring advance notice to Secretary of Defense in bold)

1. (U) Direct
2. (U) **Incentive/removal of incentive**
3. (U) Emotional love
4. (U) Emotional hate
5. (U) Fear up harsh
6. (U) Fear up mild
7. (U) Reduced fear
8. (U) Pride and ego up
9. (U) **Pride and ego down**
10. (U) Futility
11. (U) We Know All
12. (U) Establish your identity
13. (U) Repetition approach
14. (U) File and dossier
15. (U) **Mutt and Jeff**
16. (U) Rapid fire
17. (U) Silence
18. (U) Change of scenery up
19. (U) Change of scenery down
20. (U) Dietary manipulation
21. (U) Environmental manipulation
22. (U) Sleep adjustment
23. (U) **False flag**
24. (U) **Isolation**

(U) These 24 techniques were significantly less aggressive than the techniques that the Secretary approved on December 2, 2002. The first 19 of the techniques were identical to the 17 specifically enumerated in FM 34-52, except that the policy added one technique (Mutt and Jeff) that was in the 1987 version of FM 34-52 but is not found in the current version, and the policy also listed Change of Scenery Up and Change of Scenery Down as separate techniques, rather than using the more general Change of Scene technique listed in FM 34-52. In two cases (incentive/removal of incentive, and pride and ego down), the policy was actually more restrictive that FM 34-52, as interrogators could not use these techniques without advance notice to the Secretary.

(U) Of the remaining five techniques, (dietary manipulation, environmental manipulation, sleep adjustment, false flag, and isolation), only one (isolation) was identified by the Working Group as "exceptional." The April 16, 2003 policy contained none of the most aggressive Category II techniques - such as stress positions, 20-hour interrogations, removal of clothing, or use of individual phobias (such as fear of dogs) to induce stress - contained in the December 2, 2002 policy, nor the one Category III technique (mild, non-injurious physical contact). Finally, as described above, the current policy included a number of safeguards, which were not specifically enumerated in the December 2, 2002 policy.

(U) Conclusion

(U) While the foregoing discussion lays out a detailed and often complicated debate surrounding the evolution of approved interrogation techniques for GTMO, several relatively simple themes emerge. First, the push for interrogation techniques beyond those found in FM 34-52 came from GTMO itself, not from the Office of the Secretary of Defense or the Joint Chiefs of Staff. The GTMO leadership and interrogators on the ground felt that they needed counter resistance techniques in order to obtain intelligence from high value detainees who had been trained to resist standard interrogations. Moreover, based on their experience with the counter resistance techniques - especially Kahtani's interrogation - the GTMO leadership felt that such techniques were essential to mission success.

(U) Second, when formulating GTMO interrogation policy, the Office of the Secretary of Defense received meaningful input from military service lawyers. This was most evident in the establishment of the Working Group in January 2003 and the ensuing debate among the Working Group representatives that led to the April 16, 2003 interrogation policy. While many of the representatives levied strong objections to the OLC memorandum - objections that turned out to be entirely justified, especially in light of the White House's and DOJ's June 2004 characterization of the August 1, 2002 memorandum which formed

the basis of the OLC memorandum as "overbroad" and "unnecessary" - their specific concerns (or at the very least, the spirit of their concerns) ultimately carried the day when the Secretary dramatically cut back on the Working Group's recommendations and accepted only 24 interrogation techniques for GTMO on April 16, 2003.

(U) Similarly, when JTF-170 and SOUTHCOM initially requested counter resistance techniques in October 2002, the Joint Staff solicited input from all the services during the lead-up to the December 2, 2002 policy. While all of the services in November 2002 expressed serious reservations about approving these techniques without further legal and policy review, these views undoubtedly played a role in the Secretary's ultimate decision on December 2, 2002 to reject the three most aggressive Category III techniques. It is true that, in light of their objections, the respective services were uncomfortable with the Secretary's adoption of a subset of the counter resistance techniques, but this decision was driven by the perceived urgency at the time of gaining actionable intelligence from particularly resistant detainees (principally Kahtani) that could be used to thwart possible attacks on the United States.

(U) Third, when considering requests for additional interrogation techniques beyond those in FM 34-52, the Office of the Secretary of Defense was a moderating force that cut back on the number and types of techniques under consideration. Again, this was most evident in the promulgation of the April 16, 2003 policy, which included only 24 of the 35 techniques recommended by the Working Group, and included none of the most aggressive techniques. This was also true to a lesser extent in the December 2, 2002 policy, which included only one of the requested Category III techniques. This policy netted valuable intelligence, especially from the 20th hijacker, Kahtani, and yet the Secretary took a relatively cautious approach by suspending this policy on January 15, 2003, largely in response to Mr. Mora's concerns, and establishing the Working Group.

(U) Fourth, the April 16, 2003 interrogation policy for GTMO (which is still in effect) was a conservative policy that was closely tied to FM 34-52 and contained none of the interrogation techniques - such as stress positions, removal of clothing, or the use of dogs to induce stress - that previous investigations have identified as possibly leading to detainee abuse. As noted above, the first 19 techniques in the current policy were virtually identical to the techniques found in FM 34-52. Of the remaining techniques, dietary manipulation simply consisted of feeding detainees military field rations instead of hot meals; sleep adjustment did not entail depriving detainees of sleep, but rather adjusting their sleep cycles from night to day; and false flag involved the sort of nonviolent trickery or ruse that is inherent in many of the FM 34-52 techniques. The last two techniques, environmental manipulation and isolation, were the most aggressive of the 24, but were to be implemented only with appropriate safeguards.

(U) Finally, in our view, the unifying theme among all participants in the debate surrounding interrogation policy for GTMO - from the Secretary of Defense, to the Joint Staff, to the various military service lawyers, to the Working Group, to the leaders at SOUTHCOM and GTMO - was the sincere desire to do what was right for the United States under exceedingly difficult circumstances. Much of the debate on interrogation policy took place when the memory of 9/11 was much fresher than it is today, and many of the participants felt that the United States would be attacked again, and that the detainees at GTMO had information that could prevent such attacks. While it is impossible to quantify how many American lives have been saved by the intelligence gathered at GTMO, it is undoubtedly true that lives have been saved. As the Independent Panel wrote, "[t]he interrogation of al Qaeda members held at Guantanamo has yielded valuable information used to disrupt and preempt terrorist planning and activities," and in fact "[m]uch of the 9/11 Commission's report on the planning and execution of the attacks on the World Trade Center and Pentagon came from interrogation of detainees." The interrogation policy development process, we think, reflected the honest efforts of our country's military and civilian leaders to come up with the right solution - one that would both protect our nation and our values.

Interrogation Techniques Actually Employed (U)

(U) The above discussion sets the stage for an analysis of interrogation techniques actually employed at GTMO. This section begins with a short description of our investigation, followed by a discussion of some of the specific policies and procedures that have developed at GTMO into what we describe as the GTMO "model." Next, we analyze the interrogation techniques actually employed at GTMO (and compare them to those that were approved for use), and conclude with a discussion of detainee abuse.

(U) Investigation Procedure

(U) Vice Admiral Church in early May 2004 led a review into detainee treatment at GTMO (and at the Naval Consolidated Brig in Charleston, SC), and briefed the Secretary of Defense with his findings on May 11, 2004. The review team completed more than 100 interviews, including 43 sworn statements from military intelligence and military police leadership, interrogators, interpreters, and military police guards. For purposes of the current investigation, we have attempted to leverage the work done in the previous review where possible, although the previous review looked more broadly at compliance with DoD orders in general and therefore did not focus on interrogation techniques with the detail found in the current investigation.

(U) For our current investigation, we collected information from a variety of sources. First, a five-person team traveled to GTMO from June 21 to 25. Upon arrival, the team received a briefing from the current JIG Commander, Mr. Esteban Rodrigues. The team conducted a number of interviews with military intelligence and military police leadership, interrogators, military police guards, intelligence analysts, interpreters, linguists, military working dog handlers, staff judge advocates, and medical personnel. These interviews were then turned into sworn statements. The team also reviewed and collected a large volume of various documentation during the on-site visit. Second, we requested and received GTMO-related materials from throughout DoD, many of which were used to construct the detailed chronology of approved interrogation techniques described above. SOUTHCOM, in particular, proved especially helpful in gathering various documentation. Finally, in order to gain a more complete historical picture of interrogation operations at GTMO, the current investigation team conducted a number of "reachback" interviews of personnel who had served at GTMO previously but had since moved on to other assignments. These reachback interviews included interrogators, military intelligence leadership and staff judge advocates who were stationed at GTMO as early as January 2002. Included in this reachback effort were interviews and accompanying statements from the former JTF-170 Commander, MG Dunlavey, and the former JTF-GTMO Commander, MG Miller. Overall, we conducted over 60 additional interviews as part of the current investigation, 47 of which were turned into sworn statements.

(U) The GTMO "Model"

(U) Intelligence operations at GTMO are conducted in a highly-structured, well-disciplined environment that is conducive to intelligence collection. This is partially due to the fact that GTMO is in a remote and secure location, far from any battlefield. Unlike their counterparts at Abu Ghraib, for example, interrogators and military police at GTMO have not had to contend with the numerous difficulties associated with operating within a combat zone: the confusion, chaos, mortal danger, logistical difficulties, highly variable detainee population, or any number of other challenges inherent to combat operations. But much of the credit for the structure and discipline at GTMO is due to specific policies and procedures that have developed at GTMO over time, or what we refer to in shorthand as the GTMO "model." Outlined below are the most significant aspects of this model.

(U) Command Organization

(U) As discussed in the background section, the command structure at GTMO has evolved significantly from the original organization, which had separate chains of command for intelligence and detention operations, to the current structure, which places both intelligence and detention oper-

ations under the command of a single entity, designated Joint Task Force GTMO (JTF-GTMO). Placing one commander in charge of both military intelligence and military police operations has enabled greater coordination and cooperation in the accomplishment of the assigned mission.

(U) Significantly, the Independent Panel in its report endorsed this organizational structure by noting that the need for this type of organization was a lesson learned from Operation ENDURING FREEDOM and earlier phases of Operation IRAQI FREEDOM, but was not adequately followed in the phase of the Iraq campaign following major combat operations. The Independent Panel wrote of "the value of establishing a clear chain of command subordinating MP and MI to a Joint Task Force or Brigade Commander. This commander would be in charge of all aspects of both detention and interrogations just as tactical combat forces are subordinated to a single commander."

(U) Relationship Between Military Police and Military Intelligence

(U) Under the GTMO model, military police (MP) work closely with military intelligence (MI) in helping to set the conditions for successful interrogations. The overarching command structure is what makes this possible: having military police answer to the same commander as military intelligence ensures that the detention function supports the intelligence collection function, and thus recognizes the primacy of the human intelligence collection mission at GTMO.

(U) When discussing MP/MI relations at GTMO, it is helpful to differentiate between events that occur during interrogations (or inside the interrogation room) and those that occur in preparation for interrogations (or in the cellblock, outside the interrogation room). Generally speaking, interrogators are in charge of a detainee when he is in the interrogation room, while MPs are in charge of a detainee when he is in the cellblock, or being moved anywhere within the detention facility. This is a matter of both doctrine and practicality. Interrogators are responsible for devising interrogation plans and have the specific training and experience to conduct interrogations. MPs, in turn, are responsible for the security, discipline and welfare of detainees in the cellblock.

(U) MPs at GTMO are not permitted to participate in the interrogations themselves. According to our investigation, this has always been generally understood by both military police and interrogators. However, in response to isolated instances in March and April 2003 in which interrogators directed MPs to carry out forced physical exercise on one particular detainee during interrogation sessions, MG Miller made it an official policy that MPs may not participate in interrogations. In a letter to the JIG Director on May 2, 2003, MG Miller wrote that "Military Police personnel may not participate in interrogations,"

except to safeguard the "security and safety of all involved." [redacted]

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(U) MPs are very involved, however, in events outside the interrogation room that are done in preparation for interrogations. This is accomplished principally in two ways. First, as the Independent Panel described it, MPs serve "as the eyes and ears of the cellblocks for military intelligence personnel. This collaboration helped set conditions for successful interrogation by providing the interrogator more information about the detainee - his mood, his communications with other detainees, his receptivity to particular incentives, etc." [redacted]

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(U) Second, several of the interrogation techniques currently approved for either general use at GTMO or upon specific notification to the Secretary of Defense [redacted]

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(U) This aspect of the GTMO model in which MPs help to set the conditions for subsequent interrogations by collecting information on detainees and assisting with interrogation techniques outside the interrogation room has been the subject of much controversy in wake of the abuses at Abu Ghraib. In his September 2003 report on intelligence operations in Iraq, MG Miller, then-Commander of JTF-GTMO, stated that detention operations "must act as an enabler for interrogation," by helping to "set conditions for successful interrogations." Furthermore, he argued, it is "essential that the guard force be actively engaged in setting the conditions for successful exploitation of the internees," and that "[j]oint strategic interrogation operations are hampered by a lack of active control of the internees within the detention environment." These statements have been heavily criticized in the media as a causal factor in the detainee abuses committed by MPs at Abu Ghraib, which some of these MPs claim were directed by MI personnel.

(U) Much of this criticism is unfair, and flows both from a misunderstanding of the GTMO model and of basic MP and MI doctrine. As an initial matter, MG Miller's reference to the guard force acting as an "enabler" for interrogation and

"setting the conditions" for successful interrogations clearly was not intended to turn MPs loose to violently and sexually abuse detainees, as no approved interrogation techniques at GTMO are even remotely related to the events depicted in the infamous photographs of Abu Ghraib abuses. As the Independent Panel observed, the pictured abuses represented "deviant" and "aberrant" behavior on the night shift at Cell Block 1 at Abu Ghraib, and it is merely "an excuse for abusive behavior toward detainees" to try to link this type of behavior to MG Miller's recommendation that MPs should set favorable conditions for interrogations.

(U) Just as importantly, both MP and MI doctrine clearly state the requirement that, at a minimum, all detainees must be treated humanely. Thus, there is no room for the argument that the pictured abuses were the inevitable consequence of MPs "setting the conditions" for interrogations. If an MP ever did receive an order to abuse a detainee in the manner depicted in any of the photographs, it should have been obvious to that MP that this was an illegal order that could not be followed. Not surprisingly, the MPs who have been charged in the Abu Ghraib abuses have begun to acknowledge this fact. For example, on October 20, 2004, when pleading guilty to conspiracy and maltreatment of detainees, dereliction of duty, assault and committing an indecent act, Staff Sergeant Ivan Frederick stated that "I was wrong about what I did, and I shouldn't have done it. I knew it was wrong at the time because I knew it was a form of abuse." Likewise, if an interrogator or MI leader ever gave such an order, that person should have known that such an order was specifically prohibited by both law and doctrine, and could not have legitimately believed that it was part of "setting the conditions" for subsequent interrogations.

(U) Some of the criticism of MG Miller's recommendations has its roots in the limited discussion of MP and MI doctrine in the Ryder and Taguba Reports. The Ryder Report devoted only a single paragraph to analyzing the relationship between MP and MI units, but in that paragraph flatly rejected the Miller Report's views on MP/MI coordination by observing that "[r]ecent intelligence collection in support of Operation ENDURING FREEDOM has posited a template whereby military police actively set favorable conditions for subsequent interviews. Such actions generally run counter to the smooth operation of a detention facility, attempting to maintain its population in a compliant and docile state." The report did concede that MPs were "adept at passive collection of intelligence within a facility," but made clear that MP coordination with intelligence collection should go no further than that. The report therefore recommended that procedures be established "that define the role of military police soldiers securing the compound, clearly separating the actions of the guards from those of the military intelligence personnel." The Taguba Report specifically concurred with the Ryder Report, and argued that "Military Police should not be involved with

setting "favorable conditions" for subsequent interviews" noting that such actions "clearly run counter to the smooth operation of a detention facility" (emphasis in original).

(U) Both the Ryder and Taguba Reports, therefore, rejected a key ingredient of the GTMO model: MP participation in interrogation techniques outside the interrogation room that help to set the conditions for subsequent interrogations. Neither report, however, offered much analysis of this issue - the Ryder Report's analysis was contained in one paragraph, and the Taguba report essentially echoed the Ryder Report's conclusions - and thus it is difficult to know precisely why MGs Ryder and Taguba rejected this part of the GTMO model. To the extent that they rejected it because they believed it was prohibited by doctrine, we disagree with this position because, as explained earlier, MP and MI doctrine are silent on whether (and how) MPs should assist with interrogation techniques employed outside the interrogation room. And to the extent that they rejected it because they believed that it encouraged detainee abuse by MPs, we again disagree, because both MP and MI doctrine are unequivocal on the issue of humane treatment of detainees and none of the pictured Abu Ghraib abuses are in any way related to approved interrogation techniques that have been employed at GTMO outside the interrogation room.

(U) At bottom, both the Ryder and Taguba Reports rejected the idea of MPs "setting favorable conditions for subsequent interviews" because the reports were primarily concerned with detention - rather than intelligence - operations. This concern was reflected in the statement that having MPs involved in intelligence operations in this manner would "run counter to the smooth operation of a detention facility, attempting to maintain its population in a compliant and docile state." Without rejecting this statement out of hand, we believe that it underestimates the importance of intelligence collection operations, which in our view may be aided by close - but carefully controlled - coordination between MP and MI units. As the Independent Panel noted, "the need for human intelligence has dramatically increased in the new threat environment" that our country faces in the Global War on Terror, and the "[i]nformation derived from interrogations is an important component of this human intelligence." Moreover, part of the lessons learned from OEF and earlier phases of OIF are "the need for doctrine tailored to enable police and interrogators to work together effectively," and "the need for MP and MI units to belong to the same tactical command." This necessarily involves more than MPs simply collecting intelligence on detainees - it includes, for example, MPs "supporting incentives recommended by military interrogators."

(U) None of this close coordination between MP and MI units would be possible, however, under the conception of MP/MI relations set forth in the Ryder and Taguba Reports, which rejected any active MP role in setting the conditions for

OFFICE OF THE SECRETARY OF DEFENSE
COPY NUMBER ONE

subsequent interviews and advocated "clearly separating the actions of the guards from those of the military intelligence personnel." We therefore respectfully part company with the Ryder and Taguba Reports on this issue. The approach advocated in these reports runs the risk, to quote COL Herrington from his GTMO report, of the detention mission "tail wagging the intelligence dog," and does not adequately account for the importance of human intelligence in the Global War on Terror. It is entirely appropriate, indeed essential, for MPs to help set the conditions for successful interrogations - both by collecting intelligence on detainees, and by carrying out approved interrogation techniques outside the interrogation room. Before carrying out this mission, of course, MPs should be properly trained on implementing the techniques. And they should receive their tasking from a central authority - not via casual conversations with MI personnel. Further, we agree with the Independent Panel that MP and MI units should belong to the same tactical command, which makes close coordination between these units possible.

(U) Current MP and MI doctrine, however, needs to be updated to reflect these realities. As noted above, current doctrine leaves many of the specifics about the proper relationship between MP and MI units unanswered. As the Jones Report correctly observed, doctrine states that MPs "can enable, in coordination with MI personnel, a more successful interrogation." Unfortunately, however, "[e]xact procedures for how MP Soldiers assist with informing interrogators about detainees or assist with enabling interrogations can be left to interpretation." Doctrine should not leave such important matters to interpretation. Accordingly, it requires revision, and we suggest the following points for consideration:

- (U) [redacted]
- (U) [redacted]
- (U) [redacted]

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(U) Tiger Team Approach to Interrogations

~~(S)~~ Another key element of the GTMO model is the use of "Tiger Teams" who prepare for and carry out interrogations. [redacted]

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(U) Adequate Resources and Oversight

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OFFICE OF THE SECRETARY OF DEFENSE
COPY NUMBER ONE

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(U) Effective intelligence collection also requires adequate manpower. Since the beginning of detention operations, GTMO has enjoyed a relatively stable ratio of 1.5 MPs for every detainee. This high ratio, as the Independent Panel observed, fosters close coordination between military police and military intelligence because MPs have the time and resources to collect intelligence on detainees and "support incentives recommended by the military interrogators." In contrast, as the Independent Panel pointed out, stood the situation at Abu Ghraib, where "the ratio of military police to repeatedly unruly detainees was significantly smaller, at one point 1 to about 75 . . . making it difficult even to keep track of prisoners." Moreover, while GTMO is not strictly a doctrinal detention facility (because it is not located near a combat zone, or otherwise attached to an Army unit in battle), the MP to detainee ratio at GTMO compares favorably with detention doctrine. GTMO is most analogous to an Internment/resettlement (I/R) facility, which by doctrine is capable of holding up to 4,000 detainees and is supported by an MP I/R battalion. The doctrinal MP to detainee ratio at a full capacity I/R facility supported by a fully staffed MP I/R battalion would be approximately 1 to 8, which is significantly lower than at GTMO.

(S) [redacted]

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(S) [redacted]

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(U) Comparison of Interrogation Techniques Approved and Employed

(U) At bottom, our investigation of interrogation techniques was focused on two principal areas: the development of approved techniques, and what techniques were actually used by interrogators on the ground. A comparison between these two illuminates whether interrogation policy was adequately followed. The chart on the next page provides a comprehensive picture of both approved and employed interrogation techniques at GTMO, which enables such a comparison to be made.

(U) A few words of explanation regarding the chart. First, the interrogation techniques are listed on the vertical axis. In order to facilitate comparison among GTMO, Afghanistan and Iraq, this list comprises the universe of possible interrogation techniques from all three locations. At times, the respective commands used different nomenclature to describe the same (or very similar) techniques; therefore, the list of techniques represents our best effort to harmonize the nomenclature across all three theaters. The techniques are organized as follows:

- (U) Techniques 1-20: Techniques specifically associated with FM 34-52 (the 17 doctrinal techniques, plus Change of Scene Up and Down both broken out separately, plus Mutt and Jeff, which was in the 1987 version of FM 34-52);
- (U) Techniques 21-37: The counter resistance techniques approved in the Secretary of Defense's December 2, 2002 memorandum (deception is listed as a separate technique because it is closely related to the Category I techniques from the December 2, 2002 memorandum, and presence of military working dog is also listed as a separate technique);
- (U) Techniques 38-40: Techniques approved in the Secretary's April 16, 2003 memorandum that were in addition to the counter resistance techniques;
- (U) Techniques 41-50: Techniques taken from a variety of sources, including proposed or approved techniques in Afghanistan or Iraq, techniques considered by the Detainee Interrogation Working Group, as well as techniques used during U.S. military SERE training; and
- (U) Techniques 51-58: Techniques prohibit-

OFFICE OF THE SECRETARY OF DEFENSE
COPY NUMBER ONE ~~SECRET/NOFORN~~

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OFFICE OF THE SECRETARY OF DEFENSE
COPY NUMBER ONE

ed by law or policy across all areas and never approved for use.

The Comments section of the chart provides, where appropriate, explanatory information about the interrogation policy governing particular techniques.

(U) Second, the various interrogation policies are presented in chronological order across the horizontal axis. This begins with the FM 34-52 guidance, followed by the Secretary's December 2, 2002 memorandum, followed by his rescission of that memorandum on January 15, 2003, and finally the current guidance, which has been in effect since April 16, 2003.

(U) Third, the colors on the chart represent the approval status of a particular technique at a particular time. In order of most to least permissive status, green indicates that a particular technique was approved for general use; white means that no official guidance was given for the technique; yellow indicates that policy identifies the particular technique, but that the technique is not to be used without advance notice to and approval by the Secretary; orange means that the technique is not specifically identified by policy, but the policy in effect at the time forbids the use of non-identified techniques without advance notice to and approval by the Secretary; and red represents techniques that are prohibited by law or policy under all circumstances.

(U) Fourth, the X markings on the chart indicate where techniques were actually employed, while bracketed X markings ("[X]") indicate where techniques that required advance notice and approval were employed with such notice and approval. Thus, any X markings in yellow or orange areas (where advance notice and approval are required) are *potentially* problematic, because they would indicate situations in which such advance notice and approval were not sought and yet the techniques were nevertheless employed. Any X markings in red areas would, of course, be troublesome because this would indicate where prohibited techniques were employed. While the placement of X and [X] markings on this chart helps to illuminate whether interrogation policy was followed, it is important to understand the limitations of these markings. Most significantly, they do not indicate the frequency with which a particular technique was employed - they merely indicate that our investigation showed that the particular technique was employed at *least once* in the designated time period. Frequency of use is addressed in more detail in the fuller discussion of the Chart that appears below.

(U) Overall Compliance With Approved Techniques

(U) An initial examination of the chart reveals that interrogations at GTMO have generally followed the approved policy, with some notable exceptions. There are four X markings in the red,

prohibited areas, but these represent isolated incidents. There are several X markings in orange and yellow areas, but most of these represent either use of techniques that arguably fall within the broad guidance of FM 34-52 and therefore are not particularly problematic, or situations in which particular techniques were used only once under specific circumstances. There are also several X markings in white areas, but this is not particularly surprising. Interrogation policy did not always list every conceivable technique that an interrogator might use, and interrogators often employed techniques that were not specifically identified by policy but nevertheless arguably fell within its parameters.

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(S) [redacted]

(S) [redacted]

(S) [redacted]

(U) We found that from the beginning of interrogation operations to the present, interrogation policies at GTMO were effectively disseminated to interrogators and the interrogators had a good, working knowledge of these policies. Moreover, the close compliance with interrogation policy was due in large part to those aspects of the GTMO model discussed above: a command organization that placed detention and intelligence operations under the command of a single entity, JTF-GTMO; effective coordination between interrogators and military police; adequate detention and interrogation resources; and well-developed standard operating procedures. Strong command oversight and effective leadership also played important roles in ensuring that interrogators followed approved policy.

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OFFICE OF THE SECRETARY OF DEFENSE
COPY NUMBER ONE

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OFFICE OF THE SECRETARY OF DEFENSE
COPY NUMBER ONE

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OFFICE OF THE SECRETARY OF DEFENSE
COPY NUMBER ONE

OFFICE OF THE SECRETARY OF DEFENSE
COPY NUMBER ONE

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OFFICE OF THE SECRETARY OF DEFENSE
COPY NUMBER ONE

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OFFICE OF THE SECRETARY OF DEFENSE
COPY NUMBER ONE

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OFFICE OF THE SECRETARY OF DEFENSE
COPY NUMBER ONE

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(U) Analysis of Techniques Employed

(U) As explained above, the chart, which provides a comprehensive picture of both approved and employed interrogation techniques at GTMO, helps to illuminate whether interrogation policy at GTMO was adequately followed. The discussion below provides details on the employment of the individual techniques, with particular focus on any

OFFICE OF THE SECRETARY OF DEFENSE
COPY NUMBER ONE

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potential problem areas where an X marking appears in either a yellow, orange or red block in the chart.

(U) FM 34-52 Techniques: (1) Direct through (20) Mutt and Jeff

(S) [redacted]

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(U) *Incentive*

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(S) [redacted]

(S) [redacted]

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OFFICE OF THE SECRETARY OF DEFENSE
COPY NUMBER ONE

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OFFICE OF THE SECRETARY OF DEFENSE
COPY NUMBER ONE

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(U) As demonstrated by the chart, current interrogation policy, which went into effect on April 16, 2003, requires that the Secretary receive advance notice before incentive (and removal of incentive) may be used as interrogation techniques. This condition was fulfilled by a June 2, 2003, letter from GEN Hill to the Secretary of Defense stating, "the [Walker] Working Group was most concerned about removing the Koran from detainees. We no longer do this. Providing incentives (*e.g.* McDonald's Fish Sandwiches) remains an integral part of interrogations. My intent is to provide you notice when the proposed incentive would exceed that outlined by interrogation doctrine detailed in Army Field Manual 34-52 (which implements Geneva Convention standards), or when interrogators intend to remove an incentive from a detainee." GEN Hill also stated his intent in a June 2, 2003, memorandum to MG Miller. We found no evidence that any exceptional incentive techniques were requested or employed.

(U) *Pride and Ego Down*

(S) [redacted]

(U) *Change of Scene, and Change of Scene Up and Down*

(S) [redacted]

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OFFICE OF THE SECRETARY OF DEFENSE
COPY NUMBER ONE

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(U) *Mutt and Jeff*

(S) [redacted]

(S) [redacted]

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(U) December 2, 2002 Counter Resistance Techniques: (21) Yelling to (37) Mild Contact

(U) *Category I: Yelling, Deception, Multiple Interrogators and Interrogator Identity*

(S) [redacted]

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(U) Category II: Stress Positions through Presence of Military Working Dog

(S) [redacted]

(S) [redacted]

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OFFICE OF THE SECRETARY OF DEFENSE
COPY NUMBER ONE

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OFFICE OF THE SECRETARY OF DEFENSE
COPY NUMBER ONE

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(U) *Category III: Mild, Non-injurious Physical Contact*

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[redacted]

(U) April 16, 2003 Techniques: (38) Sleep Adjustment to (40) Environmental Manipulation

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OFFICE OF THE SECRETARY OF DEFENSE
COPY NUMBER ONE

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COPY NUMBER ONE

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(U) Notably, on April 22, 2003, this technique was employed in an unauthorized and inappropriately aggressive manner, when an interrogator directed MPs to facilitate bringing [redacted] from standing to a prone position, and the detainee suffered superficial bruising to his knees. As a result, the interrogator involved was issued a letter of reprimand. Furthermore, this abuse was compounded by the fact that the Secretary did not receive advance notice prior to the employment of this technique on April 22, 2003, even though the April 16, 2003 policy requires such advance notice whenever techniques

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not listed in the policy (such as physical training) are employed. This incident was identified and summarized in the May 2004 Church Review.

(S) [redacted]

(S) [redacted]

(b) (1)

(S) [redacted]

(U) Prohibited Techniques: (51) Food Deprivation to (58) Threats Against Others

(S) [redacted]

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[redacted]

(U) *Sleep Deprivation*

(b)(1)

(S) [redacted]

(U) *Sexual Acts or Mock Sexual Acts*

(b)(1)

(S) [redacted]

(U) *Use of Threatening Scenarios and Threats Against Others*

(U) Finally, on April 17, 2003, a female interrogator made inappropriate contact with a detainee by running her fingers through the detainee's hair and making sexually suggestive comments and body movements, including sitting on the detainee's lap. As mentioned in the abuse section of our report, we used the Manual for Courts-Martial definition of sexual assault, referred therein as "Indecent Assault," to characterize any potential sexual assault case. Consequently, we did not consider this case to be a sexual assault because the interrogator did not perpetrate the act with the intent to gratify her own sexual desires. The female interrogator was given a written admonishment for her actions. This incident was identified and summarized in the May 2004 Church Review.

Detainee Abuse (U)

(U) Overview

(U) There have been over 24,000 interrogation sessions at GTMO since the beginning of interrogation operations, and in this time, there have been only three cases of closed, substantiated interrogation-related abuse. In addition, there have been only four cases of substantiated abuse committed by MPs, and one substantiated case in which a camp barber committed a minor infraction. All of the closed, substantiated abuse cases are relatively minor in nature, and none bears any resemblance to the abuses depicted in the Abu Ghraib photographs. Almost without exception, therefore, detainees at GTMO have been treated humanely.

(U) We think it bears emphasis that the military leadership at GTMO has been and is making vigorous efforts to investigate all allegations of detainee abuse, whether the allegations come from DoD personnel, contractors, the International Committee of the Red Cross (ICRC), or the detainees themselves. Detainees have numerous channels available to report allegations of abuse: they can report allegations to military police, interrogators, linguists, medical personnel and chaplains. They also have opportunities to bring any concerns to the attention of the ICRC, which is a regular presence at GTMO that advocates on the detainees' behalf.

(U) In our view, the extremely low rate of abuse at GTMO is largely due to strong command oversight, effective leadership, and adequate training on detainee handling and treatment. Additionally, those aspects of the GTMO "model" already discussed above - namely, a command organization that placed detention and intelligence operations under the command of a single entity, JTF-GTMO; effective coordination between interrogators and military police; adequate detention and interrogation resources; and well-developed standard operating procedures - have clearly played a role in keeping detainee abuse to a minimum.

(U) Provided below are the details of the closed, substantiated abuse cases, followed by a brief discussion of some additional allegations of detainee abuse.

(U) Closed, Substantiated Abuse Cases

(U) The three cases of interrogation-related abuse all involved relatively minor assaults, in which MI interrogators clearly exceeded the bounds of approved interrogation policy:

- (U) First, as noted above, a female interrogator inappropriately touched a detainee on April 17, 2003 by running her fingers through the detainee's hair, and made sexually suggestive comments and body movements, including sitting on the detainee's

lap, during an interrogation. The female interrogator was given a written admonishment for her actions.

- (U) Second, also discussed above, on April 22, 2003, an interrogator assaulted a detainee by directing MPs to repeatedly bring the detainee from standing to a prone position and back. A review of medical records indicated superficial bruising to the detainee's knees. The interrogator was issued a letter of reprimand.
- (U) Third, a female interrogator at an unknown date, in response to being spit upon by a detainee, assaulted the detainee by wiping dye from a red magic marker on the detainee's shirt and telling the detainee that the red stain was menstrual blood. The female interrogator received a verbal reprimand for her behavior.

It should be noted that the first and third cases above, despite their relatively minor physical nature, involved unauthorized, sexually suggestive behavior by interrogators, which – as has been reported in the press – raises problematic issues concerning cultural and religious sensitivities.

(U) The four cases of abuse committed by MPs also involved minor assaults:

- (U) First, an MP assaulted a detainee on September 17, 2002, by attempting to spray him with a hose after the detainee had thrown an unidentified, foul-smelling liquid on the MP. The MP received non-judicial punishment in the form of seven days restriction and reduction in rate from E-4 to E-3.
- (U) Second, on April 10, 2003, after a detainee had struck an MP in the face (causing the MP to lose a tooth) and bitten another MP, the MP who was bitten struck the detainee with a handheld radio. This MP was given non-judicial punishment in the form of 45 days extra duty and reduced in rate from E-4 to E-3.
- (U) Third, on January 4, 2004, an MP platoon leader had received an initial allegation that one of his guards had thrown cleaning fluid on a detainee and later made inappropriate comments to the detainee. The platoon leader, however, did not properly investigate the allegation or report it up the chain of command. The initial allegation against the guard ultimately turned out to be substantiated. This MP was given non-judicial punishment in the form of reduction in rate from E-2 to E-1 and forfeiture of pay of $150/month for two months; the platoon leader was issued a letter of reprimand for dereliction of duty.
- (U) Fourth, on February 10, 2004, an MP inappropriately joked with a detainee, and dared the detainee to throw a cup of water on him. After the detainee complied, the MP reciprocated by throwing a cup of water

on the detainee. The MP was removed from duty as a consequence of his inappropriate interaction with the detainee. (As noted in our previous analysis of detainee abuse, we did not consider this case to rise to the level of "abuse" for purposes of our overall examination of detainee abuse in that section.)

(U) The final case of detainee abuse occurred on February 15, 2004, when a barber intentionally gave two detainees unusual haircuts, including an "inverse Mohawk," in an effort to frustrate the detainees' requests for similar haircuts as a sign of unity. The barber and his company commander were both counseled as a result of this incident.

(U) Other Allegations of Abuse

(U) As described above, there have been only a small number of relatively minor, substantiated instances of abuse at GTMO. Nevertheless, recent media reports have fueled controversy over detainee treatment at GTMO, as several detainees (or their lawyers) have made claims of violent physical abuse and torture. For example, three Britons who were held for over two years at GTMO and then released - Shafiq Rasul, Asif Iqbal and Rhuhel Ahmed - have claimed in a 115-page report released by their attorneys that they and other detainees were forcibly injected with drugs, brutally beaten and attacked by dogs. Another British detainee held at GTMO, Moazzam Begg, claimed in a letter released to his legal team that he had been subjected to beatings and "actual vindictive torture." A Yemeni and former chauffer for Usama Bin Ladin, Salim Ahmed Hamdan, who is currently held at GTMO, has claimed in a lawsuit that he has been regularly beaten at GTMO. And two Australians held at GTMO, David Hicks and Mamdouh Habib (who has since been released), have also through their lawyers made widely-publicized claims of torture.

(U) We also reviewed a July 14, 2004 letter from an FBI official notifying the Army Provost Marshal General of several instances of "aggressive interrogation techniques" reportedly witnessed by FBI personnel at GTMO in October 2002. One of these was already the subject of a criminal investigation (in the case of an interrogator who allegedly bent a detainee's thumbs backward), which remains open. The U.S. Southern Command and the current Naval Inspector General are now reviewing all of the FBI documents released to the American Civil Liberties Union (ACLU) – which, other than the letter noted above, were not known to DoD authorities until the ACLU published them in December 2004 – to determine whether they bring to light any abuse allegations that have not yet been investigated.

(U) We can confidently state that based upon our investigation, we found nothing that would in any way substantiate detainee allegations of torture or violent physical abuse at GTMO. (Nevertheless, we found that such allegations are

thoroughly investigated, as evidenced by ongoing investigations of Hick's and Habib's claims by the Naval Criminal Investigative Service.)

(U) First, interrogation and detention policies at GTMO have not in any way directed, encouraged or condoned torture or violent physical abuse of detainees, and the amount of command oversight, discussed in some detail above, makes it highly unlikely that such abuse could go unchecked. Second, even minor detainee abuse at GTMO is punished - as noted above, striking a detainee in response to being bitten, or spraying a detainee with a hose in response to being sprayed with a foul-smelling liquid, are grounds for restriction, extra duty and reduction in rank - and thus it would be incongruous for violent physical abuse to exist and go unpunished. Third, as discussed in more detail later in this report, our review of medical records found no evidence to support allegations of torture or violent physical abuse of detainees. In fact, detainees were more likely to suffer injury from playing soccer or volleyball during recreational periods than they were from interactions with interrogators or guards. Furthermore, the medical personnel that we interviewed stated that no detainees had ever reported physical abuse to them, even though detainees rarely hesitated to complain about minor physical symptoms (such as headaches, rashes, or minor scrapes) or other frustrations (such as disliked food or unruly detainees in nearby cells). Finally, many allegations of violent physical abuse against detainees concern the use of GTMO's Immediate Reaction Force (IRF), which is a disciplinary squad employed only as a last resort to compel non-compliant detainees to follow guards' orders using the minimum necessary force. Detainee non-compliance, therefore, sometimes entails a physical confrontation with the IRF, but this is a necessary and legitimate aspect of camp discipline. Moreover, we identified no evidence of abuse from a review of IRF videotapes, and our findings in this regard are consistent with a SOUTHCOM review conducted in June 2004.

Operation ENDURING FREEDOM – Afghanistan (U)

(U) This section examines the evolution of interrogation techniques approved and employed in Operation ENDURING FREEDOM (OEF) in Afghanistan. It begins with a discussion of the background to interrogation operations in Afghanistan.

Background (U)

(U) Shortly after noon Eastern Daylight Time on October 7, 2001, less than four weeks after the terrorist attacks of September 11, coalition forces commenced combat action against al Qaeda and the Taliban in Afghanistan. The conflict that followed was unique for its successful integration of U.S. special operations forces (SOF) with local Afghan militia forces, and for its unprecedented speed and success, despite the challenges posed by inhospitable terrain, a history of internecine fighting among Afghan tribes, and an enemy who attempted to use the local populace for cover and concealment.

(U) Broadly speaking, the campaign can be broken into three major phases: an initial phase of intense aerial bombardment lasting from October to late November 2001 in which the preponderance of U.S. ground presence consisted of SOF; a build-up of U.S. conventional forces that began in late November 2001 with the insertion of Marines into Camp Rhino, near Kandahar; and a period of ongoing low-intensity conflict and counter-insurgency operations involving a mix of conventional forces and SOF that began in May 2002 with the establishment of Combined Joint Task Force 180 (CJTF 180). The extensive reliance on light, highly mobile forces including both SOF and the paramilitary forces of other government agencies (OGA) shaped the development of interrogation facilities and techniques in the conflict by limiting the number of large, fixed bases capable of supporting detention and interrogation of large numbers of detainees. Even today, nearly three years after the start of the conflict, only two U.S. military facilities in Afghanistan - those at Bagram and Kandahar - are equipped and staffed with dedicated interrogation facilities and interrogators and have the ability to hold more than a handful of detainees.

(U) The reliance on light, mobile forces was driven largely by the rugged geography and political composition of Afghanistan. The country is inaccessible by sea, and high mountain passes that are prime locations for ambush limit interior communication by road. Most U.S. materiel and large equipment is shipped to Karachi, Pakistan where it is loaded on trucks and then driven hundreds of miles over unimproved roads. Drivers must endure ambushes, illegal tariffs, and pilfering before eventually arriving at their destination in Kandahar or Bagram. This trip may take two weeks to complete, if completed at all. Virtually all U.S. personnel have to be airlifted into the country. The 2003 CIA World Factbook lists only ten airports with paved runways in the country, placing a heavy reliance on helicopters and smaller fixed-

wing transport, capable of carrying lighter loads and landing on unimproved fields. Over 49 percent of the country is at greater than 6,500 feet above sea level, with passes in the mountainous regions frequently exceeding 10,000 feet above sea level. These conditions further limit the loads that can be carried by aircraft, especially helicopters. The movement of large heavy troop formations and the construction of suitable facilities to house them is nearly impossible in these conditions.

(U) Political power in Afghanistan has historically been concentrated in local tribes or clans rather than a central government. Even during the Soviet occupation, the mujaheddin fighters who successfully opposed the Soviets were not a unified force, but a loose coalition of leaders who frequently fought amongst themselves even as they were fighting the Soviet Union. During the initial phases of OEF, small formations of U.S. military and paramilitary forces were able to integrate with tribal leaders, establishing bonds of trust in a way that large formations of conventional troops could not have done. After the Taliban fell, operations to root out terrorist and Taliban strongholds in Afghanistan's mountains, caves, and valleys favored small units that could exploit air mobility and mass in larger formations when required, rather than large, heavy forces with their associated garrisons and facilities.

Evolution of Command Structures and Detention Facilities (U)

(U) Overall combatant command in Operation ENDURING FREEDOM has always resided with the Commander, United States Central Command (CENTCOM), headquartered in Tampa, Florida, with forward headquarters initially in Saudi Arabia, and later in Qatar. During the initial stages of combat in Afghanistan, operations fell principally under the purview of the combined forces component commanders. The Combined Force Air Component Commander (CFACC), Lieutenant General T. Michael Moseley, USAF, for instance, directed air operations. He reported directly to the CENTCOM commander, General Tommy Franks, USA. The Combined Force Land Component Commander (CFLCC), Lieutenant General P. T. Mikolashek, USA, controlled all ground forces except SOF, which fell under the purview of the Combined Force Special Operations Component Commander (CFSOCC), Rear Admiral Albert Calland, USN (also referred to as the Combined Joint Force Special Operations Component Commander, or CJFSOCC).

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forces grew and their scope of action increased, LTG Mikolashek deployed MG Frank "Buster" Hagenbeck, USA, commander of the 10th Mountain Division, as CFLCC (Forward) in Afghanistan.

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(U) On November 25, 2001, Task Force 58 (TF 58), composed of U.S. Marines from the 15th and 26th Marine Expeditionary Units (Special Operations Capable), or MEU (SOC), assaulted and gained control of an airfield west of Kandahar, which was dubbed "Camp Rhino." Using Rhino as an operating base, TF 58 seized control of Kandahar airfield on December 13, 2001. In the east, on November 30, CFLCC had taken charge of the Bagram Air Base 20 miles north of Kabul, and in early December deployed Army units to Mazar-E-Sharif. As the number of conventional ground

(S) [redacted]

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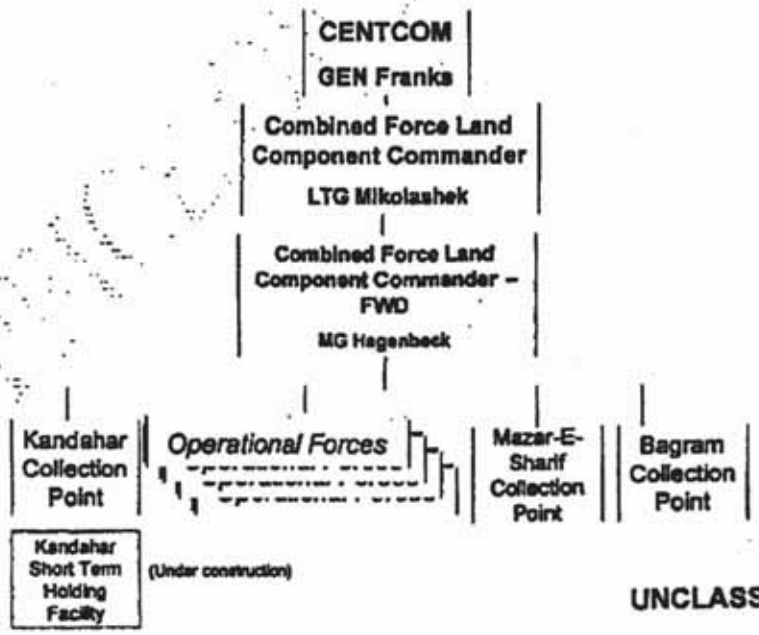
(U) The resulting command structure for detention and interrogation operations in early January 2002, and the locations of detention facilities are depicted in the following figures.

(U) Kandahar's fall to coalition forces on December 13, 2001 represented the collapse of the last Taliban stronghold, although heavy combat continued through the new year and into the spring of 2002, particularly around the Tora Bora region. Coalition combat successes yielded new detainees, which threatened to overcrowd the limited facilities available. As discussed previously, the U.S. Naval Base at Guantanamo Bay, Cuba was

Early Afghanistan Detention Command Structure- January 2002 (U)



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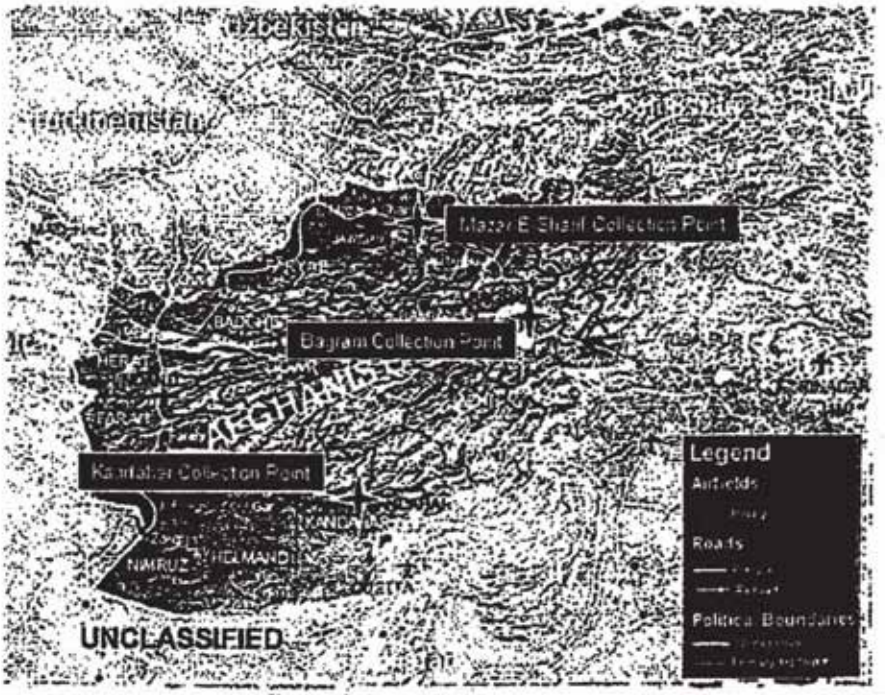
DoD Detention Facilities in Afghanistan - January 2002 (U)



identified as a suitable location for a long-term detention and strategic interrogation facility. The first transfers of detainees to the GTMO facility commenced on January 7, 2002.

(S) By May 2002, Afghanistan had developed into a more mature theater of operations. On May 21, [redacted]

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Afghanistan Detention Command Structure – May 2002 (U)

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(U) In April and May 2004, the command structure in Afghanistan underwent another evolution, this one coincident with a planned force rotation. MG Eric Olson, commanding the Army's 25th Infantry Division, was designated CJTF commander on April 15, 2004, and the CJTF was placed under the operational command of the Combined Forces Commander Afghanistan (CFC-A), LTG David Barno, USA. (Headquartered in Kabul, CFC-A had been established on February 4, 2004.) On May 15, CJTF-180 was re-designated CJTF-76. The effect of these changes was to consolidate under a single command the command and control of both the peacekeeping mission (executed by the International Security Assistance Force) and the war-fighting mission. Authority and responsibility for the detention and interrogation mission remains with the CJTF-76 commander, under CFC-A. The current command structure is depicted in the figure below.

(U) In July 2004, due to a growing detainee population, the facility at Kandahar was re-designated a collection point and detainees are now housed there for a longer period of time. Following

Current Afghanistan Command Structure (U)

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the designation of Bagram as the primary collection point and interrogation facility in May 2002, Kandahar continued to function as a short term detention facility, though interrogation personnel were not permanently assigned there. The re-designation of Kandahar as a collection point is not strictly in keeping with the doctrinal definition of "collecting point," since (like Bagram) the facility is functioning more as an internment/resettlement (I/R) facility. With the re-designation of Kandahar as a longer-term facility, it is anticipated that additional interrogators and interrogation support personnel will again operate there.

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Evolution of Guidance Regarding Detainee Treatment (U)

(U) The status and treatment of captured personnel in Afghanistan has been the subject of considerable debate at the policy level, largely due to the question of the legal status of Taliban and al Qaeda combatants. According to an information paper prepared on February 5, 2002, prior to the initiation of hostilities CENTCOM had sought clarification from the Joint Staff as to the legal status of personnel who might be captured in Afghanistan; and two days after hostilities began, these questions had not yet been resolved to CENTCOM's satisfaction (based on further specific requests to the Joint Staff for legal clarification contained in an Unconventional Warfare Campaign OPORD dated October 9, 2001).

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(U) The next new guidance regarding detainee status came in mid-January 2002. On January 19, the Secretary of Defense concluded in a memorandum to the Chairman of the Joint Chiefs of Staff (CJCS) that al Qaeda and Taliban detainees were not entitled to EPW status under GPW. CJCS forwarded the content of this memo to CENTCOM and SOUTHCOM commanders by message on January 21, 2002. The message provided the formulation, which would appear again two weeks later in a Presidential memorandum, to "treat [detainees] humanely and, to the extent appropriate and consistent with military necessity, in accordance with the principles of the Geneva Conventions of 1949." CENTCOM promulgated this guidance verbatim to its component commands by message on January 24, 2002.

(U) On February 4, 2002, CENTCOM issued Appendix 1 to Annex E to the campaign plan for Operation ENDURING FREEDOM. Apparently developed independent of the guidance received from the Secretary of Defense and CJCS, this Appendix encapsulates the requirements of the GPW and Army Regulation 190-8, *Enemy*

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Prisoners of War; Retained Persons, Civilian Internees and Other Detainees (AR 190-8). It provides that "captured personnel are presumed to be EPW immediately upon capture...if questions arise as to whether captured personnel belong in the EPW category, they receive the same treatment as EPW until their status has been determined by a competent military tribunal according to AR 190-8." The appendix defines "other detainee" (OD) as "a person in U.S. custody who has not been classified as an EPW (Article 4, GPW), an RP (Article 33, GPW), or a CI (Article 78, GC) [and] is afforded protection similar to an EPW until a legal status is ascertained by competent authority." The appendix makes no reference to al Qaeda or Taliban specifically, nor does it list the CJCS message regarding status of al Qaeda and Taliban detainees as a reference.

[redacted]

- (S) [redacted]
- (S) [redacted]
- (S) [redacted]
- [redacted]

(U) The President re-affirmed the Secretary of Defense memorandum regarding treatment and status of detainees in a memorandum dated February 7, 2002. As previously described in our interrogation policy and doctrine section, this memorandum found that the Geneva Conventions did not apply to the conflict with al Qaeda, and that, although the Geneva Conventions did apply to our conflict with the Taliban, the Taliban were unlawful combatants and thus not entitled to EPW status.

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sought based on intelligence information. Detainees are also captured in the immediate aftermath of attacks against U.S. or Afghan forces, if there is reason to suspect that the person has information pertaining to the attack, or which could help prevent future attacks. In addition, "cordon and sweep" operations have been conducted in areas known to harbor Taliban or al Qaeda elements in order to capture or kill those elements, or to gain intelligence about their location and activities.

(S/NF) [redacted]

Detainee Flow From Point of Capture Through Detention (U)

(U) Persons come into U.S. custody in Afghanistan through several means. First, there are a small number who were captured during traditional force-on-force fighting against Taliban or al Qaeda groups, or following the seizure of an enemy facility. Many of these detainees have since been transferred to GTMO. There are also detainees who were captured by opposition groups, such as the Northern Alliance, and transferred to U.S. control after being screened using the criteria described above. Finally, there are those who are picked up by U.S forces in the course of ongoing operations, as described below. The majority of captured persons in Afghanistan now fall in the last category.

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(U) Ongoing operations by U.S. forces include raids in which specific personnel are

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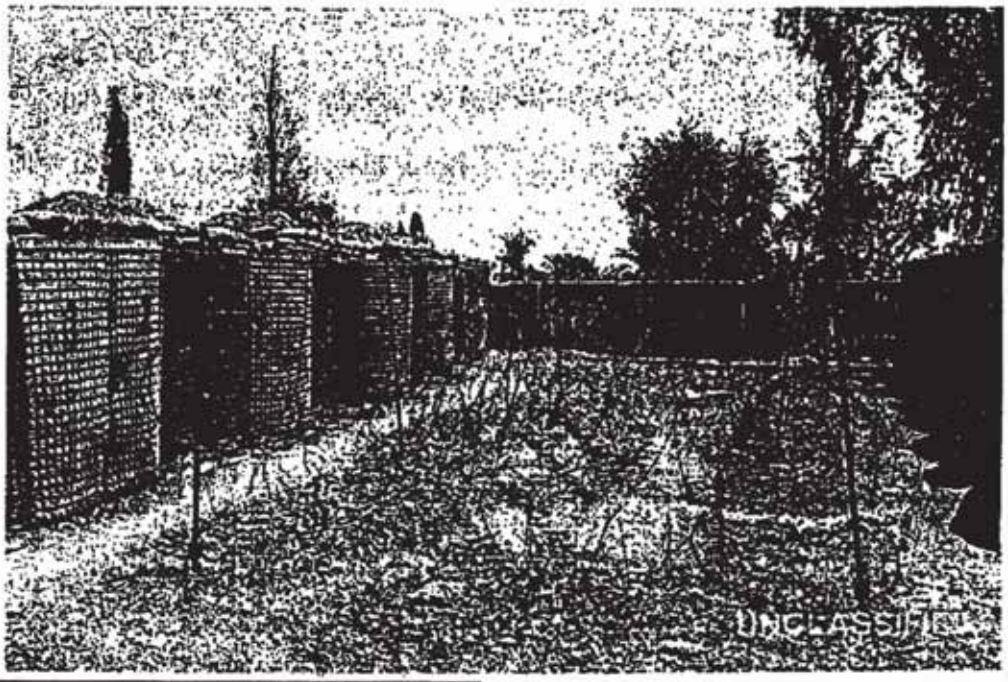
Field Holding Site at Salerno (U)



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(U) Transfer from field holding sites to the facilities at Kandahar and Bagram can be challenging and time-consuming. The preferred method of transfer is by helicopter, but competing operational requirements frequently result in limited aircraft availability, which may result in ground transportation by convoy. Poor road conditions throughout the country, coupled with the danger of enemy attacks or roadside bombs, land mines or improvised explosive devices (IEDs), can create extremely long travel times. For example, surface travel from Kandahar to the FOB at Gereshk, a distance of less than 60 miles, can take more than six hours.

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~~(S/NF)~~ [redacted]

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[redacted]

MI-MP Relationship (U)

(U) In Afghanistan, the working relationship between MI and MP personnel was dictated by doctrine, albeit with all of the uncertainties regarding implementation of interrogation techniques described in our report's section on MI-MP Doctrine. Interviewees repeatedly stated, "MPs do not interrogate." However, the decision as to whether MPs participated in the implementation

Classification of Captured Persons in Afghanistan (U)

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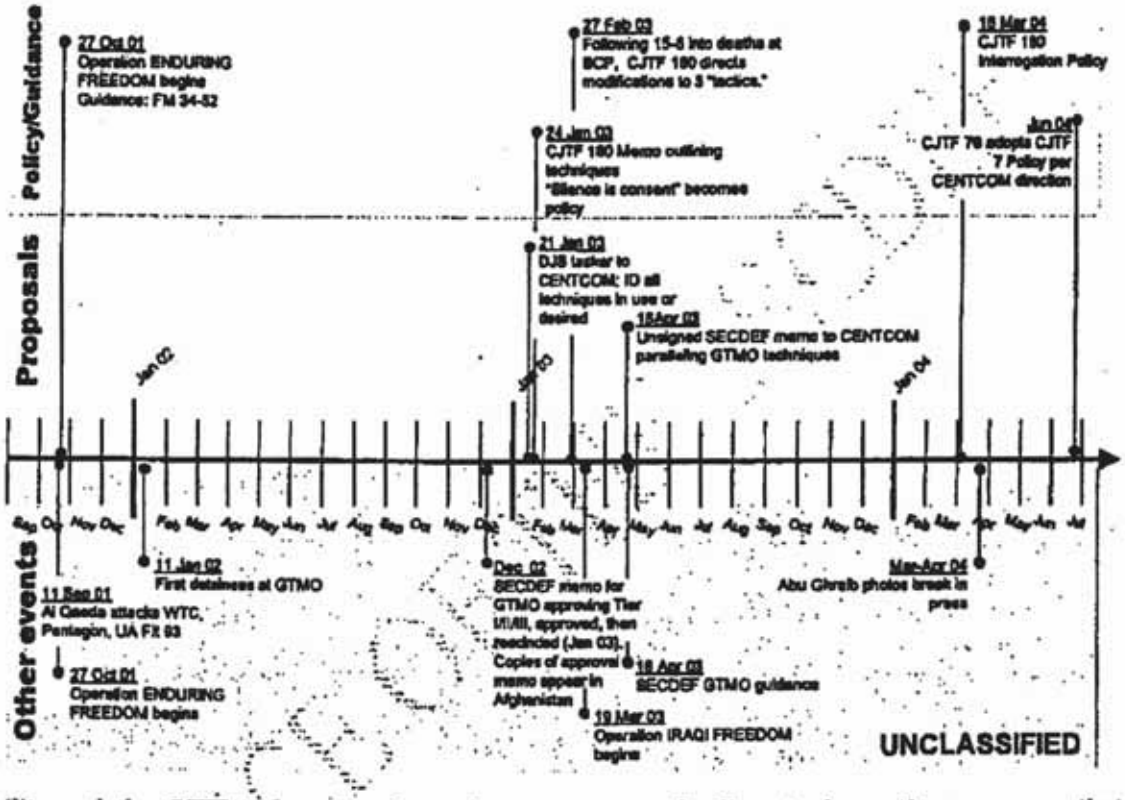
of techniques such as Sleep Adjustment or MRE-Only Diet, or were present in interrogation rooms, devolved to the unit level for reasons we have discussed previously in our discussion of doctrine. For instance, we received some reports that at times, MPs had enforced detainee compliance with Safety Positions.

(U) In general, though, we found that in practice the MI-MP relationship in Afghanistan was well-defined, particularly at the BCP, and that MI and MP units maintained separate chains of command and remained focused on their independent missions. After the BCP's establishment, for example, the CJTF-180 Provost Marshal (the senior officer responsible for detention operations) designated a principal assistant to oversee detention operations there, while the CJTF-180 CJ2 was responsible for interrogation operations in the facility. The two work together to coordinate execution of their respective missions. A dedicated judge advocate has been assigned full time to the

Afghanistan Counter-Resistance Policy Development (U)



facility, and the CJTF-76 Inspector General provides independent oversight.

(U) Our MP interviews also suggested that media coverage of the Abu Ghraib abuses has resulted in a feeling among some guards that any misconduct on the part of the interrogators will also reflect upon them. The Kandahar facility's provost marshal provided an example of a resultant precautionary measure: at Kandahar, Plexiglas has been installed between interrogation rooms and adjacent observation rooms so that guards may observe interrogations. Guards are directed to ensure the safety of detainees as well as of interrogators.

Evolution of Approved Techniques (U)

(U) As with GTMO, the interrogation techniques approved for use in Afghanistan have evolved significantly over time. The highlights of this evolution are depicted in the above figure and

are described briefly below, followed by a detailed, chronological examination of the major events and that have shaped the development of approved interrogation techniques in Afghanistan.

(U) From the beginning of OEF on October 27, 2001 until January 23, 2003, the only official interrogation guidance in Afghanistan was the doctrine contained in FM 34-52. In response to a January 21, 2003 message from the Director of the Joint Staff (DJS), on January 24, 2003 the CJTF-180 Acting Staff Judge Advocate (SJA) forwarded a memorandum describing techniques then being employed in Afghanistan, citing FM 34-52 as the only reference and noting that the techniques described were "based on interrogators' experiences during Operation ENDURING FREEDOM (OEF) from Dec 01 - Jan 03," and strongly recommending that the techniques listed be approved as official policy.

(U) Our interviews indicated that, in the absence of any response, CJTF-180 adopted the January 24 memo as policy under an assumption that "silence is consent," and it remained in effect until March 16, 2004, when it was superceded by a new CJTF-180 interrogation policy, as described below. (In the interim, CJTF-180 commander LTG Dan K. McNeill had prohibited certain techniques as a precaution following detainee deaths at Bagram; however, these techniques were revived without explanation in the March 16 policy.) Finally, by direction of CENTCOM, in June 2004 CFC-A ordered the adoption of CJTF-7's (the coalition command in Iraq) interrogation policy.

(U) October 2001 - February 2004

(U) As described previously, no dedicated U.S. interrogation personnel entered the Afghanistan Combined-Joint Operating Area (CJOA) until late November 2001. Having no other specific guidance, these HUMINT teams relied on FM 34-52, which would remain a basic source of approved interrogation techniques throughout OEF.

(U) Evidence suggests that in developing techniques, interrogators in Afghanistan took so literally FM 34-52's suggestion to be creative that they strayed significantly from a plain-language reading of FM 34-52. In particular, Alpha Company, 519th MI Battalion (A/519), [redacted] developed a variety of techniques that went well beyond those authorized in FM 34-52. Some of these techniques, including sleep adjustment and stress positions, were similar to those included in the counter-resistance techniques requested by SOUTHCOM and approved by the Secretary of Defense in December 2002 for employment at Guantanamo. (How these techniques appeared in Afghanistan is described later in this section during our discussion of technique "migration.") However, rather than considering these techniques to be distinct, as in the GTMO policy development process, interrogators in Afghanistan appear to have broadly interpreted FM 34-52 so as to consider the techniques included within existing doctrine. For example, in a memorandum written shortly after A/519 moved from Afghanistan to Iraq, [redacted] related each of the techniques the A/519 had devel-

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oped to FM 34-52 (as will be discussed further in our section covering Iraq); and in an interview with our team on September 15, 2004, [redacted] indicated that she used the same rationale in Afghanistan. (Of the techniques she identified, [redacted] has indicated that sleep adjustment and stress positions were the only ones used by her unit in Afghanistan.)

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(U) Of note, [redacted] references to FM 34-52 cite its Appendix H, a summary of interrogation techniques that appears in the outdated 1987 edition but not in the current 1992 edition of FM 34-52. As the Independent Panel has noted, the 1987 edition also calls for the interrogator to appear to control all aspects of interrogation, "to include lighting and heating, as well as food, clothing and shelter given to detainees." Notwithstanding the qualifier "*appear* to control," this language may have been perceived by interrogators as conveying a broad span of control which, when coupled with an expansive interpretation of the techniques themselves, made it possible to cite doctrinal origins for many of the most controversial counter-resistance techniques.

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Battlefield Interrogation Techniques In Use by CJTF-180 as of January 24, 2003 (U)

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Battlefield Interrogation Techniques Desired - But Not in Use - by CJTF-180 as of January 24, 2003 (U)

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Bagram Collection Point Techniques In Use by CJTF-180 as of January 24, 2003 (U)

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(U) Finally, in addition to these locally developed techniques, the January 24, 2003 memorandum tacitly confirmed that "migration" of interrogation techniques had occurred separately. During December 2002 and January 2003, according to the memorandum, interrogators had employed some of the techniques approved by the Secretary of Defense for use at GTMO. Use of the Tier II and single Tier III technique ceased, however, upon the Secretary's rescission of their approval for GTMO on January 15, 2003.

(U) The CJTF-180 Assistant SJA submitted this memorandum to CENTCOM on January 24, 2003, but received no response from CENTCOM or from the Joint Staff. According to a brief provided by the Deputy Commander, CJTF-76 to VADM Church on June 24, 2004, the CJTF interpreted this lack of response as "silence is consent" with regard to the techniques already being employed (which, again, no longer included the tiered GTMO techniques). From CJTF-180's perspective, they had submitted a summary of techniques used in the field to their operational commander for further transmittal to the Joint Staff, and in the absence of any negative feedback, the CJTF legal staff concluded that the techniques described as being currently employed in the January 24, 2003 memorandum were unobjectionable to higher headquarters and that the memorandum could be considered an approved policy. There is no indication, however, that any of the additional desired techniques requested in the memorandum (*i.e.*, those listed above for BI, plus deprivation of light and noise at BCP) ever received any official sanction, whether from LTG McNeill or higher authority. (In fact, LTG McNeill stated that he did not recall approving any specific techniques at all up to this point.)

(U) Why was there no response to CJTF-180's January 24, 2003 request for approval of techniques? According to Vice Chairman of the Joint Chiefs of Staff (VCJCS), General Peter Pace, USMC, "The USCENTCOM Deputy Commander [then Lt Gen M. P. DeLong, USMC] sent a letter to me dated 11 Apr 03 requesting OSD approval of a list of CJTF-180 prepared interrogation techniques for the Bagram Collection Point. The request was coordinated within the Joint Staff and CJCS determined that the CENTCOM request was inconsistent with the guidance provided SOUTHCOM on interrogations. On 15 May 03, CJCS forwarded a memo recommending the same interrogation guidelines [*i.e.*, those approved for GTMO] be issued to CENTCOM. I have no evidence that CENTCOM was provided any formal response to their 11 Apr 03 memo."

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BCP Techniques Listed in Deputy CENTCOM's April 11, 2003 Memorandum to VCJCS (U)

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(U) Development of the March 2004 CJTF-180 Interrogation Policy

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March 2004 Afghanistan Interrogation Guidance (U)

(U) Because the March 16 memorandum governed the conduct of the primary interrogation facility - BCP - we have considered this guidance to be effective as of that date. Additionally, the March 16 memorandum provides the most detailed discussion of the techniques approved. In the discussion that follows, we will reference the March 28 SOP where it provides additional relevant information, or where it differs from the March 16 memorandum.

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- ~~(S/NF)~~ [redacted]
- ~~(S/NF)~~ [redacted]

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(U) The memorandum concludes with a caution labeled "Safety First:" "Remember, the purpose of all interviews and interrogations is to get the most information from a detainee with the least intrusive method; always applied in a humane and lawful manner with sufficient oversight by trained interrogators or investigators."

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Additional Techniques Approved in the March 16, 2004 CJTF-180 Policy (U)

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(U) June 2004: Adoption of the May 2004 CJTF-7 (Iraq) Interrogation Policy

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Techniques Approved in the May 13, 2004 CJTF-7 Policy Memorandum (U)

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Interrogation Techniques Employed (U)

(U) As in the previous section covering GTMO, this section begins with a brief summary of our investigation, followed by a comparison of the techniques approved for use in Afghanistan (*i.e.*, the CJTF-180 and CFC-A interrogation policies) with those techniques actually employed, as reported to our interviewers.

(U) Investigative Procedure

(U) From June 19 to July 8, 2004, 24 Interrogation Special Focus Team members deployed to Afghanistan. These personnel were divided into a team that focused on CFC-A, CJTF 76 and CENTCOM headquarters, traveling to each of those locations; a team that focused on the Bagram detention facility; a team that focused on the Kandahar detention facility and outlying FOBs; and a team that focused on the operations of forces in the field, including SOF, which also traveled to several FOBs. The teams reviewed records, visited facilities, observed all aspects of detainee operations - including interrogations - and conducted approximately 315 interviews, most resulting in sworn statements.

(U) Our interviews covered the entire spectrum of personnel involved in detainee and interrogation operations, from flag and general officers to junior enlisted interrogators and troops who participated in the capture of detainees. In addition, our team in Washington conducted an extensive review of the documentary evidence gleaned from responses to our data requests to commands and agencies throughout DoD, as well as data collected during previous investigations. We also took advantage of previous reports, including the Jacoby report (described previously in our summa-

ry of existing reports).

(U) Comparison of Interrogation Techniques Approved and Employed

(S) The chart on the following page presents the comparison between interrogation techniques approved for use in Afghanistan and the techniques that were actually employed, as determined through our interviews and document reviews. Readers are invited to refer to the description of the chart format presented in the GTMO section, as the same explanatory information and qualifications apply here. [redacted]

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(U) As in the GTMO section, the chart depicts the use of many techniques coded white or orange, indicating techniques employed without specific approval that nonetheless are not necessarily problematic. These two colors indicate that the applicable policy memoranda did not specifically discuss the techniques in question; therefore, it is by no means certain that interrogators would categorize the techniques' application as distinct from other, approved techniques. For example, though the current (1992) edition of FM 34-52 does not specifically authorize Mutt and Jeff, nothing in the FM, the Geneva Conventions, or other policies or doctrine inherently prohibits it. Similarly, interrogators in Afghanistan often opined that Yelling was inherent to Fear Up Harsh, which is a doctrinal technique, and that Deception was inherent to many, if not most of the doctrinal techniques. In these instances, X marks in orange blocks may not be a matter for concern, since neither interrogators nor the drafters of the policies might presume the technique to be outside the bounds of doctrine. (We will of course discuss exceptions below.)

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(U) A final qualification regarding the chart bears repeating: as in the GTMO section, the absence of an X does not mean conclusively that a technique was never employed; rather, that we found no evidence or allegations indicating its employment. Nevertheless, based on our exhaustive interviews we are confident that the chart presents an accurate picture of the techniques

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employed in Afghanistan, and that any abuse incidents or improper employment of techniques unknown to us would have been isolated events.

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(U) Overall Compliance with Approved Techniques

(U) A broad look at the chart illustrates several findings regarding overall compliance with approved techniques. Our general findings are summarized here to provide background for our examination of techniques employed.

(U) First, the initial column reveals that numerous techniques not specified in FM 34-52 were in use in Afghanistan prior to the January 24, 2003 CJTF-180 *de facto* interrogation policy (which affirmed that many of those techniques were already in use). The most likely explanation for this fact (which we will revisit in this report's section discussing migration of interrogation techniques) is that interrogators used a variety of techniques that they believed - based on a broad interpretation - to be in accordance with FM 34-52 doctrine.

(U) Next, dissemination of approved interrogation policies to forces in the field was poor prior to the implementation of the CJTF-7 policy in June 2004. For example, BG Jacoby found with regard to the March 2004 policy that "only one-third of the bases had the SOP...it was generally not guidance known or relied upon in the field." (Of course, it should also be noted that the March 2004 policy actually added techniques that had previously been prohibited by LTG McNeill.) In short, up until the adoption of the CJTF-7 policy in June 2004, it is likely that many units in Afghanistan were simply conducting interrogations as they always had: based on their interpretation of FM 34-52, rather than any theater interrogation policy. This finding is supported by the general left-to-right continuity of X marks representing techniques employed, including some in techniques that had been prohibited by LTG McNeill (*e.g.*, stress positions).

(U) Third, as BG Jacoby found, dissemination of the CJTF-7 policy in June 2004 was more effective (possibly because its shorter length - five pages as opposed to the March policy's 22 - permitted easier transmission over tactical satellite systems to FOBs that did not have secure e-mail capability). Our interviews reflected this finding: as the fourth column of the chart demonstrates, interrogators complied with the policy's prohibitions (there are no X marks in techniques coded red within the range 1-50). (There are, however, X marks with no brackets in techniques coded orange, indicating that they were improperly used without CJTF-76 permission; again, this was most likely due to interrogators' belief that those techniques fell within the bounds of FM 34-52.)

(U) Finally, an examination of the techniques always prohibited by law or policy (51 through 58) reveals few incidences of their use, as will be described fully in the section that follows.

(U) We now turn to a discussion of specific interrogation techniques employed in the course of Operation ENDURING FREEDOM. Previous sections have described legal and humanitarian concerns surrounding the use of certain techniques; with some exceptions, we have not reiterated those concerns in this section, which simply describes the techniques employed. Nevertheless, the aforementioned concerns should be borne in mind.

(U) Our discussion is divided into six parts: first, doctrinal techniques contained in FM 34-52; second, techniques introduced by the January 2003 CJTF-180 interrogation policy; third, techniques introduced by the March 2004 CJTF-180 interrogation policy; fourth, techniques introduced by the adoption of the May 2004 CJTF-7 interrogation policy; fifth, additional techniques not specifically mentioned by any policy; and sixth, techniques prohibited by law or policy.

(U) FM 34-52 Techniques

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(U) Techniques Introduced by the January 24, 2003 CJTF-180 Memorandum

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~~(S/NF)~~ [redacted]

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(U) Sleep Adjustment

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(U) Threat of Transfer to Third Country

~~(S/NF)~~ [redacted]

~~(S/NF)~~ [redacted]

(U) Relaxed Grooming Standards: Sterile Uniforms: Informing Detainee Why Detained: Female Interrogators / Guards

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(U) Techniques Introduced by the March 16, 2004 CJTF-180 CJ2 Memorandum

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(U) Loud Music / Light Control

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easy to arrive at this technique through the employment of Fear Up, Pride and Ego Down, and Fear Down in combination. Unlike GTMO, where employment of this technique currently requires permission of the combatant commander and prior notification to the Secretary of Defense, no particular cautions are prescribed for its use in Afghanistan. Interview data indicates that it was employed at least as early as February 2003, and although there is no specific interview data to confirm it, it is likely that this technique was used - in one form or another - from the beginning of interrogation operations in Afghanistan. (Our chart includes X marks under Multiple Interrogators as well as Mutt and Jeff to indicate its use.)

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(U) Techniques Introduced by the May 13, 2004 CJTF-7 Interrogation Policy (Adopted by CFC-A in June 2004)

~~(S/NF)~~ Mutt and Jeff

(U) Mutt and Jeff (the employment of one hostile interrogator and one friendly interrogator) was specifically listed in each revision of FM 34-52 from 1973 to 1987, but was omitted from the 1992 edition of FM 34-52. However, it is a staple of interrogations, and although not specifically mentioned in the current revision of FM 34-52, it is

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~~(S/NF)~~ [redacted]

(U) Additional Techniques

[redacted]

~~(S/NF)~~ [redacted]

~~(S/NF)~~ [redacted]

(U) Removal of Clothing

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~~(S/NF)~~ [redacted]

~~(S)~~ [redacted]

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(U) CJTF-76 reinforced the guidance provided by BG Jacoby in FRAGO 88 to OPORD 04-04, dated August 15, 2004. The FRAGO states that "Rectal searches are prohibited. Rectal and hernia exams are prohibited unless determined necessary by competent medical authority. Medical doctors are the only persons authorized to conduct these procedures. If either procedure is required, the individual must be informed of the reason in a language he or she understands, a witness must be present, and the reason for the exam must be documented."

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~~(S/NF)~~ [redacted]

~~(S/NF)~~ [redacted]

(U) Physical Training: Face Slap / Stomach Slap

~~(S/NF)~~ [redacted]

(U) Prohibited Techniques

(U) The final eight techniques on the chart represent techniques that are clearly unlawful or

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otherwise prohibited by policy. None of these techniques have ever been approved in Afghanistan. Of these, three (marked with X) are alleged to have been employed during interrogations. These techniques - sleep deprivation, the use of scenarios designed to convince the detainee that death or severely painful consequences are imminent for him and/or his family, and beating - are alleged to have been used in the incidents leading to the two deaths at Bagram in December 2002, which are described at greater length later in this report.

[redacted]

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Migration of Interrogation Techniques (U)

(U) Early Migration

~~(S)~~ [redacted]

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(U) In sum, the most plausible explanation for the existence of additional techniques in Afghanistan prior to the migration of the December 2002 GTMO interrogation policy was that interrogators, drawing on their training and experience, developed these techniques in the context of a broad reading of FM 34-52, as has been previously discussed.

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(U) The March 2004 Guidance

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(U) Other Migration

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(U) Migration from Iraq

(U) We found no evidence of unofficial migration of interrogation techniques from Iraq to Afghanistan. Of course, the June 2004 adoption of the CJTF-7 interrogation policy was a form of officially sanctioned migration.

(U) Pressure for Intelligence

(U) In light of speculation that pressure for actionable intelligence contributed to the abuses at Abu Ghraib in Iraq, we considered whether such pressure might play a role in Afghanistan.

However, we found no evidence to suggest that senior personnel applied unusual pressure to operational units to obtain intelligence; nor did we find evidence suggesting that any units believed they were under pressure beyond that inherent in combat and stability operations. It seems likely that this is due to the fact that detainees believed to possess valuable intelligence have typically been transferred to GTMO for focused interrogation. According to LTG McNeill, "I don't recall receiving any pressure or encouragement from anyone above me to produce intelligence from detainees...My priority was to get detainees moved to GTMO or released as fast as possible."

Detainee Abuse (U)

(U) According to CENTCOM, as of August 2004 U.S. forces had detained just over 2,000 people in Afghanistan since OEF began (excluding those who were detained for short periods - ranging from hours to a few days - for screening against Secretary of Defense detention criteria, and then released). Through September 30, 2004, there have been 27 cases of alleged abuse resulting in the initiation of official investigations, as described. 12 of these cases were determined to be unsubstantiated (*e.g.*, U.S. forces were determined to be acting in legitimate self-defense; it was determined that detainee injuries predated capture by U.S. forces; or detainee deaths were determined to result from natural causes). Of the remaining 15 cases, 12 were still being investigated as of September 30, 2004, and three have been closed, substantiating the allegations of the wrongful death or abuse of detainees.

(U) In these last 15 cases, approximately 65 U.S. service members are implicated - for either action or inaction - in alleged or substantiated abuse against approximately 25-50 detainees (allowing for uncertainty in the number of people abused in the closed case described immediately below). Based on CENTCOM's figure of roughly 2,000 detainees held between October 2001 and August 2004, this means that abuse was alleged to have been perpetrated against less than three percent of all detainees in Afghanistan, by less than a quarter of one percent of the over 30,000 U.S. troops who have served in Afghanistan since the beginning of OEF. Thus, it is important to bear in mind through the subsequent discussion that the vast majority of detainees in Afghanistan appear to have been treated humanely, often receiving better food and medical care than they would in their everyday lives; and that the vast majority of U.S. troops are serving honorably in a dangerous environment.

(U) Interrogation-related Abuse

(U) Of the three closed, substantiated abuse cases in Afghanistan, one - an assault not resulting in death - is related to interrogation. The other two cases involve a shooting in August 2002 that resulted in a detainee's death at Fire Base Lwara and a January 2002 incident at a Temporary Holding Facility where detainees were

Abuse (U)

Afghanistan Detainee Abuse

CASES	DEATHS	ABUSES	TOTAL	TOTAL SUBSTANTIATED
OPEN	4 / 0 / 0	5 / 2 / 0	12	N/A
CLOSED	1 / 0 / 0	12 / 0 / 0	15	3
TOTAL	5	22	27	3

Army Related Cases · Navy Related Cases · USMC Related Cases · Other Related Cases

All data as of 30 Sep 2004.

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taunted. The one closed, substantiated interrogation-related case occurred on March 18, 2004 and involved elements of a U.S. infantry battalion who conducted a cordon and search operation in the village of Miam Do, accompanied by an Army lieutenant colonel attached to the Defense Intelligence Agency. The operation was initially met with resistance, and between seven and 20 Afghans were killed. The unit then detained the entire population of the village for four days while conducting intelligence screening operations. In the course of these operations, the LTC punched, kicked, grabbed and choked numerous villagers. (This conduct is considered interrogation-related only because it was perpetrated in the course of screening operations. No specific interrogation techniques were employed.) An AR 15-6 investigation was initiated, and the LTC was given a General Officer Memorandum of Reprimand and suspended from any further operations involving detainees.

(U) In addition, four other cases warrant further discussion - not only for the severity of the alleged abuse they describe, but also for their potential relationship to interrogation. The first

two cases concern the December 2002 detainee deaths at the Bagram Collection Point, the third concerns a detainee death following questioning by OGA contractor David Passaro, and the fourth concerns allegations of detainee abuse at the hands of SOF personnel at Gardez in March 2003 resulting in the death of an Afghan Army recruit. (The last two cases are open, as described below; and the two Bagram death cases were closed on October 8, 2004, after our data analysis had been completed.) Notwithstanding their association with interrogation, however, it will be evident that these cases of abuse do not correlate to any approved interrogation policy.

(U) December 2002 Deaths at the Bagram Collection Point

(U) On December 4, 2002, a PUC died in custody at the BCP. Six days later, on December 10, a second PUC died at the BCP. The patterns of detainee abuse in these two incidents share some similarities. In both cases, for example, the PUCs were handcuffed to fixed objects above their heads in order to keep them awake. Additionally, interrogations in both incidents involved the use of physical violence, including kicking, beating and the use of "compliance blows" which involved striking the PUCs' legs with the MP's knee. In both cases, blunt force trauma to the legs was implicated in the deaths. In one case, a pulmonary embolism developed as a consequence of the blunt force trauma, and in the other case pre-existing coronary artery disease was complicated by the blunt force trauma.

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(U) Criminal investigation into the BCP deaths was completed in early October 2004. The Army's Criminal Investigative Division (CID) has recommended charges against 28 soldiers in connection with the deaths: 15 in conjunction with

the December 4 death (four MI and 11 MP), and 27 in conjunction with the December 10 death (seven MI and 20 MP). (Some of the same personnel are named in the detention and interrogation of both detainees.)

(U) We reviewed the Bagram Collection Point AR 15-6 investigation directed by LTG McNeill, the final CID Reports of Investigation, and approximately 200 interviews associated with the CID investigation. We also reviewed the medical practices at the BCP. We found the CID investigation to be thorough in addressing the practices and leadership problems that directly led to the deaths and consequently we believe that no further investigation into the criminal aspects of the deaths is required. However, we did find areas that were not addressed, and may require further investigation:

- (U) As discussed in more detail in the medical section of this report, it is unclear if medical personnel properly examined or documented the physical condition of the deceased.
- (U) Oversight of detainee operations at the BCP prior to the deaths was not examined in any depth. For example, the only direct oversight found in our review was by the local CJTF-180 Provost Marshal (an Army major). Although he identified questionable practices a month prior to the deaths, he did not ensure corrective action was taken.
- (U) Finally, we were not able to determine why military personnel involved or potentially implicated in this investigation were reassigned to other units (*e.g.*, to Abu Ghraib) before the investigation was completed.

(U) The Passaro Case

(U) On June 21, 2003, a detainee died in U.S. custody at FOB Gereshk, a DoD facility. Though an OGA contractor, David Passaro, was questioning the detainee, Army personnel were responsible for guarding the detainee and providing him water. Based on a local *ad hoc* division of labor, Passaro was responsible for feeding and interrogating the detainee.

(U) Passaro is currently being tried for four counts of assault in the federal district court for the Eastern District of North Carolina (under the United States Special Maritime and Territorial Jurisdiction, as expanded by the Patriot Act of 2001.) Passaro is alleged to have struck the detainee with a flashlight and kicked him numerous times in the course of interrogation; safety positions and sleep deprivation were also allegedly employed. Following an interrogation session, the detainee became distressed and asked one of the guards to shoot him. Later, the detainee freed one hand from his handcuffs and beat his head against a wall until he collapsed. No autopsy was conducted before the detainee's remains were released to

local nationals. Military personnel are also under investigation by the Army for their potential role in facilitating his death by not stopping abusive practices when they saw them.

(U) This case highlights some of the challenges associated with the close interaction between DoD and OGA forces in war, which are described at greater length in this report's section discussing DoD support to OGA.

(U) Gardez

~~(FOUO LES)~~ [redacted]

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(U) Conclusions: Interrogation Techniques and Abuse

(U) In sum, our major findings regarding interrogation techniques employed, and interrogation-related abuses in Afghanistan are as follows:

- (U) We concur with BG Jacoby that dissemination of approved interrogation policies in Afghanistan was poor until the adoption of CJTF-7's May 13, 2004 interrogation policy. Until that point, interrogators largely relied upon broad interpretation of FM 34-52.

- (U) The Secretary of Defense issued specific guidance for the interrogation of al Qaeda and Taliban detainees at GTMO, but guidance for interrogation of al Qaeda and Taliban detainees in Afghanistan was developed within CJTF-180. CJTF-180 submitted to the Joint Staff a list of techniques being employed in Afghanistan in January 2003; and though the CJCS determined that the list was inconsistent with the techniques approved for GTMO, no response was provided. As a result, interrogation policies in Afghanistan - while they did not contribute to any detainee abuses - remained less restrictive than those in GTMO until June 2004, when CJTF-7's policy was adopted.

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- (U) The few substantiated interrogation-related abuses in Afghanistan - which consisted of physical violence - were unrelated to any approved interrogation policies, which prohibited such behavior. In addition, the abuses at Bagram took place before any interrogation policy other than FM 34-52 was codified for Afghanistan.

(U) Missed Opportunities

(U) Our investigation suggested several additional "missed opportunities" (besides those suggested by our findings above). None of these missed opportunities themselves contributed to or caused abuse; in addition, it is unlikely that they could have prevented the interrogation-related abuses that did occur, which were already prohibited by other existing policies, law, and doctrine. However, had they been pursued, U.S. forces might have been better prepared for detention and interrogation operations in Afghanistan.

- (U) Though the President's February 7, 2002 determination stated that al Qaeda and Taliban members were not EPWs, no specific guidance was given to CENTCOM with regard to the practical effects of this determination, in particular with regard to interrogation techniques and the concept of "military necessity" as a justification for exceeding the guidelines of GPW. We found no evidence that the determination was employed to justify techniques beyond the boundaries of GPW: it was clearly not a driving factor in CJTF-180 interrogations - in fact, LTG McNeill stated that he had no personal knowledge of the impact of the President's determination. Nevertheless, we recommend that common guidance be provided to all of the military departments and DoD agencies.

- (U) There was no evidence that specific detention and interrogation lessons learned from previous conflicts were incorporated in planning for Operation ENDURING FREEDOM.
- (U) Though all personnel were aware that abuse must be reported, there were no standard procedures for identifying or reporting detainee abuse or for determining whether abuse allegations were legitimate.

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Operation IRAQI FREEDOM (U)

(U) This section examines the evolution of interrogation techniques approved and employed in Operation IRAQI FREEDOM, and begins with a discussion of the background to interrogation operations in Iraq. The discussion below presumes a familiarity with the previous reports concerning detention and interrogation operations in Iraq, and particularly at Abu Ghraib, summarized earlier in this report (*i.e.*, Miller, Ryder, Taguba, Army Inspector General [Mikolashek], Fay, Jones, and Independent Panel), but will re-emphasize key points - and, where appropriate, offer clarifications - in order to provide context for our analysis.

Background (U)

(U) Operation IRAQI FREEDOM began at approximately 10 p.m. Eastern Standard Time on March 19, 2003, with air and cruise missile strikes intended to kill Saddam Hussein and other key leaders of the Ba'athist regime. The main body of coalition ground forces crossed the border from Kuwait into Iraq on March 20, and three weeks later, on April 9, coalition forces had taken Baghdad. By early May, the Iraqi armed forces and the Ba'athist regime had been defeated, and coalition forces could begin the task of stabilizing and reconstructing Iraq in coordination with the new Coalition Provisional Authority (CPA) established on May 12, 2003. (The CPA superseded the Office for Reconstruction and Humanitarian Assistance, which had been in place since April.) Although full responsibility and authority for governing Iraq was handed over to the fully sovereign and independent Iraqi interim government on June 28, 2004, coalition forces continue to support Iraqi security and reconstruction.

(U) As in the early stages of Operation ENDURING FREEDOM, ground operations in IRAQI FREEDOM were marked by both rapid maneuver and the participation of SOF and OGA personnel. These factors would necessitate multiple, often far-flung detention facilities: the rapid and wide-ranging maneuver of conventional forces, combined with the dispersed nature of SOF and OGA operations, meant that Iraq was never a "linear" battlefield with clearly defined front lines, or rear areas in which to establish internment facilities. In addition, continuing insurgent and terrorist activity throughout the country required coalition units to maintain short-term detention facilities within their own areas of responsibility for the safeguarding of detainees before their transfer to theater internment facilities.

(U) While operations in Afghanistan and Iraq have both resulted in large numbers of civilian detainees, Operation IRAQI FREEDOM is distinct in that the initial stages of ground combat - from March 20 through early May of 2003 - produced significant numbers of enemy prisoners of war (EPWs) as well. The figure on the next page, an excerpt from the Center for Army Lessons Learned publication *On Point* (a history of Army operations in IRAQI FREEDOM through May 2003), describes the 3d Infantry Division's early experi-

ence with EPW operations during the battle to secure an air base and a bridge over the Euphrates River near the town of Tallil in southeastern Iraq. The narrative illustrates some of the challenges related to detention operations on a fluid battlefield encompassing fast-moving forces and long lines of communication. In addition, it calls attention to the segue from EPW to civilian internee detention attending the transition from major combat to stability operations.

Handling the Enemy Prisoners of War (U)

(U) "The Battle of Tallil presented the 3rd ID with its first substantial numbers of EPWs. Handling the prisoners was a major task that the division and corps had been working for months. This would be the first test of that effort. At 0900 on 22 March...the 3rd MP Company commander led the advance party of Task Force EPW to [Assault Point] BARROW and established the first EPW collection point. Shortly thereafter, the main body arrived and received and processed the first three Iraqi EPWs.

(U) "While processing the prisoners at BARROW...[the] 3rd ID provost marshal received a message from 3rd BCT [Brigade Combat Team] asking for assistance with the prisoners taken at Tallil Air Base. [A] small advance party moved north...to take control of the prisoners, established a hasty collection point, and accepted 3rd BCT's prisoners. The following morning at 0900...the 3rd BCT cleared a building complex planned as the location of Division Central Collection Point HAMMER. Task Force EPW occupied the complex in the early afternoon.

(U) "By the morning of 24 March, ...the 709th MP Battalion commander arrived at Tallil Air Base...[and] effected a relief-in-place with Task Force EPW. This freed Task Force EPW to continue movement north following the 3rd ID brigades. However, [the 709th MP Battalion commander] quickly realized that he did not have adequate combat power to relieve Task Force EPW and conduct his second mission of escorting critical logistics convoys to the fighting forces. The only available forces at his disposal were two platoons and the company headquarters of the 511th MP Company from Fort Drum, New York, all of which had arrived ahead of the unit equipment.

(U) "[The battalion commander] decided to commit this force to conduct the EPW mission at Tallil. On 24 March, [the] commander of the 511th MP Company led 80 soldiers in six Black Hawk helicopters from Camp PENNSYLVANIA to Tallil Air Base, with only their weapons, rucksacks, a picket pounder, and two days' supply of food and water. They immediately augmented the 709th MP Battalion and effectively relieved Task Force EPW. The 709th MPs renamed the collection point Corps Holding Area WARRIOR. With limited equipment and supplies, the 511th MP Company expanded the collection point and processed and safeguarded over 1,500 EPWs until the 744th MP Battalion (Internment/Resettlement) relieved them on 6 April 2003.

(U) "The holding area at Tallil Air Base ultimately became Camp WHITFORD, a trans-shipment point where all coalition ground forces brought EPWs pending movement by the 800th MP Brigade to the theater internment facility at Camp BUCCA [in the Iraqi Persian Gulf port city of Umm Qasr]. On 9 April, coalition forces had over 7,300 EPWs in custody. Most of these prisoners ultimately [were transferred] to the theater internment facility. However, coalition commanders released prisoners who they determined did not have ties to the Iraqi armed forces or the Ba'ath Party. As coalition forces transitioned to peace support operations, the internment and resettlement mission also transitioned. Shortly after 1 May 2003, when President Bush declared the end of major combat operations, the 800th MP Brigade began paroling approximately 300 EPWs a day. As the prisoners were released, criminals replaced them in the camps as coalition forces began to establish law and order throughout the country."

(U) Evolution of Command Structures and Detention Facilities

(U) Combat Operations

(U) As with operations in Afghanistan, overall combatant command of operations in Iraq resided with the Commander, U.S. Central Command (CENTCOM): General Tommy Franks, USA until July 7, 2003, and then his successor, General John Abizaid, USA. During the early combat operations, CENTCOM's Combined Forces Land Component Commander (CFLCC) - Third U.S. Army Commanding General, Lieutenant General David McKiernan, who by then had relieved LTG Mikolashek - directed conventional

force ground operations, while the Combined Force Special Operations Component Commander (CFSOCC) directed SOF operations. In addition, a Joint Interagency Coordinating Group (JIACG) was established as part of the CENTCOM staff to assist in coordinating the activities of non-DoD agencies operating in Iraq.

(U) Major conventional forces under the CFLCC's command included the U.S. Army V Corps, then commanded by LTG William S. Wallace, USA, and the 1st Marine Expeditionary Force (I MEF) - with attached British forces - under LtGen James T. Conway, USMC. Major units assigned to V Corps included 3d ID, 4th ID, and the 82d Airborne and 101st Air Assault Divisions. In addition, CENTCOM placed the 173d Airborne Brigade under the CFSOCC's command as part of Joint Special Operations Task Force North (JSOTF-N). In the early days of Operation IRAQI FREEDOM, the 3d ID spearheaded V Corps' drive to Baghdad through southwestern Iraq; the 173d Airborne Brigade and 101st Air Assault Division secured northern Iraq; and I MEF, together with British forces, secured the oil fields of southern Iraq and drove to Baghdad from the southeast. Later, these units would be joined by the 4th ID and by then-Major General Ricardo S. Sanchez's 1st Armored Division, arriving via Kuwait; subsequent troop rotations (not described in detail in this report) began in early 2004.

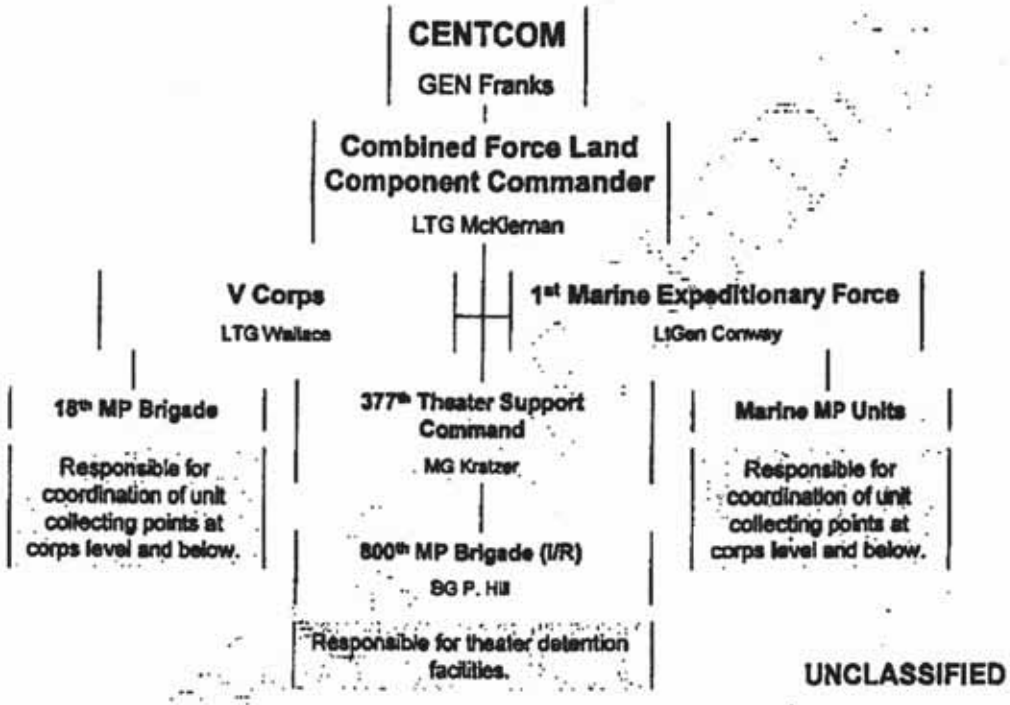
(U) As *On Point* relates, planning for detention and related intelligence operations - and the attendant challenges - began well before March 2003. CFLCC planners anticipated that EPW numbers could range from approximately 16,000, in the event of an early collapse of the Iraqi regime, to a high of approximately 57,000 if Iraqi forces put up a lengthy defense. MPs would also be required to stabilize liberated territories in addition to conducting standard missions including detainee operations, protection of high-value assets and personnel, and regulation of supply routes, among others.

(U) As early as December 2001, while tailoring forces in support of CENTCOM's Operation Plan (OPLAN) 1003V in the event of hostilities with Iraq, V Corps' 18th MP Brigade began planning for EPWs captured in combat. The Brigade's initial plan was to have two battalion headquarters and eight to ten MP companies available if and when hostilities began. However, as Operation IRAQI FREEDOM approached, the CFLCC made a decision to place these MP units toward the "tail" of the forces flowing into theater, giving preference for early arrival to combat arms units. This decision would result in increased responsibility for early-arriving MP units. From *On Point*:

(U) "[This decision] had the greatest effect on the division provost marshals [*i.e.*, senior MP officers], who were responsible for coordinating MP support to the divisions with only half of the required police forces...To manage the problem, [the 3d ID provost marshal] formed Task Force EPW. In addition to the division's MP company, the task force received the 546th Area Support Hospital, the 274th Medical Detachment (Field Surgical Team), a tactical human intelligence (HUMINT) team, a mobile interrogation team, a criminal investigation division (CID) division support element, and an adviser from the Staff Judge Advocate. With the 3d MP Company, the task force had the resources necessary to receive, process, and safeguard prisoners."

(U) Besides handling detainees during combat operations, the CFLCC would require a theater EPW internment capability. In a March 14, 2003 OPORD, the CFLCC assigned this task to MG David E. Kratzer's 377th Theater Support Command (TSC), a unit assigned to the CFLCC that included the Army Reserve 800th MP Brigade (Internment/Resettlement). The 800th MP Brigade (then commanded by Army Reserve BG Paul H. Hill) was primarily composed of six MP battalions, four of which specialized in EPW processing and counterintelligence, and two of which were trained for the I/R mission. (The Brigade's 320th MP Battalion, a non-I/R unit composed of reservists trained for guard duty that included the 372d MP Company, would later assume responsibility for the prison at Abu Ghraib.) In addition, the CFLCC delegated to the 800th MP Brigade its authority to conduct GPW Article 5 tribunals to ascertain appropriate categories for detainees whose Geneva Convention status was unclear. An organization chart depicting the overall command structure relevant to detainee operations is provided in the figure on the following page.

Iraq Detention-Related Command Structure - March 2003 (U)



(U) Prior to the war, V Corps also began preparing for detainee-related intelligence operations by rotating Tactical HUMINT Teams (four-soldier teams including interrogators and linguists) into the CENTCOM theater in order to hone language skills and conduct mission-specific training.

(U) Initial Development of Detention Facilities

(U) With the inception of ground combat operations on March 20, 2003, coalition ground forces throughout Iraq had to develop facilities for the temporary detention and tactical interrogation of EPWs, civilian internees (CI) and other detainees (OD) prior to turning them over to the

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COPY NUMBER ONE

18th MP Brigade or channeling them directly to a theater internment facility. Throughout the war, various collecting points were established and disestablished at the brigade level and below as circumstances dictated. As noted previously in our discussion of detention doctrine, the lowest-echelon detention facility described in MP doctrine is the division collecting point (CP); however, the realities of combat operations in Afghanistan and Iraq have often dictated the establishment of temporary detention facilities at lower levels; *e.g.*, by maneuver brigades, or by SOF operating independently.

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(U) Theater-level Facilities

(U) Among the detention sites established in the course of Operation IRAQI FREEDOM, four have emerged as major theater-level facilities for the detention of EPWs and civilians. The 800th MP Brigade operated all of these facilities until relieved by the 16th MP Brigade (Airborne) in early 2004. As of July 2004, the Multinational Forces-Iraq Deputy Commanding General for Detainee Operations assumed responsibility for all detention and interrogation operations in Iraq.

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- (U) **Abu Ghraib.** (Baghdad Central Confinement Facility, BCCF, or Baghdad Central Collecting Point, BCCP). In late summer 2003 CPA Administrator Bremer selected the former Iraqi prison at Abu Ghraib to be the central civilian correctional facility for Iraq. According to the Jones report, though aware of the prison's poor condition - exacerbated by looting - and history of torture under the Ba'ath regime, after extensive consideration LTG Sanchez judged that there were no other suitable, existing structures in Iraq in which to centrally house detainees captured by U.S. forces, and designated Abu Ghraib CJTF-7's internment facility. The use of this site would also preclude the need for hazardous convoy operations to move detainees captured in the vicinity of Baghdad to more distant facilities such as Camp Bucca.

(U) At the time of the detainee abuses perpetrated by members of the 320th MP Battalion, the BCCF complex included Camps Ganci and Vigilant, which housed the general detainee population, and a "Hard Site" within the permanent prison structure for the isolation of "MI hold" detainees. As detailed in previous reports, a Joint Interrogation and Debriefing

Center (JIDC) was established at Abu Ghraib.

- (U) **Camp Bucca.** Originally a British-run EPW camp known as "Camp Freddy," this internment facility - located near the Arabian Gulf port city of Umm Qasr - was turned over to the 800th MP Brigade in April 2003.

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- (U) **Camp Ashraf.** This camp, in eastern Iraq near the Iranian border, houses roughly 3,800 members of the Mujahedin-E Khalq (an anti-Iranian paramilitary group – designated as a foreign terrorist orgranization by the Secretary of State – supported by the Ba'ath regime) who surrendered en masse to coalition forces in April 2003.

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(U) The Shift to Stability Operations

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(U) The Jones report notes that when major combat operations were declared over, U.S. forces held much fewer than the tens of thousands of EPWs predicted during pre-war planning. Though planners had initially envisioned a need for up to 12 major detention facilities, the smaller number of detainees actually held resulted in the de-mobilization of reserve MP units in the U.S. that had been identified for duty in Iraq. By the summer of 2003, however, the number of civilian detainees had risen dramatically as a result of coalition counter-insurgency operations, and a central detention facility was required. The civilian prison population at Abu Ghraib alone - criminals, security detainees, and detainees with potential intelligence value - grew to an estimated 4,000-5,000 by the fall of 2003, and as of early September 2004 included roughly 3,000 detainees (though the number continues to drop). The history of events at Abu Ghraib has been extensively described by previous reports.

(U) The Iraq Survey Group

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(U) MG Keith Dayton, USA commanded the ISG from its inception until his relief by BGen Joseph McMenamin, USMC in July 2004. In addition to its military leadership, the ISG receives guidance from a CIA appointee (nominally a special adviser to the Commander, CENTCOM). Dr. David Kay, former chief nuclear weapons inspector for the United Nations Special Commission (UNSCOM) on Iraqi weapons of mass destruction, filled this position from the ISG's inception until December 2003; subsequently, in February 2004, former UNSCOM deputy director Charles Duelfer assumed this duty.

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(U) Toward a Focus on Detainee Operations

(U) As noted in several previous reports on detainee operations, the V Corps staff was not administratively configured, or initially provided the resources, to function as a JTF - to act, in essence, as a unified combatant commander. As LTG Jones stated in his report, "V Corps was never adequately resourced as a CJTF. The challenge of transitioning from V Corps HQs to CJTF-7 without adequate personnel, equipment, and intelligence architecture, severely degraded the commander and staff during transition. Personnel shortages documented in the [joint manning document] continued to preclude operational capabilities." This problem has since been at least partially addressed by the May 15, 2004 establishment of the joint Multinational Force-Iraq (MNF-I) under LTG Sanchez (relieved by four-star General George Casey, USA on July 1, 2004), though personnel shortages continued to be a problem. A three-star subordinate command, the Multinational Corps-Iraq (MNC-I), focuses on counter-insurgency combat operations, allowing MNF-I to concentrate on strategic issues within the Iraq theater. In the interim period before the inception of MNF-I, LTG Sanchez initiated numerous measures to improve V Corps' capability to act as a CJTF, such as the assignment of general officers in key staff positions: for example, military intelligence MG Barbara Fast, USA was assigned as the CJTF's senior intelligence officer (a position normally filled by a colonel at the corps level). These efforts have been described in previous reports, but their impetus bears repeating here: in view of the unexpected intensity of the Iraqi insurgency, LTG Sanchez was forced to seek out and pursue aggressively additional resources to augment V Corps' capability from the very beginning of his tenure in command. We agree with LTG Jones' conclusion that "the CJTF-7 Commander and staff performed above expectations, in the over-all scheme of OIF [Operation IRAQI FREEDOM]."

(U) In light of concerns raised by the abuses at Abu Ghraib, Task Force 134 was established within MNF-I in July 2004 under the command of MG Geoffrey Miller, USA (former commanding general of JTF GTMO), who was assigned as Deputy Commanding General for Detainee Operations and charged with the oversight and coordination of MP and MI units conducting detention and interrogation operations in Iraq. Like JTF GTMO, Task Force 134 provides unity of command and control for all detainee operations in the theater. The figure below illustrates the current command structure.

(U) We now turn to detention and interrogation operations. Unlike our previous section covering Afghanistan, we do not here provide a separate discussion of the evolution of guidance regarding detainee treatment, because in Iraq these operations were (in theory) completely doc-

Iraq Detention-Related Command Structure - July 2004 (U)

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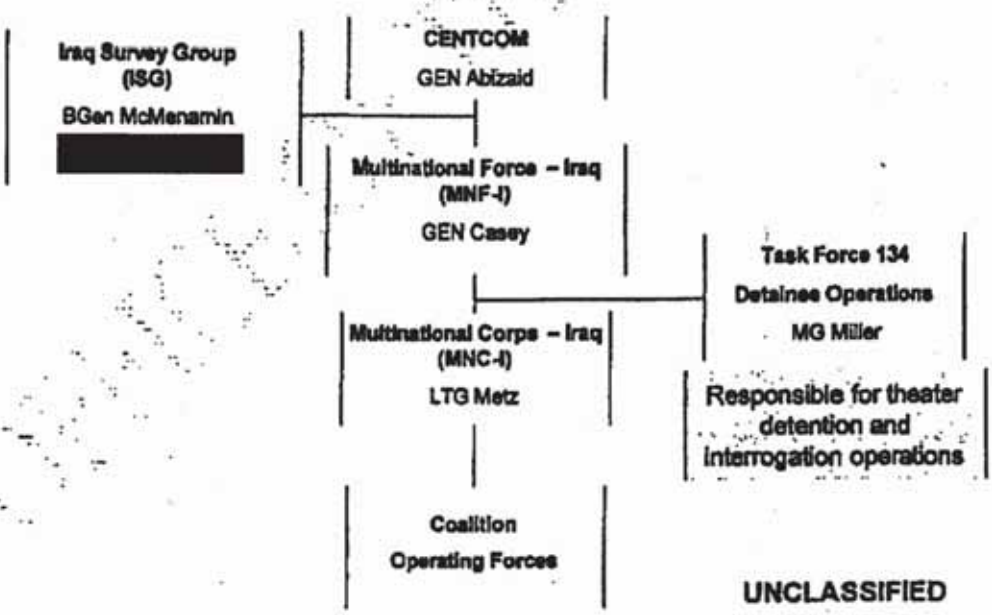

trinal. Instead, pertinent details are included where appropriate in the following sections.

(U) Detainee Flow From Point of Capture Through Detention

(U) Detainee flow from point of capture to detention in Iraq has been well described in MG Fay's report, and we generally concur with his findings regarding the conduct of detention operations in general prior to the assignment of MG Miller as Deputy Commanding General for Detainee Operations. The following paragraphs summarize MG Fay's findings and introduce the detainee classification system used in Iraq.

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Excerpt from FRAGO 749 - Detainee Classification Definitions (U)

1.C. (U//REL TO USA and MCFI) DEFINITIONS.

1.C.1. (U) CIVILIAN INTERNEE (CI): A PERSON WHO IS INTERNED DURING ARMED CONFLICT OR OCCUPATION IF HE/SHE IS CONSIDERED A SECURITY RISK, NEEDS PROTECTION OR HAS COMMITTED AN OFFENSE (INSURGENT OR CRIMINAL) AGAINST THE DETAINING POWER. A CIVILIAN INTERNEE IS PROTECTED ACCORDING TO GENEVA CONVENTION IV (PROTECTION OF CIVILIAN PERSONS IN TIME OF WAR).

1.C.2. (U) CRIMINAL DETAINEE (CD): A PERSON DETAINED BECAUSE HE/SHE IS REASONABLY SUSPECTED OF HAVING COMMITTED A CRIME AGAINST IRAQI NATIONALS OR IRAQI PROPERTY OR A CRIME NOT RELATED TO THE COALITION FORCE MISSION.

1.C.3. (U) SECURITY INTERNEE (SI): A CIVILIAN INTERNED DURING CONFLICT OR OCCUPATION FOR THEIR OWN PROTECTION OR BECAUSE THEY POSE A THREAT TO THE SECURITY OF COALITION FORCES, ITS MISSION, OR ARE OF INTELLIGENCE VALUE. THIS INCLUDES PERSONS DETAINED FOR COMMITTING OFFENSES (INCLUDING ATTEMPTS) AGAINST COALITION FORCES (OR PREVIOUS COALITION FORCES) MEMBERS OF THE PROVISIONAL GOVERNMENT, NGOS, STATE INFRASTRUCTURE OR ANY PERSON ACCUSED OF COMMITTING WAR CRIMES OR CRIMES AGAINST HUMANITY. CERTAIN SECURITY INTERNEES MAY ALSO BE CLASSIFIED AS A HIGH VALUE DETAINEE (HVD). SECURITY INTERNEES ARE A SUBSET OF CIVILIAN INTERNEES.

1.C.4. (U) HVDS: HVDS ARE SECURITY INTERNEES OF SIGNIFICANT INTELLIGENCE OR POLITICAL VALUE. UNITS WILL BE INFORMED BY C2 CJTF-7 OF THE IDENTITY OF SUCH INDIVIDUALS.

1.C.5. (U) ENEMY PRISONER OF WAR (EPW): A MEMBER OF ARMED OR UNIFORMED SECURITY FORCES THAT CONFORM TO THE REQUIREMENTS OF ARTICLE 4, GENEVA CONVENTION RELATING TO TREATMENT OF PRISONERS OF WAR.

1.C.6. (U) CRIMINAL INVESTIGATION DIVISION (CID) HOLD: A DIRECTIVE TO HOLD AND NOT RELEASE A DETAINEE/INTERNEE IN THE CUSTODY OF COALITION FORCES, ISSUED BY A MEMBER OR AGENT OF THE U.S. ARMY CRIMINAL INVESTIGATION DIVISION.

1.C.7. (U) MILITARY INTELLIGENCE (MI) HOLD: A DIRECTIVE TO HOLD AND NOT RELEASE A DETAINEE/INTERNEE IN THE CUSTODY OF COALITION FORCES, ISSUED BY A MEMBER OR AGENT OF A U.S. MILITARY INTELLIGENCE ORGANIZATION.

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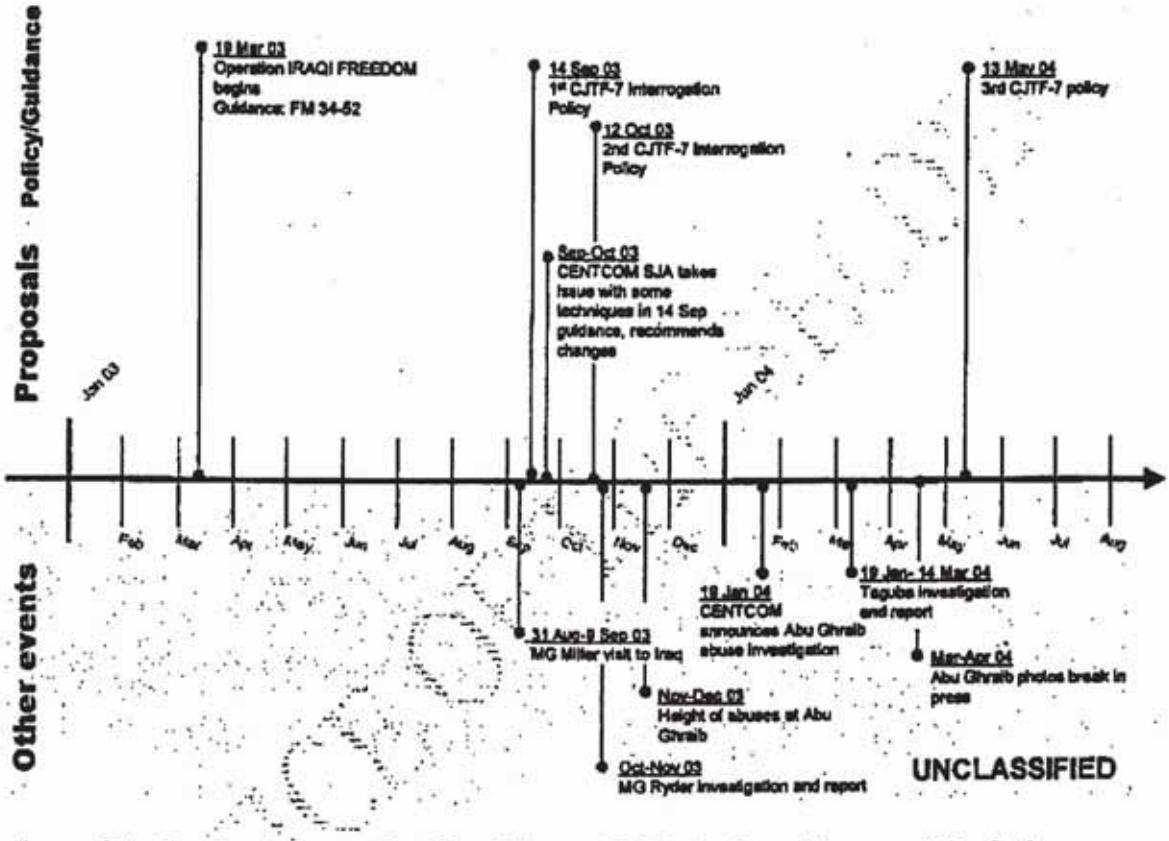
(U) MI-MP Relationship

(U) In Iraq, as in Afghanistan, the working relationship between MI and MP personnel was dictated by doctrine, albeit with all of the uncertainties regarding implementation of interrogation techniques described in our earlier section on the doctrinal relationship between MI and MP. Over and over, our interviewees - from the top of the chain of command to the bottom, MP and interrogator alike - stated, "MPs do not interrogate." However, decisions as to whether MPs participated in the implementation of techniques such as Sleep Adjustment or MRE-Only Diet, or were present in the interrogation room, devolved to the unit level due to the doctrinal vagaries we have discussed previously. The lines delineating MI and MP responsibilities appeared to be completely lost at Abu Ghraib due to the well-documented failure of leadership and supervision. As MG Taguba stated in his report, "Coordination occurred at the lowest possible levels with little oversight by commanders."

(U) MG Taguba suggested that the assignment of the 205th MI Brigade commander, COL Pappas, as the overall commander of the base at Abu Ghraib from November 19, 2003 through February 6, 2004, with the 372nd MP Company assigned the subordinate role was "not doctrinally sound due to the different missions and agendas assigned to each of these respective specialties." We disagree. First, there is nothing "non-doctrinal" about assigning the senior officer present at the base authority as well as responsibility for its defense. In addition, our review of MI and MP doctrine did not indicate that such a command relationship between MI and MP units would have any effect on working relationships between individual MI and MP personnel, with the possible exception of a *perception* (not deriving from any military doctrine) that MI personnel might have positional authority over MPs. In any event, at a minimum, LTG Sanchez's rationale for the assignment deserves consideration: "I was very aware of what Tom Pappas' capacities were. I knew what other missions he had in support of the task force. I knew from previous orders we had issued that he had a good part of his capacity at Abu Ghraib and that he personally was focused on Abu Ghraib. Being the senior man on the ground, that is inherently what our profession is all about - he had to be able to defend his position against the enemy. Therefore, all I thought I was doing was officially establishing that responsibility and making sure that everybody on that compound understood without a doubt who was going to direct the defense, who was going to be responsible for defending Abu Ghraib from enemy attack" (from LTG Sanchez's statement to LTG Jones). In his statement to us, LTG Sanchez added, "The asser-

Iraq Counter Resistance Policy Development (U)



tion made in the Taguba report that this relationship was non-doctrinal is contentious and one that I totally disagree with, especially given the operational environment and circumstances that existed in Iraq during this period." Again, our review of interrogation and detention doctrine supports LTG Sanchez's position.

(U) Evolution of Approved Techniques

(U) The overall development of interrogation policy in Iraq is depicted in the figure above. For six months after the beginning of combat operations in March 2003, interrogators were guided by FM 34-52. In September and October 2003, the initial CJTF-7 "counter-resistance" interrogation

policy was promulgated and then revised respectively; and in May 2004, the current policy was issued. We now turn to a discussion of this policy evolution.

(U) The evolution of approved interrogation techniques in Iraq was heavily influenced by the fact that most initial planning focused on defeating the Iraqi military forces, rather than on the subsequent occupation. LTG Sanchez, in his statement to LTG Jones, outlined the problem: "Remember the war had ended and we did not envision having to conduct detention operations of this scope and for this length of time. It was go to the FM [Field Manual] and figure out how you are going to do it based on the FM. We did not envision continuing to conduct operations and increase the numbers of detainees at the levels that we wound up having to do. The same thing happened with interrogations. Let's go to the FM and you do it according to the FM. It clearly was not sufficient."

(U) OPORD 1003V and Major Combat Operations

(U) CENTCOM's war plan for the invasion of Iraq, OPORD 1003V, gave no specific interrogation guidance, and little guidance on detainees beyond that which could be found in governing doctrine. Appendix 1 to Annex E to CENTCOM OPLAN 1003V, "*Enemy Prisoners of War (EPW), Retained Persons, Civilian Internees, and Other Detainees,*" echoes the familiar distinctions between EPW, RP and CI found in GPW and GC, as codified for the military through AR 190-8 and CENTCOM Regulation 27-13. The Appendix provides no specific guidance with relation to interrogation policy. Dated September 25, 2002, the Appendix runs only nine pages, and appears to be drawn directly from AR 190-8; nowhere in the annex do the words "Iraq" or "Iraqi" appear. It is virtually indistinguishable from the same annex to the Operation ENDURING FREEDOM war plan.

(U) In light of the absence of specific guidance governing interrogations in the OPORD, as LTG Sanchez indicated, interrogators initially relied on the techniques outlined in FM 34-52. There is little record of interrogation operations during the major combat phase of the war; indeed, given the coalition forces' speed of advance and overwhelming air supremacy it seems likely that coalition forces may have had a more complete operational picture of friendly and hostile force disposition than most captured Iraqis, minimizing the importance of interrogations of EPWs.

(U) The Iraq Survey Group

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(U) Although the ISG did not report to CJTF-7 (with the exception of at least one brief period as the command structure evolved), but to CENTCOM, and thus was not bound by CJTF-7 interrogation guidance, we found that the guidance promulgated by MG Dayton was more explicit (and conservative) than any put forth by CJTF-7 at this early stage of the operation. MG Dayton confirmed to us his doctrinal foundation: "The ISG did not use any interrogation/debriefing techniques beyond those in FM 34-52. Debriefing techniques primarily consisted of direct questions and incentives (cigarettes, coffee, and so forth)."

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(U) April-September 2003

(U) The defeat of Saddam's regime and disbanding of the Iraqi army left a vacuum in the provision of Iraqi government services. Free from the ubiquitous presence of Saddam's security forces and secret police for the first time in over 30 years, criminal elements of Iraqi society began wide-

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spread looting and crime. (This was compounded by Saddam's release of tens of thousands of criminals from Iraqi prisons shortly before the war.) At the same time, other elements began an insurgency campaign against coalition forces, attacking supply lines, sabotaging public infrastructure such as electric power generation and distribution facilities, and assassinating Iraqi citizens who cooperated with coalition forces. Coalition forces found themselves in the unaccustomed position of performing basic police and detention duties at the same time they were engaged in combat operations against a growing insurgency.

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(U) MG Fay's report has provided a comprehensive description of the evolution of interrogation policy in Iraq. In the paragraphs that follow, we review the key points of that evolution, adding our observations and data from our interviews where appropriate.

(U) Development of the September 2003 CJTF-7 Interrogation Policy

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(U) As planning for Operation VICTORY BOUNTY continued, CJTF-7 began to shut down the Camp Cropper corps holding area, transferring first hundreds, then thousands of detainees to Abu Ghraib. The A/519 Company Commander requested that the 519th MI Battalion transfer Captain Carolyn Wood, USA, who had served as Officer-in-Charge of the battalion's interrogation operations in Bagram, Afghanistan, from battalion headquarters to Abu Ghraib to head the growing interrogation mission there. CPT Wood arrived at Abu Ghraib in early August 2003 to assume responsibility for what was coalescing into the Saddam Fedayeen Interrogation Facility (SFIF).

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(U) Shortly thereafter, from August 31 to September 9, 2003, the JTF GTMO commander, MG Geoffrey Miller, led a team to assess interrogation and detention operations in Iraq. (MG Miller's visit was the result of an August 18, 2003 message from the Joint Staff's Director for Operations [J-3], requesting that the SOUTHCOM commander provide a team of experts in detention and interrogation operations to provide advice on relevant facilities and operations in Iraq. The need for such assistance in light of the growing insurgency had originally been expressed by CJTF-7 and CENTCOM, and the Joint Staff tasking message was generated following discussion with both CENTCOM and SOUTHCOM.) A key observation by the team was that CJTF-7 had "no guidance specifically addressing interrogation policies and authorities disseminated to units" under its command. This observation was closely related to the assessment team's central finding that CJTF-7 "did not have authorities and procedures in place to effect a unified strategy to detain, interrogate and report information from detainees/internees in Iraq."

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(U) October 12, 2003 CJTF-7 Interrogation and Counter-Resistance Policy

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(U) May 13, 2004 CJTF-7 Interrogation and Counter-Resistance Policy

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(U) Interrogation Techniques Employed

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(U) As in the previous sections covering GTMO and Afghanistan, this section begins with a brief summary of our investigation, followed by a comparison of the techniques approved for use in Iraq (*i.e.*, the CJTF-7 interrogation policies) with those techniques actually employed.

(U) Investigative Procedure

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(U) As in GTMO and Afghanistan, the interviews covered the entire spectrum of personnel involved in detainee and interrogation operations, from flag and general officers to junior enlisted interrogators and personnel who participated in the capture of detainees. We took interviews or written statements from general officers including GEN Abizaid and LTG Sanchez, as well as other key personnel including CJTF-7/MNF-I senior intelligence officer MG Barbara Fast, MG Geoffrey Miller, and the debriefing and interrogation commanders at the ISG and Abu Ghraib, respectively. In addition, our team in Washington conducted an extensive review of the documentary evidence gleaned from responses to our data requests to commands and agencies throughout DoD, as well as data collected during previous investigations, particularly the reports of LTG Jones, MG Fay, MG Taguba, and the Independent Panel.

(U) In order to avoid duplication of previous efforts by other investigations that focused on Abu Ghraib, and because of constraints related to ongoing criminal proceedings concerning the abuses there, we relied primarily on the Taguba, Jones, and Fay reports for data regarding the Abu Ghraib events of October through December 2003. However, the analysis presented here is our own; in addition, our team's visit and interviews at Abu Ghraib provided a snapshot of current interrogation and detention conditions there.

(U) Comparison of Interrogation Techniques Approved and Employed

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(U) In addition, before beginning our analysis of the chart, a further clarifying note is necessary: in the third column, representing the period between October 12, 2003, and May 12, 2004, the chart includes several X markings depicting the abuses at Abu Ghraib detailed in MG Taguba's report - in particular, Removal of Clothing; Presence of Military Working Dogs (which attacked detainees, rather than simply being present); Beating; Mock Electric Shock; Photographing under Humiliating Circumstances; and Sexual Acts / Mock Sexual Acts. By including the Abu Ghraib abuses on the chart, we do not imply that those specific acts are in fact considered to be interrogation techniques, that they were the result of any policy, or that they occurred during the course of interrogations (except as noted in previous reports). Rather, they are included in order to contrast the nature of those abuses with the interrogation policy that LTG Sanchez had mandated for all security internees held by CJTF-7, including those at Abu Ghraib. Clearly, each of these abuses was prohibited by the October 12, 2003 CJTF-7 interrogation policy, and LTG Jones found that the Abu Ghraib abuses primarily resulted from individual criminal misconduct; misinterpretation or ignorance of law, policy, doctrine, and approved interrogation techniques; and lack of proper organization, training, and supervision of the MI and MP forces at the prison. We found no evidence of any policy or directive that might be interpreted as ordering or permitting the Abu Ghraib abuse, and agree with LTG Sanchez, who stated to us that:

(U) "The cause of these abuses and deaths were the training, leadership and discipline failures inside of the units. The institutional guidance and the policies were all in place. The advice, the procedures, everything that was necessary for a commander to be successful I think had been done. The resourcing was progressing at a very slow pace, but it was in concert with the overall situation of the task force and the environment that we were in...And I think in the end, it was just plain and simple failures in those three areas at the lowest levels of leadership."

(U) As in the GTMO and Afghanistan sections, the chart depicts the use of many techniques coded white or orange, indicating techniques employed without specific approval that nonetheless are not necessarily problematic. To reiterate, these two colors indicate that the applicable policy memoranda did not specifically discuss the techniques in question; therefore, it is by no means certain that interrogators would categorize the techniques' application as distinct from other, approved techniques. For example, though the current (1992) edition of FM 34-52 does not specifically authorize Mutt and Jeff (see first column), nothing in the FM, the Geneva Conventions, or other policies or doctrine inherently prohibits it. Similarly, interrogators in Iraq often opined that Yelling was inherent to Fear Up Harsh, which is a doctrinal technique, and that Deception was inherent to many, if not most of the

OFFICE OF THE SECRETARY OF DEFENSE
COPY NUMBER ONE

doctrinal techniques. In these instances, X marks in orange blocks may not be a matter for concern, since neither interrogators nor the drafters of the policies might presume the technique to be outside the bounds of doctrine. (We will of course discuss exceptions below. In particular, when examining a line on the chart corresponding to a technique, if the color code changes from yellow to orange under subsequent policies, it can be understood that LTG Sanchez retracted the technique, but could allow it on a case-by-case basis following an official request and legal review.)

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(U) A final qualification regarding the chart bears repeating: as in the previous sections, the absence of an "X" does not mean conclusively that a technique was never employed; rather, that we found no evidence of its employment. Nevertheless, based on our interviews we are confident that the chart presents an accurate picture of the techniques employed in Iraq, and that any abuse incidents or improper employment of techniques unknown to us would have been isolated events.

(U) Overall Compliance with Approved Techniques

(U) Before beginning our discussion of compliance with approved techniques, we must note one key observation regarding Abu Ghraib: the vast majority of abuses at Abu Ghraib (*e.g.*, the "human pyramid") are completely unrelated to any doctrinal or otherwise approved interrogation techniques or policies, and did not occur during actual interrogations. Because the abuses there indicated a complete disregard for approved policies, they should not be considered representative of other issues pertaining to compliance with approved policies in Iraq (which are discussed below).

(U) A broad look at the chart illustrates a key finding regarding interrogation techniques employed in Iraq: the X marks in orange, yellow and red areas corresponding to techniques 1

through 50 indicate that dissemination of approved interrogation policies was ineffective, resulting in widespread lack of awareness of which techniques were currently authorized. Though our interviews of senior leaders in Iraq uniformly demonstrated that they were aware of the latest guidance, the breakdown of dissemination was pervasive at the unit level - for example, many personnel interviewed in June and July were unaware of the May 13, 2004 CJTF-7 interrogation policy - and, we believe, stemmed in large part from a reliance on SIPRNET (DoD's classified internet system) to disseminate the CJTF-7 policy memos to the field.

(U) When asked how command interrogation policy was provided to individual units, the former CJTF-7 C-2X (*i.e.*, the staff officer responsible for HUMINT and counterintelligence) stated, "These were posted on the CJTF-7 [SIPRNET] web page." At the other end of the distribution chain, a brigade S-2 (intelligence officer), a major, told us that a "guy has to look on the web each day" for guidance relevant to detention and interrogation. Unlike standard DoD messaging systems, this reliance on web-based dissemination requires units in the field - many of which may have limited access to SIPRNET - to "pull" guidance from higher headquarters. In addition, the CJTF-7 policy memos - unlike many OPORDs and FRAGOs issued during the course of IRAQI FREEDOM - do not include a requirement for units to acknowledge receipt; therefore, the CJTF-7 staff had no way of knowing whether dissemination had been effective.

(U) In short, effective dissemination of CJTF-7 interrogation policies appeared to rely largely on timely posting of the memoranda to SIPRNET web sites; reliable SIPRNET connectivity of widely dispersed forces under often-hostile conditions in the field; and initiative on the part of units in the field to access SIPRNET to download interrogation guidance. Although this may have been backed up by distribution of hardcopy memoranda through normal command channels, our interviews revealed that the chain frequently broke down. For example, on June 27, an Army captain commanding a Tactical HUMINT Platoon stated that he was aware of the May 13, 2004 CJTF-7 policy, but had not received it from his superior officer; rather, he had found the memo on his own. The last policy he had received from his chain of command was the October 12, 2003, memo. In addition, as of September 18, 2004, we discovered that the October 2003 CJTF-7 policy was still posted next to the current, May 2004 policy on the MNC-I C-2X SIPRNET web site with no amplifying information, adding to the potential for confusion.

(S/NF) [redacted] (b)(1)

(b)(1)

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OFFICE OF THE SECRETARY OF DEFENSE
COPY NUMBER ONE

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(U) We now turn to a discussion of specific interrogation techniques employed in the course of Operation IRAQI FREEDOM. Our GTMO and Afghanistan sections have described legal and humanitarian concerns surrounding the use of certain techniques, such as stress positions; with some exceptions, we have not reiterated those concerns in this section, which simply describes the techniques employed. Nevertheless, the aforementioned concerns should be borne in mind.

(U) Our discussion is divided into four parts: first, doctrinal techniques contained in FM 34-52; second, techniques introduced by the September 2003 CJTF-7 interrogation policy; third, techniques not specifically mentioned by any policy; and fourth, techniques prohibited by law or policy.

(U) FM 34-52 Techniques

~~(S/NF)~~ [redacted]

(b)(1)

(b)(1)

[redacted]

(U) Several observations regarding specific techniques derived from FM 34-52 follow.

~~(S/NF)~~ [redacted]

~~(S/NF)~~ [redacted]

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(b)(1)

(b)(1)

[redacted]

~~(SANF)~~ [redacted]

~~(SANF)~~ [redacted]

~~(SANF)~~ [redacted]

(U) Techniques Introduced by the September 14, 2003 CJTF-7 Policy Memorandum

(U) General Observations

~~(SANF)~~ [redacted]

~~(SANF)~~ [redacted]

~~(SANF)~~ [redacted]

(b)(1)

[redacted]

[redacted]

~~(S/NF)~~ [redacted]

~~(S/NF)~~ [redacted]

~~(S/NF)~~ [redacted]

~~(S/NF)~~ [redacted]

~~(S/NF)~~ [redacted]

~~(S/NF)~~ [redacted]

(b)(1) [redacted]

(U) Continued Use of Some Retracted and Prohibited Techniques

~~(S/NF)~~ Illustrating our previous finding regarding the breakdown of dissemination, the chart demonstrates that the use of some of the techniques approved in the September 2003 memorandum continued even until July 2004, despite the fact that many were retracted by the October 2003 memorandum, and some were subsequently prohibited by the May 2004 memorandum. However, the use of the retracted and prohibited techniques was by no means universal. Some units we interviewed, such as the 312th MI Battalion (assigned to the 1st Cavalry Division), appeared to have received and strictly implemented the May 13, 2004 policy. Nevertheless, the relatively widespread use of these techniques supports our finding that the policy documents were not always received or thoroughly understood.

(U) Doctrinal Techniques

(S/NF) (b)(1) [redacted]

(S/NF) (b)(1) [redacted]

(S/NF) (b)(1) [redacted]

OFFICE OF THE SECRETARY OF DEFENSE
COPY NUMBER ONE

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(S/NF) [redacted]

(S/NF) [redacted]

(S/NF) [redacted]

(S/NF) [redacted]

(S/NF) [redacted]

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COPY NUMBER ONE

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[redacted]

(U) Additional Techniques

~~(S/NF)~~ [redacted]

~~(S/NF)~~ [redacted]

~~(S/NF)~~ [redacted]

~~(S/NF)~~ [redacted]

(b)(1)

[redacted]

(~~S/NF~~) [redacted]

(~~S/NF~~) [redacted]

individual consideration due to their potential for abuse.

(~~S/NF~~) [redacted]

(~~S/NF~~) [redacted]

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(~~S/NF~~) [redacted]

(~~S/NF~~) [redacted]

(~~S/NF~~) [redacted]

(U) We received only rare reports of the other techniques listed; however, these deserve

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COPY NUMBER ONE

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~~(S/NF)~~ [redacted]

~~(S/NF)~~ [redacted]

(U) As in Afghanistan, the normal employment of strip searches by MPs, and hygiene inspections by medical personnel, may contribute to any impression that U.S. forces employed clothing removal techniques. These practices had stopped by the time of our visit to Iraq, and U.S. forces were clearly making every effort to safeguard the privacy of detainees during security and hygiene procedures. (It should be reiterated, however, that strip-searching detainees is a doctrinal technique in accordance with FM 3-19.40.)

~~(S/NF)~~ [redacted]

~~(S/NF)~~ [redacted]

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COPY NUMBER ONE

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~~(S/NF)~~ [redacted]

~~(S/NF)~~ [redacted]

~~(S/NF)~~ [redacted]

~~(S/NF)~~ [redacted]

~~(S/NF)~~ [redacted]

~~(S/NF)~~ [redacted]

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COPY NUMBER ONE

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[redacted]

~~(S/NF)~~ [redacted]

~~(S/NF)~~ [redacted]

(U) Prohibited Techniques

~~(S/NF)~~ [redacted]

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[redacted]

~~(S/NF)~~ [redacted]

(U) We next describe our specific findings pertaining to these prohibited techniques. We have erred on the side of caution by including in our discussion examples that might not be of sufficient severity to merit inclusion among the prohibited techniques, or were not explicitly related to interrogation, and thus do not appear on the chart. In addition, we describe several factors that, like strip searches and hygiene inspections, could contribute to *perceptions* that some of these techniques have been employed. Except where necessary, we do not provide further discussion of

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X marks deriving from the abuses at Abu Ghraib.

~~(S/NF)~~ [redacted]

(S/NF) [redacted]

~~(S/NF)~~ [redacted]

~~(S/NF)~~ [redacted]

~~(S/NF)~~ [redacted]

~~(S/NF)~~ [redacted]

~~(S/NF)~~ [redacted]

~~(S/NF)~~ [redacted]

~~(S/NF)~~ [redacted]

[redacted]

(b)(1)

~~(S/NF)~~ [redacted]

~~(S/NF)~~ [redacted]

~~(S/NF)~~ [redacted]

nically correct in stating that "Interrogation techniques intended only for Guantanamo [from the perspective of the Secretary of Defense's cautions contained in the GTMO policy] came to be used in...Iraq." However, it must be emphasized that the CJTF-7 policies were explicitly crafted to comply with the Geneva Conventions. This form of "migration" was neither accidental nor uncontrolled.

~~(S/NF)~~ [redacted]

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(U) Migration of Interrogation Techniques

(b)(6)

(U) As we have seen from LTG Sanchez's and [redacted] statements, the September 2003 CJTF-7 interrogation policy drew heavily upon techniques contained in the April 2003 GTMO policy provided by MG Miller, as well as the draft A/519 policy forwarded to CJTF-7 by CPT Wood. Therefore, the Independent Panel was tech-

~~(S/NF)~~ [redacted]

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[redacted]

(b)(1)

[redacted]

(U) In sum, we found that migration of interrogation techniques into Iraq was largely through official processes, including through the staffing of the September 2003 CJTF-7 interrogation policy (which included legal reviews by both CJTF-7 and CENTCOM); and that unofficial migration likely occurred when interrogators believed that techniques they had learned elsewhere were permissible under the Geneva Conventions and FM 34-52. We found no evidence that interrogators consciously imported techniques that they believed to exceed the laws and policies applicable in Iraq. Finally, we found no evidence that copies of the Detainee Interrogation Working Group report on interrogation techniques were ever circulated in Iraq.

(U) Pressure for Intelligence

(U) There has been much speculation regarding the notion that pressure for actionable intelligence contributed to the abuses at Abu Ghraib, and it is true that "pressure" was applied through the chain of command: as LTG Sanchez

~~(S/NF)~~ [redacted]

stated to LTG Jones, "You bet there was intense pressure. Because my soldiers were fighting and dying every day and I needed to know what the enemy was doing in order to defeat him. I mean, that's a fundamental responsibility and a requirement of any commander on the battlefield. Everything that we do as war-fighters is Intel-based. It's threat-based. And if I had not been applying intense pressure on the intelligence community to know my enemy I would have been derelict in my duties and I shouldn't have been a commanding general."

(U) In the case of Abu Ghraib, this pressure was manifested within the 205th MI Brigade in shortcuts circumventing doctrinal procedures for the prioritization, reporting, and dissemination of intelligence, as MG Fay described in his report. In some cases, it appears that personnel from CENTCOM, DIA, and OSD may have sent requests for information directly to Abu Ghraib, rather than through normal intelligence channels. However, as MG Fay stated, "This pressure should have been expected in such a critical situation, but was not managed by the leadership and was a contributing factor to the environment that resulted in abuses." To this we would add that, in the face of understandable and appropriate pressure from the war-fighting commander for actionable intelligence, at Abu Ghraib there appeared to be a unit-level failure to either enforce existing standard operating procedures, or to develop and seek appropriate authorization for new, more effective ones.

(U) Another reported source of pressure to conduct aggressive interrogations was an August 14, 2003 e-mail from a member of the CJTF-7 C-2X staff to field MI leadership personnel in Iraq stating, "The gloves are coming off gentleman [sic] regarding these detainees, [assistant CJTF-7 C2] [redacted] has made it clear that we want these individuals broken." The language of this e-mail, if taken out of context, could be construed as creating a permissive atmosphere for interrogation-related abuses, and the possibility that it inadvertently did so cannot be ruled out (though we found no evidence to support such a conclusion). However, it is important to note that the purpose of the e-mail was to solicit "interrogation techniques 'wish list'" from MI leaders in the field, and did not grant permission for any non-doctrinal techniques - in fact, it asked field units to report "techniques...they feel would be effective...that [the CJTF-7] SJA could review." Responses to this e-mail were factored into the development of the September 2003 CJTF-7 policy, which was reviewed by the SJA, as previously described.

~~(S/NF)~~ [redacted]

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(b)(1)

[redacted]

(U) Finally, we found no evidence to support the notion that the Office of the Secretary of Defense, National Security Council Staff, CENTCOM, or any other agency or command applied direct pressure for intelligence, or gave "back-channel" permission for more aggressive techniques than those authorized by FM 34-52 or CJTF-7 policy, to forces in the field in Iraq. We interviewed and took statements from a number of senior officials from the Office of the Secretary of Defense, all of whom stated that no such pressure had been applied. In addition, we posed questions to Ms. Fran Townsend of the National Security Staff Council, who visited Abu Ghraib in November 2003. Although she declined to respond to the questions, we were told that she stood by her previous statement that she visited Abu Ghraib in order to learn about the insurgency, and to investigate how better to integrate intelligence collection efforts, but did not pressure or give any guidance to personnel there. Finally, our interviews with commanders in the field did not evidence any pressure of this nature.

(U) Again, as with the e-mail described previously, it is not impossible that visits by senior personnel led individual interrogators to perceive that they were receiving pressure for intelligence; however, effective leadership and enforcement of approved policies should have prevented any such misunderstandings. In any event, our interviews gave no evidence that such misunderstandings actually took place.

(U) We now turn to a discussion of interrogation-related abuse cases in Iraq.

Detainee Abuse (U)

(U) As we have seen earlier, there have been substantially more alleged abuse cases in Iraq than in GTMO or Afghanistan. Without minimizing the impact or importance of the abuses that have occurred in Iraq, it should be kept in mind throughout this discussion that over 50,000 detainees have been held in Iraq since Operation IRAQI FREEDOM began. Therefore, the abuses we describe below, as well as those at Abu Ghraib, represent a tiny proportion of detainee operations in Iraq, most of which, we believe, have been conducted honorably under challenging circumstances.

(U) As of September 30, 2004, 274 investigations of alleged detainee abuse in Iraq had

A detailed overview of the 60 substantiated abuse cases is provided in the chart below.

Iraq Detainee Abuse

CASES	DEATHS	ABUSES	TOTAL	TOTAL SUB-STANTIATED
OPEN	15 ■ 2 0	92 ■ 1 1*	114	N/A
CLOSED	32 ■ 0 0	101 ■ 3 3*	160	60
	Note: Does not include 22 Abu Ghraib mortar attack deaths.	* Contractor		
TOTAL	56	218	274	60

■ Army Related Cases ■ Navy Related Cases
■ USMC Related Cases [ ] Other Related Cases

All data as of 30 Sep 2004.

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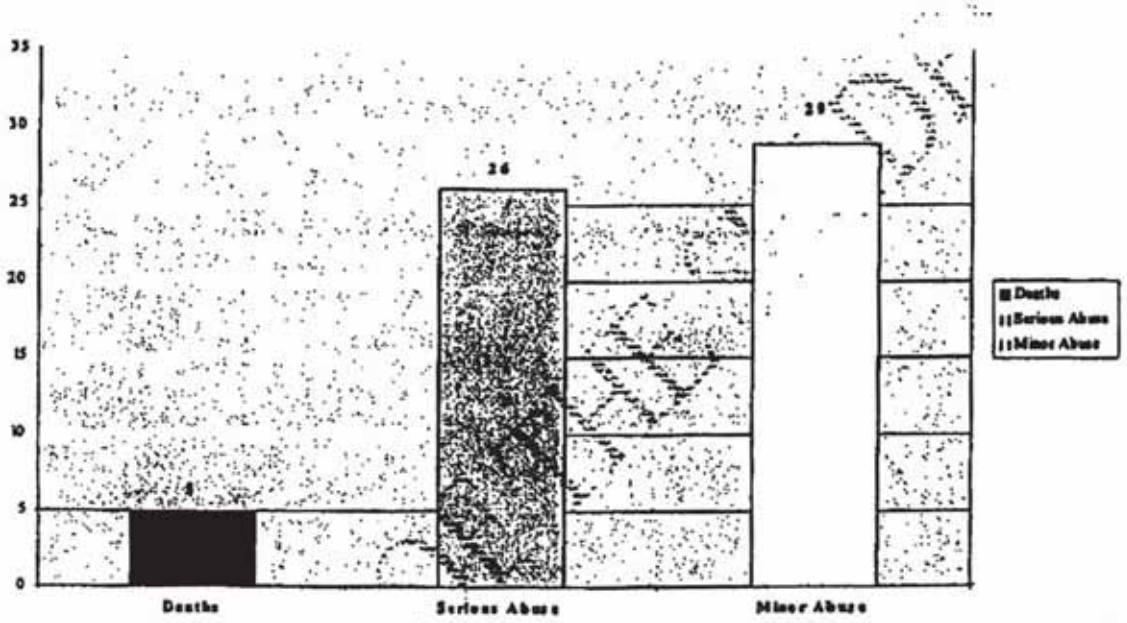
been initiated. The chart above depicts the status of those investigations: 160 investigations have been closed, of which 60 substantiated abuse. Five of the substantiated abuse cases resulted in a detainee's death.

(U) Interrogation-related Abuse

(U) Each closed, substantiated investigation was reviewed to determine whether the abuse was interrogation-related (*i.e.*, whether the abuse arose from the questioning of detainees). In categorizing abuse as "interrogation-related," we took an expansive approach: for example, if a soldier slapped a detainee for failing to answer a question at the point of capture, we treated that misconduct as interrogation-related abuse. Therefore, these abuses are not all related to official interrogations, as the descriptions below will demonstrate. In reviewing these cases, we found no evidence whatsoever that approved interrogation policies contributed to abuse; furthermore, as of September, 30, 2004, there were no closed, substantiated cases of

IRAQ – Closed Substantiated Cases



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death resulting from interrogation-related abuse.

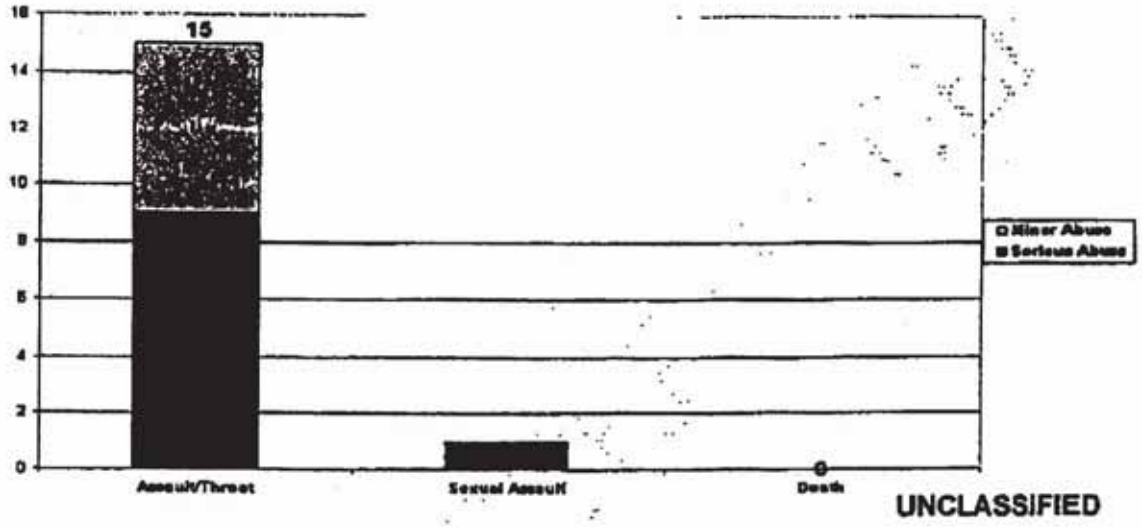
(U) As of September 30, 2004, there were 16 substantiated interrogation-related abuse cases. (Investigators substantiated that the five deaths and 39 other abuse cases were not related to interrogations.) The interrogation-related abuses are categorized by type, location, and service and component of the perpetrator on the following pages.

(U) Brief descriptions of the 16 interrogation-related abuse cases are presented next.

(U) Cases Involving Trained Interrogators

1. (U) On September 24, 2003, at Forward Operating Base Iron Horse, an interrogator

Iraq Closed Substantiated Cases Related to Interrogation by Type of Incident
INTERROGATION RELATED ONLY
IRAQ Total = 16



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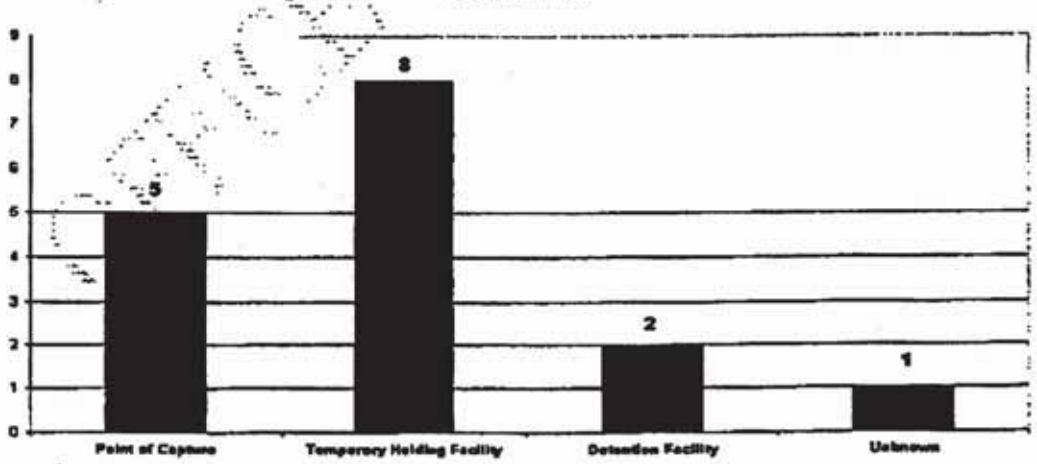
Iraq Closed Substantiated Cases Related to Interrogation by Type of Facility at which the Incident Occurred
INTERROGATION RELATED ONLY
IRAQ Total = 16



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(a specialist assigned to the 104th Military Intelligence Battalion) hit a detainee's back, buttocks, and the bottom of his feet with a Military Police baton. Another SPC, an interpreter, was present during this interrogation. The detainee complained of discomfort to his back and buttocks for two days. An Article 15-6 investigation was conducted, and both SPCs received non-judicial punishment and were relieved of interrogation duties. The specific punishment awarded was not included in the reports we reviewed.

2. (U) On October 7, 2003, three military intelligence personnel assigned to the 519th Military Intelligence Battalion (one sergeant and two specialists, one of whom was an interrogator) sexually assaulted a female detainee in a cell at Abu Ghraib. The SGT and SPCs moved the detainee from her cell to a more isolated cell where one soldier acted as lookout, another held her arms, and the third kissed her. The detainee was then taken to another section of the prison and shown a naked male detainee. She was told that if she did not cooperate, she would look the same way. The detainee was then taken back to the abandoned cell where a soldier removed her blouse. When

she started to cry, the soldiers gave her blouse back and told her that they would be back each night. During the investigation, she claimed that she smelled alcohol on the breath of one interrogator. On January 3, 2004, COL Thomas M. Pappas, Commander, 205th Military Intelligence Brigade, awarded non-judicial punishment to the three soldiers for failing to get authorization to interrogate the female detainee. The SGT was reduced in rank and required to forfeit $500 pay; one SPC was reduced in rank and required to forfeit $500 pay; and the other SPC received a suspended reduction in rank and was required to forfeit $750.00 pay. Both of the SPCs had previously served in Afghanistan, and assault, dereliction of duty and maltreatment charges have been recommended against both by the Army CID investigations into the December 2002 PUC deaths at the Bagram Collection Point.

3. (U) On December 10, 2003, a detainee suffered a fractured lower jaw at the 2d Brigade Holding Facility. Investigators believed that this injury resulted from abuse. An AR 15-6 investigation and medical examination could not determine if the fracture occurred as a result of a blow to the face, or after the detainee fell face-first onto the floor following extensive calisthenics, presumably used as a means to wear down detainees during interrogations. A General Officer Memorandum of Reprimand was issued to the Warrant Officer in charge of the facility for failing to provide adequate supervision to interrogators.

4. (U) In January 2004 at a holding facility, an interrogator assigned to a SOF unit told two detainees that they would be sterilized, then poured the contents of a Chemlight onto one of those detainee's genitals. (The investigation did not reveal whether the detainee was clothed at the time of this incident.) A unit investigation also revealed that another soldier, a guard, struck a detainee. The interrogator was orally reprimanded and reassigned, and the guard received non-judicial punishment.

5. (U) On April 1, 2004, several interrogators assigned to a SOF unit slapped a detainee during an interrogation. The summary of the unit investigation into this misconduct did not identify the location of this abuse, and the detainee was evidently not seriously harmed. Each interrogator received a Letter of Admonishment.

6. (U) On April 19, 2004, Task Force 82d Airborne apprehended a detainee who was suspected of killing a TF 82d soldier using an improvised explosive device (IED). A

contract interpreter employed by Titan Corporation reportedly became enraged during the questioning of the detainee and forced the detainee into a stress position (making the detainee lie on his stomach with arms and legs extended off the ground). An officer and another soldier told the interpreter to cease interrogating the detainee and simply translate. The interpreter disregarded them and continued his interrogation in Arabic without translating the questions or answers. During the interrogation, which lasted several hours, the interpreter hit the detainee on the back of the head with an open hand when the detainee did not answer questions. The soldiers told the interpreter that his conduct was illegal, and he responded that his conduct would have been worse had the soldiers not been present during the interrogation. The officer was issued a General Officer Memorandum of Reprimand for failing to control the situation, and the civilian interpreter was fired.

(U) Cases Not Involving Trained Interrogators

(U) In defining interrogation-related abuse cases, we considered any case where the abuse arose from any type of questioning of a detainee. The cases described elow involve the questioning of detainees by personnel other than trained interrogators.

7. (U) On June 21, 2003, a Quick Reaction Force assigned to the 4th Battalion, 1st Field Artillery, 1st Armor Division responded to reports of sniper fire from the Iraq Museum of Military History in Baghdad. An Iraqi civilian was taken into custody as a suspect, and several weapons were confiscated. A private first class approached the detainee, asked: "You been shooting at us?" and then struck the detainee in the face, making his nose bleed. The PFC also placed an inoperable pistol from the museum against the detainee's head and said "bang." Later, a staff sergeant allegedly pointed his M-16 at the detainee's head and then charged it. This occurred while the detainee was sitting cross-legged on the ground with his hands interlaced behind his head. Some witnesses stated that the SSG coaxed the detainee to pick up the inoperable pistol, but the detainee refused to take the gun. It was later determined that the detainee, who was subsequently released, had been hired by the U.S. Army to guard the museum. The PFC admitted to hitting the detainee and received non-judicial punishment (reduction in rank to E-1). The SSG denied any involvement, and was acquitted at a summary court-martial for assault and dereliction of duty.

8. (U) On June 30, 2003, in the vicinity of Abu Ghraib, a U.S. military convoy of the 1st Battalion, 9th Field Artillery Regiment came under attack by rocket-propelled

grenades (RPG) that destroyed one of the convoy vehicles. When the convoy stopped, two Iraqis were discovered in a nearby field; they surrendered and offered no resistance. While being questioned, six to eight soldiers (including one SSG who was not a trained interrogator) allegedly kicked and punched the detainees. One detainee claimed that a soldier placed the barrel of a rifle in his mouth and pointed it at his chest. When the detainees were delivered to a local brigade holding facility, they had multiple non-life threatening injuries. A medic was summoned to treat the injuries. The resulting AR 15-6 investigation did not identify all of the assailants and recommended further investigation to determine their identities. We were unable to find results of the subsequent investigation, and any administrative or disciplinary actions taken are unknown.

9. (U) On August 2, 2003, at the Taza Police Station, two Iraqis were brought in to be questioned about RPG attacks. While interrogating one of the detainees, a SSG assigned to the 4th Infantry Division punched one of the detainees several times in the stomach and head, and a sergeant present also hit the detainee. The detainee was cut over his right eye, requiring stitches, and had a broken nose. This incident occurred the same day that the sergeants' unit lost a soldier in an RPG attack. On October 9, 2003, the SSG was charged with four violations of UCMJ Article 128 (assault). The SSG submitted a request for an administrative discharge in lieu of court-martial, which was approved. He also received non-judicial punishment (exact punishment unknown) for his misconduct.

10. (U) On August 20, 2003, at Forward Operating Base Gunner in Taji, Iraq, a detainee was questioned concerning his participation in a plot to assassinate U.S. service members. During the questioning, five soldiers from the 2nd Battalion, 20th Field Artillery Regiment, and a civilian interpreter punched and kicked the detainee. The interpreter told the detainee, "If you don't talk, they will kill you." After approximately 30 minutes of questioning, an officer - LTC Allen B. West - entered the room, chambered a round in his pistol, and placed the weapon on his lap with the barrel pointing at the detainee. Shortly thereafter, the detainee's shirt was pulled over his head and he was punched many times in the chest. With his vision obstructed, the detainee was unable to determine how many Soldiers hit him, but later stated that LTC West never struck him. After still refusing to provide information, LTC West pulled him by the neck to a weapons clearing barrel, pushed his head inside the barrel, placed his weapon approximately one foot away from

the detainee's head, and fired one round, causing the detainee to react hysterically. LTC West was awarded non-judicial punishment (forfeiture of $2,500.00 for two months) and was relieved of command. Each of the five soldiers was awarded non-judicial punishment (reductions in rank and forfeitures of pay) for their misconduct.

11. (U) On August 31, 2003, a specialist from the 1st Battalion, 36th Infantry Regiment threatened two Iraqi detainees during questioning in a building near Baghdad. The SPC, who was an intelligence analyst (not an interrogator), was seeking the name of an individual conducting grenade attacks. In separate interrogations, the SPC handed one detainee a bullet and told him that the round would kill him if he did not talk, and placed the bullet in the detainee's mouth and then removed it. Within hearing distance of the detainee but out of his field of vision, the SPC simulated charging an empty weapon to lead the detainee to believe the weapon was loaded. During these interrogations, the detainees were handcuffed and posed no threat. At the time of this incident, the SPC had been in Iraq for 3½ months and had received training on proper treatment of detainees. He received non-judicial punishment (exact punishment unknown) for this abuse.

12. (U) On September 1, 2003, three detainees were seized near a mosque in Baghdad, their hands were zip-cuffed behind their backs, and they were taken to a nearby Ammunition Collection Point (ACP) operated by the 2nd Battalion, 6th Infantry Regiment. They matched the description of individuals who were seen earlier in the vicinity of the ACP perimeter with weapons. The detainees were brought to a Sergeant First Class who questioned each one separately, asking if they were al Qaeda or Fedayeen. The SFC asked one detainee if he was there to bomb the base or shoot soldiers, and slapped a detainee during questioning for not telling the truth. As instructed by the SFC, three SSGs alternated in kicking, tripping, and shoving the detainees. One detainee was also dragged and thrown into a HESCO barrier (a collapsible wire mesh container approximately 4-6' in height with a heavy plastic liner). The detainees claimed they were security guards for the local mosque and were eventually released to a cleric from the mosque. The SFC was convicted at a summary court-martial; one staff sergeant was convicted at a special court-martial, and the remaining staff sergeants were convicted at summary courts-martial. The punishments were not included in the reports reviewed.

13. (U) On October 1, 2003, near the perimeter

of the Baghdad International Airport (BIAP), soldiers assigned to A Battery, 1st Battalion, 4th Air Defense Artillery apprehended nine detainees suspected of trespassing through a hole in BIAP's southern wall and stealing metal pipe. A captain interrogated the zip-tied detainees at gunpoint and fired his pistol approximately six times to deflate the tires of the tractor the detainees had been riding when caught. The captain was trained in rules of engagement and the proper treatment of detainees, and at the time of this incident had been in theater for six months. He received non-judicial punishment (exact punishment unknown) and relieved of his duties.

14. (U) On October 14, 2003, at a temporary holding facility in Al Ademiya, a detainee was questioned about his knowledge of plans to attack a U.S. convoy. The detainee, who had served as an informant, was in a convoy when it was attacked by an IED, but was uninjured. Intelligence revealed that the detainee might have known about the planned attack and possibly steered the convoy into the attack. After the attack, two SGTs from the 32d Military Police Company (who had been in the convoy) took the detainee to the Al Ademiya police station. The first SGT held a pistol to the detainee's head and threatened him during questioning. The second SGT was accused of physically assaulting the detainee by grabbing him by his shirt. Following an AR 15-6 investigation, the first SGT received non-judicial punishment (reduction in rank and forfeiture of $945 pay for two months), and an assault charge against the second SGT was dismissed at the non-judicial punishment hearing.

15. (U) On December 31, 2003, Near Kalsu, a patrol from the 300th Military Police Company apprehended four males Iraqis in a farmhouse while searching for a mortar. While guarding the detainees in a nearby field, a PFC repeatedly asked "weapon?" in Arabic, and jabbed one detainee in the head with his rifle every time the detainee answered "no." After at least 10 jabs, the PFC butt-stroked the detainee in the groin. He also butt-stroked another detainee between his shoulder blades and in his face. Finally, the PFC threatened a detainee by placing his rifle into the detainee's mouth and pulling the trigger without a round chambered, and then firing a round into the ground next to the detainee. As of September 30, 2004, disciplinary action is still pending in this case.

16. (U) On February 5, 2004, a SPC (a counter-intelligence agent, but not a trained interrogator) assigned to 310th Military Police

Battalion questioned three detainees at Camp Bucca who were suspected of attacking a convoy. During one interrogation, the detainee eluded questions and the Specialist bent down to speak to him. The flexi-cuffed detainee attempted to strike the SPC, who reacted by striking the detainee in the left eye with a closed fist. There were no U.S. witnesses; however, an interpreter was present. The battalion commander appointed an officer to conduct an AR 15-6 investigation; ultimately, the SPC received non-judicial punishment (a letter of reprimand, reduction in rate, and forfeiture of $700.00 pay for one month) and was suspended from all contact with detainees.

(U) Interrogation-related Abuse: Observations

(U) There is no discernable pattern in these interrogation-related abuse investigations. However, by far the most common method of abuse was punching and kicking, which is simple assault and clearly unrelated to any interrogation policy. Only two of these incidents reflect the possible use of counter-resistance techniques: the contract interpreter who placed a detainee in a stress position and slapped the back of his head each time he refused to answer a question, and the possible use of physical training (calisthenics) resulting in a detainee breaking his jaw. In these cases, however, the evidence suggests that these techniques were employed on the perpetrators' own initiative rather than as a result of any policy or other direction. In the first incident, there is also no evidence suggesting that the interpreter was knowledgeable of interrogation policy.

(U) Abuses Described in Other Investigations

(U) LTG Jones, MG Fay, and MG Taguba investigated the detainee abuses at Abu Gharib Prison. MG Taguba's investigation primarily examined the conduct of the 800th Military Police Brigade, while MG Fay's inquiry focused on the 205th Military Intelligence Brigade, and LTG Jones examined organizations and senior military leaders above those two brigades. In his report, MG Taguba did not detail each incident of abuse, but summarized various forms of abusive behavior. MG Fay, on the other hand, identified 44 specific incidents of abuse. In comparing the two reports, MG Fay noted that "The incidents identified in this investigation include some of the same abuses identified in the MG Taguba investigation; however, this investigation adds several previously unreported events. A direct comparison cannot be made of the abuses cited in the MG Taguba report and this one."

(U) Our approach to examining detainee abuses was different from both previous investigations. We did not investigate specific allegations of misconduct; rather, we reviewed detainee abuse investigations conducted by CID, NCIS, and individual military units. Due to our concern regard-

ing the reliability of information in ongoing investigations, we limited our review primarily to closed investigations. In making that determination, we recognized that many of the ongoing investigations would probably be closed as unsubstantiated (current substantiation rate for Iraq abuse investigations is approximately 40%) and acknowledged that additional information could be uncovered that would change the character of open investigations. By focusing on closed investigations, we sought to remove uncertainty and increase the reliability of our findings.

(U) Of the 44 incidents identified in MG Fay's report, 26 incidents are covered by seven CID investigations. Four of those CID investigations are closed and two substantiate abuse (the sexual assault of a female detainee at Abu Ghraib, described above, and a case involving the use of military working dogs to humiliate detainees); the other CID investigations of the Abu Ghraib abuses remain open as of September 30, 2004.

(U) Finally, 18 of the incidents in MG Fay's report are not addressed by CID investigations. These incidents, many of which involve detainee nudity, isolation and humiliation, have been deemed outside the purview of CID's investigative responsibilities, and are considered sufficiently covered in MG Fay's report for administrative and disciplinary purposes.

(U) Conclusions: Interrogation Techniques and Abuse

(U) In sum, our major findings regarding interrogation techniques employed, and interrogation-related abuses in Iraq are as follows:

- (U) Dissemination of approved interrogation policies was ineffective, often resulting in interrogators' lack of awareness of which techniques were currently authorized. This was largely due to reliance on SIPRNET as the medium for disseminating guidance.
- (U) Compliance with approved interrogation policies was often incomplete, even when units were in possession of the latest guidance. Warrant officer or senior enlisted interrogators had to orally convey finely nuanced policies to junior enlisted and contract interrogators without the benefit of firsthand knowledge of the legal considerations that had guided policy development.
- ~~(S)~~ [redacted] (b)(1)

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- (U) There was no evidence of explicit pressure for intelligence other than that legitimately conveyed from CJTF-7 (and subsequently MNF-I) headquarters to interrogators via the chain of command.

- (U) Interrogation-related abuse, and the non-interrogation abuses at Abu Ghraib, appear unrelated to any approved interrogation policies. In particular, the promulgation of the September and October 2003 CJTF-7 interrogation policies did not appear to play any role in the abuses at Abu Ghraib or any of the closed, substantiated abuse cases in Iraq: in fact, had the policies been adhered to, some of the abuses might have been prevented.

(U) Missed Opportunities

(U) Our investigation suggested several additional "missed opportunities" (besides those suggested by our findings above). None of these missed opportunities themselves contributed to or caused abuse; in addition, it is unlikely that they could have prevented the interrogation-related abuses that did occur, which were already prohibited by other existing policies, law, and doctrine. However, had they been pursued, U.S. forces might have been better prepared for detention and interrogation operations in Iraq.

- (U) There was no evidence that specific detention and interrogation lessons learned from previous conflicts in the Balkans, Afghanistan, and elsewhere were incorporated in planning for Operation IRAQI FREEDOM.

- (U) There were no standard procedures for identifying or reporting detainee abuse or for determining whether abuse allegations were legitimate. U.S. service members, DoD civilians, and contractors uniformly reported that they had an obligation to report any abuse that they observed; however, their descriptions of what constituted abuse

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(which ranged from "beating" to "verbal abuse"), to whom they would report abuse (ranging from their immediate superior in command to the unit inspector general), and who would determine whether abuse allegations were legitimate (often the senior enlisted or warrant officer, and sometimes the interrogator him or herself) were highly varied.

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(S) [redacted]

(U) Other Issues

(U) Finally, we offer some observations on detention and interrogation issues concerning coalition and Iraqi National Guard forces.

(U) Coalition Forces

(U) Though coalition forces in Iraq fall under the command of MNF-I (and previously CJTF-7), we did not visit any non-U.S.-run detention facilities or conduct any interviews with non-U.S. personnel. The British and Australian

personnel attached to the Iraq Survey Group are presumably required to abide by ISG policies; however, it is not clear whether the CJTF-7 interrogation policy memoranda were distributed to coalition units, or indeed whether U.S. policy explicitly requires coalition units to adhere to interrogation policies promulgated by a commander without multinational coordination. In addition, the aforementioned reliance on SIPRNET to disseminate interrogation guidance undoubtedly hindered dissemination to coalition units, which do not have access to the U.S.-only secure network. These are areas that should be explored and clarified during DoD's ongoing revision of department-wide interrogation policies.

(U) The Iraqi National Guard

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The Role of Contractors in Department of Defense Interrogation Operations (U)

(U) GENERAL ALLEGATIONS: ...On June 19, 2003, and June 20, 2003, [Central Intelligence Agency contractor] Defendant David A. Passaro interrogated Abdul Wali about the rocket attacks. During these interrogations, Defendant David A. Passaro beat Abdul Wali, using his hands and feet, and a large flashlight. Abdul Wali died in a cell on Asadabad Base [Afghanistan] on June 21, 2003.

- from United States of America v. David A. Passaro, filed June 17, 2004

Contractor Policy and Doctrine (U)

(U) Allegations of contractor-perpetrated detainee abuse in Afghanistan and Iraq (in particular, at Abu Ghraib) have cast a spotlight on the U.S. Government's use of contract personnel to conduct intelligence interrogations. Though it concerns a CIA contractor, the example cited above illustrates two key points that are also true for DoD contract interrogators:

1. (U) A comprehensive body of federal law permits the prosecution of U.S. nationals - whether contractor, government civilian, or military - who are found responsible for the inhumane treatment of detainees, or who otherwise violate U.S. and international law;

2. (U) Contractors supporting the U.S. Government in the Global War on Terror are often found in areas exposed to hostile action, where they may be contractually assigned to take on functions of a traditionally military nature such as interrogation of detainees. (This does not relieve military commanders of their duty to ensure humane treatment of detainees, however, no matter which functions are performed by contractors.)

The second point highlights the importance of DoD policies regarding contractors that perform operational, rather than purely logistical functions. The following paragraphs provide an overview of the laws and policies pertinent to the employment and accountability of DoD contract interrogators and associated support personnel (*e.g.*, linguists and analysts).

DoD Policy (U)

(U) The Department of Defense employs contract services under two circumstances. First,

Determining Whether Activities are "Inherently Governmental" (U)

(U) In order to ensure that the U.S. Government acquires needed goods and services in the most economical and efficient manner, Executive Order 12615 (November 19, 1987), *Performance of Commercial Activities*, specifies that "commercial activities" - *i.e.*, recurring services that could be performed by the private sector - shall be provided by private industry, except where statute or national security requires government performance. In implementing this Executive Order, Office of Management and Budget Circular Number A-76 requires that all federal agencies identify all activities performed by their personnel as either *commercial* or *inherently governmental*. In general, inherently governmental activities are those that "are so intimately related to the public interest as to mandate performance by government personnel" - *e.g.*, positions requiring an individual to make policy decisions, or the command of military forces - whereas commercial activities "may be provided by contract support...where the contractor does not have the authority to decide on the course of action, but is tasked to develop options or implement a course of action, with agency oversight."

when there is an established private sector capability to perform certain functions, it may be more cost effective for DoD to "hire" those functions rather than perform them with government assets. Second (and more directly related to contract interrogation), doctrine states that contract support can "augment existing capabilities, provide expanded sources of supplies and services, and bridge gaps in the deployed force structure" (Joint Publication 4-0, *Doctrine for Logistic Support of Joint Operations*). In no circumstance, however, may DoD contract services that are "inherently governmental" in nature (see figure above).

(U) The fact that military intelligence interrogation services have been acquired via contract implies that DoD does not consider interrogation to be an inherently governmental function. We did not consider the question of whether interrogation should or should not be so categorized: the Federal Acquisition Regulation - described below - specifies that the direction and control of intelligence and counter-intelligence operations is an inherently governmental function; however, our discussion proceeds from the assumption that interrogation does not constitute such "direction and control." (This issue may warrant further high-level review, particularly in light of a December 26, 2000 memorandum by the Assistant Secretary of the Army for Manpower and Reserve

Affairs that found tactical and strategic intelligence functions to be ineligible for private performance on the grounds of inherently governmental nature and risk to national security respectively. The memo does provide for exceptions when a required intelligence capability is not resident in the Department of the Army, and further specifies - as noted during Acting Army Secretary Brownlee's and LTG Mikolashek's July 22, 2004 testimony before the Senate Armed Service Committee - that the *memo does not apply to Army forces under the operational control of other DoD components, including combatant commanders* [emphasis added].)

(U) Acquisition of contract interrogation services is therefore guided by DoD policies governing commercial activities (see figure below). In any event, the Army Inspector General Report, among others, makes it clear that contract interrogators supporting Operations ENDURING FREEDOM and IRAQI FREEDOM are "bridging gaps in force structure" - critical gaps, given the importance of HUMINT - in addition to simply providing services in the most economical fashion.

(U) The nature of the military intelligence force structure has the potential to exacerbate certain management challenges inherent to the use of

DoD Policies Regarding Contract Services (U)

(U) Sources: DoD Directive 4100.15 (March 10, 1989), *Commercial Activities Program*; and DoD Instruction 3020.37 (as amended January 26, 1996), *Continuation of Essential DoD Contractor Services During Crises*.

- (U) Rely on the most effective mix of the Total Force, cost and other factors considered, including active, reserve, civilian, host-nation and contract resources in order to fulfill assigned peacetime and wartime missions.
- (U) Achieve economy and quality through competition.
- (U) Retain governmental functions in-house.
- (U) Rely on the commercial sector to provide commercial products and services, except when [otherwise] required for national defense.

contract services. Specifically, contract interrogators, like military interrogators, fill positions that are characterized as "combat support," rather than the logistically-oriented "combat service support" positions traditionally occupied by contractors (see figure below). This operational - versus logistical - use of contract services, which may find contract and active-duty military interrogators working side-by-side, is complicated by the fact that DoD's control of contract interrogators is exercised through the terms of their contracts, rather than through a military chain of command. Though the terms of a contract could specify a similar degree of direct military control over a contractor, this control would be specific to that contract, rather than universal. Further, this type of contractual clause is not mandated by any DoD regulation.

Command and Control of Contract Interrogators (U)

(U) As noted above, contract interrogators work side-by-side with their military counterparts, who must obey the lawful orders of their superiors in the chain of command. The contractors, by contrast, are bound by the terms and conditions of the contract between their parent companies and the U.S. Government, which cannot be modified except by an officially designated DoD contracting officer. A contract may be written to offer military supervisors significant direct authority over contractors' actions in a combat support role; however, there is no guarantee that this will be the case for every such contract.

(U) Title 41 of the U.S. Code, "Public

Combat Support vs. Combat Service Support (U)

(U) Sources: Joint Publication 1-02, *DoD Dictionary of Military and Associated Terms*; Department of the Army Pamphlet 10-1, *Organization of the United States Army*.

(U) **Combat support** is the provision of fire support and other *operational* assistance to combat arms units such as infantry and armor. Military intelligence interrogation is a combat support function. **Combat service support**, on the other hand, provides for the sustainment of operating forces, and includes supply, transportation, medical, legal, and other related services.

Contracts," requires the Secretary of Defense to "establish clear lines of authority, accountability, and responsibility for procurement decisionmaking" within DoD. The Federal Acquisition Regulation (jointly administered by DoD, the General Services Administration and NASA), in turn, specifies that only designated contracting officers may enter into contracts - or modify them - on behalf of the Government. Therefore, since the contracting officer responsible for the procurement of interrogation services may or may not be readily accessible to the military intelligence leadership in the field, it is important that the terms and conditions of such contracts are sufficiently specific to ensure contractor compliance with military commanders' expectations, yet sufficiently flexible to permit the inherently dynamic employment of contractors in operational, combat support roles. For example, a contract could specify that contract interrogators must follow FM 34-52 techniques in general, but also comply with any additional interrogation guidance provided by the military intelligence commander.

(U) Even with a well-written contract, however, the relationship between a contract interrogator and military intelligence leadership is not a direct one. If there is any disagreement regarding quality of work or interpretation of the contract's terms, the dispute must be mediated by the contracting officer (or his or her officially designated on-site representative) and the senior contractor employee present, in order to ensure that federal acquisition laws and the directives contained in the Federal Acquisition Regulation are not violated in the process. (See figure below for pertinent, representative Army policy regarding command and control of contractors in the field). This does not, however, prevent military commanders from fulfilling their obligation to protect detainees in their custody from abuse or mistreatment. Such behavior by a contractor is a clear violation of law that is not protected by contract terms. If a contractor physically attacked or sexually harassed DoD personnel, contractual procedures would certainly not be cited as an impediment to disciplining or removing the contractor. The actions involved here are no less serious, and commanders should immediately remove any contractor involved in such behavior, immediately document the behavior, and then coordinate with the contracting officer.

(U) Under the Geneva Conventions, contractors accompanying an armed force in the field are entitled to prisoner of war privileges if captured, so long as they have received authorization from that force. Theater commanders may revoke that authorization in response to contractors' violation of orders and instructions, particularly when those violations jeopardize mission accomplishment or force protection, and may direct the contracting officer to demand that the contractor replace the offending individual (see, for example, AR 715-9). However, the fact remains that commanders' freedom of action in directing the actions of contract interrogators - short of wholesale removal - is limited by the terms and scope of the contract, and by the administrative nature of the Government-contractor relationship.

Excerpts from Army Regulation 715-9, Contractors Accompanying the Force (U)

- (U) Command and control of commercial support service personnel will be defined by the terms and conditions of the contract. The cognizant contracting officer or his/her designated representative(s) will monitor contractor performance and maintain day-to-day liaison activities...[and] communicate the Army's requirements and prioritize the contractor's activities within the terms and conditions of the contract.

- (U) The commercial firm(s) providing the battlefield support services will perform the necessary supervisory and management functions of their employees. Contractor employees are not under the direct supervision of military personnel in the chain of command...[and] will not command, supervise, administer or control Army personnel.

U) Finally, it is worth reiterating that the Federal Acquisition Regulation specifically designates "leadership of military personnel" and "direction and control of intelligence and counter-intelligence operations" as inherently governmental functions. Therefore, contract interrogators cannot be assigned in supervisory positions over DoD military or civilian personnel. Together with the restrictions on contractor control and discipline described above, this point illustrates that contractors may parallel, but not be part of, the military chain of command that they support.

Interrogation-Related Training Requirements (U)

(U) There is no DoD policy mandating specific training requirements for contract interrogators, linguists, or analysts. Rather, it is up to contracting officers to specify in writing the functions to be performed by the contractors, including any necessary qualifications. (Note, however, that a contract may specify that contract personnel must be individually approved by the government.) A representative Army policy is illustrative:

(U) "The statement of work to be performed is established in the government contract with an employer. The...contractor is responsible for hiring qualified personnel to satisfy the identified contract/task assignment." (From Department

of the Army Pamphlet 716-16, *Contractor Deployment Guide.*) For example, a typical contract might require that the contracting company provide interrogators with Army Military Occupational Specialty 97E (Interrogator) or equivalent U.S. Government training acquired during previous military or government service.

(U) In addition, the Army has created Individual Deployment Sites (IDS) and Continental US Replacement Centers (CRC) to provide basic, theater-specific knowledge to contract employees. Pre-deployment training at these facilities is given only if specified by the governing contract, and covers topics ranging from local customs and courtesies to the Geneva Conventions. Alternatively, the contracting company may provide equivalent training to its employees if so specified in the contract. None of this training is mandatory, though Army doctrine indicates that it "should" be provided (Army Pamphlet 716-16).

Legal Accountability of Contractors (U)

(U) As discussed previously, military commanders do not have non-judicial disciplinary authority over contract personnel short of removal of the offending individual (effected via the contracting officer). However, federal law does provide for the prosecution of contract personnel who have committed crimes while attached to forces in the field. Several bodies of law apply, depending on the circumstances of the conflict and the status of the contract employee:

1. (U) In time of congressionally declared war, all persons serving with or accompanying an armed force in the field are subject to the Uniform Code of Military Justice (UCMJ). At other times, the UCMJ may apply in some cases (*e.g.*, contract personnel who are retired service members drawing pay are subject to the UCMJ at all times).

2. (U) In all other cases, individuals employed by or accompanying the armed forces outside the U.S. are subject to U.S. jurisdiction under one of three legal regimes specified by U.S. Code:

   a. (U) War Crimes (18 U.S.C. §2441): Whether inside or outside the United States, U.S. nationals who commit "grave breaches" of the Geneva Conventions or acts prohibited by certain articles of the Hague Convention may be prosecuted for war crimes. (This statute simply codifies individual accountability deriving from U.S. obligations under these conventions.)

   b. (U) Special Maritime and Territorial Jurisdiction (18 U.S.C. §7): Any U.S. national who commits a federal offense while on the premises of U.S.

military facilities (among other places) in foreign states may be prosecuted. (Foreign nationals committing crimes against U.S. nationals within overseas U.S. military facilities may also be prosecuted.) This is the statute under which CIA contractor David Passaro is being prosecuted, as the alleged assault took place at a U.S. military base in Afghanistan.

c. (U) Military Extraterritorial Jurisdiction (18 U.S.C. §3261-3267): Anyone (including a foreign national) who commits a federal offense that would be punishable by imprisonment for over one year if it had occurred within the special maritime and territorial jurisdiction of the U.S. - *e.g.*, assault - while providing contract services to U.S. armed forces anywhere outside the U.S. may be prosecuted.

(U) As this summary of pertinent jurisdiction demonstrates, DoD contract personnel are accountable for any criminal acts that might be committed during interrogation sessions. However, the summary suggests two "loopholes" which, while not applicable to DoD contractors, warrant further review.

(U) First, foreign contractors (*e.g.*, local interpreters) employed by non-DoD agencies do not appear to fall under U.S. jurisdiction under any of these statutes even if an alleged crime were committed within a DoD facility. While it is logical that "foreign-on-foreign" crimes should fall under local rather than U.S. jurisdiction in the absence of a U.S. Government presence, the existence of a contract relationship with the U.S. might argue for the extension of Military Extraterritorial Jurisdiction-like coverage to contractors supporting all U.S. Government agencies abroad.

(U) Second, as noted in MG Fay's investigation of contract personnel at the Abu Ghraib detention facility, DoD contractors acquired through other agencies of the U.S. Government (such as the CACI, Inc. contractors at Abu Ghraib, whose contract was part of a "blanket purchase agreement" maintained by the Interior Department) may not be subject to Military Extraterritorial Jurisdiction, based on a strict interpretation of the term "Department of Defense contractor." In many cases, however, such contractors could be prosecuted under Special Maritime and Territorial Jurisdiction or the war crimes statute. In any event, as a result of the Army's Abu Ghraib investigations, this question has been referred to the Department of Justice.

(U) Contractor Accountability: Summary

(U) The preceding discussion addressed several administrative and operational concerns regarding the employment of contractors in support of military interrogation activities. However, DoD policies and regulations for interrogation are founded on respect for humane treatment and international and domestic law: any crimes committed by DoD contract interrogators may be prosecuted, and problems of lesser severity may be dealt with by dismissal of the offending contractor.

Specific Findings Regarding Contractors (U)

(U) It is clear that contract interrogators and related support personnel are "bridging gaps" in the DoD force structure in Guantanamo Bay, Afghanistan and Iraq. As a senior intelligence officer at the U.S. Central Command (CENTCOM) stated, "Simply put, interrogation operations in Afghanistan, Iraq and Guantanamo can not be reasonably accomplished without contractor support." As a result of these shortfalls in critical interrogation-related skills, however, numerous contracts have been awarded by the services and various DoD agencies without central coordination; and in some cases, in an *ad hoc* fashion (as demonstrated by the highly publicized use of a "Blanket Purchase Agreement" administered by the Department of Interior to obtain interrogation services from CACI, Inc.). We found, nevertheless, that contractor compliance with DoD policies, government command and control of contractors, and the level of contractor experience were generally good, thanks in large part to the diligence of contracting officers and local commanders.

(U) We also found that contractors made a significant contribution to U.S. intelligence efforts. The U.S. Southern Command's (SOUTHCOM) contracting officer opined that contract interrogator performance had been "superb," an observation that our interviews with senior leaders at GTMO supported. Contract interrogators were typically former military intelligence or law enforcement personnel, and were on average older and more experienced than military interrogators; many anecdotal reports indicated that this brought additional credibility in the eyes of the detainees being interrogated, thus promoting successful interrogations. In addition, contract personnel often served longer tours than DoD personnel, creating continuity and enhancing corporate knowledge at their commands.

(U) Finally, as was described at greater length in our discussion of interrogation-related abuse, there were some, but not many instances of abuse involving contractors.

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Department of Defense Support to Other Government Agencies (U)

(U) Working alongside non-military organizations/agencies to jointly execute missions for our nation, proved to be complex and demanding on military units at the tactical level.

- LTG Anthony Jones, AR 15-6 Investigation of the Abu Ghraib Prison and the 205th Military Intelligence Brigade

(U) As I understand this issue, the conditions were set for "ghost detainees" based on a verbal agreement between CJTF-7 staff officers and OGA to allow the agency the use of a number of cells at Abu Ghraib for their exclusive use. There was no requirement for them to in-process the prisoner when they used those cells. This cell arrangement was concluded as part of the overall intelligence cooperation effort in the country with no directive or agreement being formally consummated.

- LTG Ricardo Sanchez, Commander, CJTF-7, July 2004

Introduction (U)

(U) As part of our report, we were tasked to assess Department of Defense (DoD) support to or participation in the interrogation activities of non-DoD entities. For purposes of our discussion, these entities, also known as Other Government Agencies or OGAs, are federal agencies external to DoD with specific interrogation and/or detention-related missions in the Global War on Terror. OGAs involved with such missions include the Central Intelligence Agency (CIA), the Federal Bureau of Investigation (FBI), Drug Enforcement Administration (DEA), U.S. Customs and Border Protection, and the Secret Service.

(U) There were clear limitations to our investigation of DoD support to OGAs. We did not investigate the existence, location or purpose of any dedicated or OGA-run facilities. Similarly, it was beyond the scope of our investigation to pursue the activities, legal authorities, or policies governing OGA operations at those locations. Simply stated, we considered only those situations where DoD provided interrogation or detention-related support for another federal agency.

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(U) Discussion in this section of the report will focus on two areas of consideration. First, we will address agreements and guidance that governed the relationships between DoD and OGAs in Guantanamo Bay (GTMO), Afghanistan and Iraq. The second area of discussion will explain exactly how DoD supported OGAs. In some instances, DoD assisted OGA interrogations by holding detainees for OGAs without registering or accounting for them. Our discussion will address, to the extent that our information and interviews can support, the nature and scope of this practice of holding detainees without record, known locally at Abu Ghraib prison in Iraq as "ghost detainees." The section will also address DoD's role in supporting OGA logistical requirements to include: facilities for interrogation, interpreters, security, military escort for detainees and, on occasion, personnel shelter and food services. Additionally, while the level and type of support differed in each country, DoD support uniformly involved sharing information on the capture, location and interrogation of detainees as well as the intelligence gained from those interrogations. Finally, this section will address DoD's oversight of other agency interrogations held in DoD facilities.

[redacted]

Interagency Coordination Guidance (U)

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Methodology (U)

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(U) In conclusion, the lack of clearly promulgated formal guidance or any implementing guidance is obvious. Without this guidance, DoD personnel were unsure of exactly what was authorized and expected. The importance of a shared mission to support the Global War on Terror, however, remained the same. In light of that mission, DoD and OGA personnel worked to identify and fulfill their respective requirements. This interagency working relationship was characterized by a CIA official in Baghdad in a November 2003 cable to CIA Headquarters: "But it also appears that all levels within the military understand CIA's priorities and provide us the necessary support." DoD's support to OGA is addressed below.

DoD Support to OGA (U)

(U) DoD has provided a wide number of services to OGAs in support of interrogation and detention operations since detention operations began in Afghanistan in December 2001. Services provided to OGAs in GTMO, Afghanistan and Iraq differed based on the existing infrastructure and specific mission requirements of the various agencies in those countries. This section will address the four major areas of support that we identified: (1) Transfer and custody of detained personnel to include keeping detainees without formal record or processing, also known as "ghost detainees"; (2) Logistical support; (3) Intelligence sharing; and (4) DoD oversight of OGA interrogations.

(U) Transfer and Custody of Detained Personnel

(U) One area of DoD support for OGAs that we identified involved the transfer of detainees to or from OGAs. Detainee transfers occurred for a variety of reasons. For example, in Iraq, as previously discussed, OGAs relied on DoD to maintain custody and control of detainees with limited exceptions. We are not able to quantify the frequency of this transfer process within the security

classification of this report; however, we can say that the guidance to combatant commanders that governed the transfer process was very specific. In February 2002, just months after the start of OEF, CENTCOM provided transfer of custody guidance that required advanced Coalition Force Commander (CFC) coordination and SECDEF approval for the transfer of custody to or from other U.S. governmental agencies or to foreign governments. Similarly, an April 2003 CJCS EXORD provided that, "Upon direction from SECDEF or his designee, other combatant commanders may transfer control of designated detainees ... to a U.S. Federal Agency, or to a DoD agent who will accept control of detainees. SECDEF notification is required 72 hours prior to all inter-theater movement of detainees and all transfer of control to and from federal agencies."

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(U) "Ghost Detainees"

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(U) Logistical Support

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(U) Intelligence Sharing

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(U) OGA Interrogations at DoD Facilities

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Conclusion (U)

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Medical Issues Relevant to Interrogation and Detention Operations (U)

Background (U)

(U) The primary task of the Interrogation Special Focus Team was to identify and report on interrogation techniques in Guantanamo Bay, Afghanistan, and Iraq; consequently, our investigative process was not specifically designed or intended to exhaustively study all medical aspects of detention operations. However, our investigation still led to important insights into detainee medical care and the roles of medical personnel. In this section of our report, we summarize those insights and our relevant findings.

(U) Military medical personnel serve vital and diverse roles in supporting the operational readiness and combat effectiveness of U.S. Armed Forces. They promote force readiness through comprehensive individual healthcare. They maintain the effectiveness of deployed forces through preventive efforts that cut the risks of contagious disease and non-battle injury. They save lives on the battlefield through state-of-the-art combat casualty care and medical evacuation. Military medical personnel also serve as ambassadors of American goodwill through civic and humanitarian activities worldwide. In addition, their scientific research advances medical knowledge and public health both at home and abroad.

(U) On numerous levels, the emotional bonds between military medicine and American combat forces are strong. Medics and corpsmen are cited often for valor and sacrifice alongside fighting men and women of all services. Many have died, and many more go in harm's way to render lifesaving care. This report is not intended to alter such proud heritage.

Medical Doctrine (U)

(U) Medical doctrine of the U.S. Armed Forces is rooted in the Geneva Conventions of 1949, which are repeatedly cited or quoted in DoD Directives, service regulations, and implementing orders. DoD guidance applies the standard of humane medical care to all detainee categories; requires that forces receive training adequate to ensure knowledge of their obligations under the Geneva Conventions and DoD policy; and requires that all military personnel (not just medical personnel) report suspected violations to their chains of command.

(U) Summarized below are important sources of U.S. military medical doctrine as it pertains to detainee operations and interrogation.

(U) Detainee Screening and Medical Treatment

(U) Recent DoD Policy Guidance

(U) On April 10, 2002 the Assistant Secretary of Defense for Health Affairs (ASD[HA]) issued HA Policy 02-005, "DoD Policy on Medical

Care for Enemy Persons Under U.S. Control Detained in Conjunction with Operation ENDURING FREEDOM." This brief document primarily directs that detainees from Afghanistan be provided medical care "to the extent appropriate and consistent with military necessity" in accordance with the 1997 multi-service regulation, "Enemy Prisoners of War, Retained Personnel, Civilian Internees and other Detainees" (described below). Unlike many other documents, HA Policy 02-005 makes no distinction between different categories of detainees. It also states the following:

(U) "In any case in which there is uncertainty about the need, scope, or duration of medical care for a detainee under U.S. control, medical personnel shall be guided by their professional judgments and standards *similar to those that would be used to evaluate medical issues for U.S. personnel*, consistent with security, public health management, and other mission requirements" (emphasis added).

(U) DoD Enemy POW Detainee Program

(U) "DoD Program for Enemy Prisoners of War (EPOW) and Other Detainees" (DoD Directive 2310.1) was issued August 18, 1994. It confirms as DoD policy that U.S. Military Services shall comply with the principles, spirit, and intent of the international law of war, both customary and codified, to include the Geneva Conventions (Section 3.1). It also requires that U.S. forces receive training to ensure knowledge of their obligations under the Geneva Conventions and the DoD Law of War Program (discussed below) before assignment to a foreign area where capture or detention of enemy personnel is possible (Section 3.2).

(U) Multi-Service Regulation (Army Regulation 190-8)

(U) "Enemy Prisoners of War, Retained Personnel, Civilian Internees and Other Detainees" is a multi-service regulation coordinated by the U.S. Army and issued jointly by the Army (AR 190-8), Navy (OPNAVINST 3461.6), Air Force (AFJI 31-304), and Marine Corps (MCO 3461.1). This regulation is hereinafter cited AR 190-8.

(U) AR 190-8 contains detailed guidance on numerous issues pertaining to the administration and treatment of enemy prisoners of war (EPW), retained personnel (RP), civilian internees (CI), and other detainees (OD) in the custody of U.S. Armed Forces. Its stated purpose is to implement international law, both customary and codified, and the four 1949 Geneva Conventions are specifically listed as the principal relevant treaties. AR 190-8 also states "In the event of conflicts or discrepancies between this regulation and the Geneva Conventions, the provisions of the Geneva Conventions take precedence."

(U) Specific provisions for "hygiene and medical care" call for sanitary quarters, personal

hygiene items, and access to medical care. Required medical records must include documentation of initial medical examinations, monthly medical inspections, and monthly weight recordings. Separate requirements for healthy food rations and adequate water supply appear elsewhere.

(U) Throughout AR 190-8, distinctions are made between different categories of persons in custody, and careful reading is necessary to determine exactly which provisions apply to whom. Provisions for hygiene and medical care, along with those for food rations and water supply, appear identically in one section addressing EPW/RP and another section addressing CE. There is no analogous section addressing ODs, who are specifically mentioned in few places.

(U) AR 190-8 emphasizes that all detainees are entitled generically to "humanitarian care and treatment." While HA Policy 02-005 (described above) extends provisions pertaining to *medical care* and its documentation to all enemy persons detained in conjunction with Operation ENDURING FREEDOM (Afghanistan), it does not extend any other provisions of AR 190-8 to ODs.

(U) Third Geneva Convention

(U) The Third Geneva Convention Relative to the Treatment of Prisoners of War of August 12, 1949 (GPW) is an international treaty ratified by the United States. GPW establishes criteria for defining status as an enemy prisoner of war (EPW). These criteria do not encompass all categories of detainees. It is important to note that no detainees from Operation ENDURING FREEDOM (Afghanistan) and relatively few detainees from Operation IRAQI FREEDOM (Iraq) are assessed by the United States to meet criteria for EPW status. In any case, several key provisions of the Convention form the foundation of U.S. military medical doctrine as it relates to EPWs. Those provisions are summarized below.

(U) *Articles 9-11* (in Part I, General Provisions) propose roles for impartial humanitarian organizations, such as the ICRC, which is mentioned by name but not specifically mandated.

(U) *Article 13* (in Part II, General Protection of Prisoners of War) mandates humane treatment of POWs and their protection from violence or intimidation, and Article 15 (also in Part II) requires the Detaining Power to provide EPWs with free medical care as required by their state of health. Part III of the Convention addresses captivity.

(U) *Articles 29-31* (in Chapter III [Hygiene and Medical Attention] of Section II [Internment of Prisoners of War] of Part III [Captivity]) collectively establish requirements for clean and healthful camps, personal hygiene accommodations, local access to medical care, and monthly medical

inspections. Prisoners must be admitted to any military or civilian medical unit able to provide necessary special treatment.

(U) *Articles 120-121* (in Section III [Death of Prisoners of War] of Part III [Captivity]) call for documentation of POW deaths along with their cause and circumstances, medical examination of bodies, and official inquiries when EPW deaths may have been caused by sentries or other persons, or when their cause of death is unknown.

(U) Fourth Geneva Convention

(U) The Fourth Geneva Convention Relative to the Protection of Civilian Persons In Time of War of August 12, 1949 (GC) is a separate international treaty, also ratified by the United States. While the two documents differ in many respects, those GPW provisions cited above are all extended in GC (most are copied verbatim) to also cover civilian internees (CI), who constitute the large majority of detainees under U.S. control in Iraq.

(U) International Committee of the Red Cross

(U) The ICRC is a humanitarian organization that works to protect and assist victims of war and violence. They utilize structured site visits and personal interviews in order to assess the psychological and material conditions of detention. Findings and recommendations are reported to the detaining authority, either verbally or in writing, and are not normally made public. Similarly, the ICRC does not normally request written responses to their recommendations, but instead seeks to build working relationships with detaining authorities and to promote compliance with their recommendations during periodic site re-visits. Recommendations of the ICRC are not legally binding. One of their positions, for example, is that prisoners on hunger strike should not be force fed, even at the risk of death - an issue not addressed in Geneva Conventions.

(U) Until recently, medical doctrine of the U.S. Armed Forces provided little specific guidance on interactions with the ICRC. AR 190-8 mentions the ICRC as one example of a "neutral state or an international humanitarian organization" that may be designated by the U.S. Government to monitor whether "protected persons" (EPW, CI, and PR) were receiving humane treatment as required by the Geneva Conventions. It does not specifically require ICRC coordination, despite its mention by name in several places that discuss interface with outside observers.

(U) Medical Involvement in Interrogation

(U) U.S. armed forces doctrine envisions medical involvement adequate to ensure that detainees are interrogated in safety and only when

medically fit. For example, Army Field Manual [FM] 34-52, *Intelligence Interrogation*, requires medical coordination when establishing an interrogation site (Chapter 5) and medical release of the sick or wounded before interrogation. Another field manual requires that Division Surgeons establish procedures for detainee casualty treatment and disposition, and that medical personnel advise commanders of violations of the Geneva Conventions, including interrogations of enemy wounded or sick who are medically unfit, or the killing, torture, mistreatment, or harming of a wounded or sick enemy soldier (FM 8-10-5, *The Brigade and Division Surgeon's Handbook*, Chapter 5).

(U) Beyond this, existing U.S. medical doctrine does not specifically addresses the participation of medical personnel in detainee interrogations. In particular, DoD policy does not prevent individuals with expertise in mental health or behavioral science from helping interrogators to develop and refine interrogation strategies.

(U) Military Legal Review

~~(FOUO)~~ In July 2002, the Staff Judge Advocate of Joint Task Force (JTF) 170 at Guantanamo Bay provided the only military opinion [redacted]

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(U) General Assembly Resolution 37/194

(U) The United Nations General Assembly on December 18, 1982 issued Resolution 37/194, "Principles of Medical Ethics Relevant to the Role of Health Personnel, Particularly Physicians, in the Protection of Prisoners and Detainees against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment." Though not legally binding, this resolution states, in part, "It is a contravention of medical ethics for health personnel,

particularly physicians, to apply their knowledge and skills in order to assist in the interrogation of prisoners and detainees in a manner that may adversely affect the physical or mental health or condition of such prisoners or detainees...."

(U) Interrogator Access to Medical Information

(U) Medical doctrine of the U.S. Armed Forces does not prohibit interrogator access to detainee medical information. As discussed later, the actual practice appears to be rare. Command-level military policies generally recognize two acceptable bases for such access. The first basis involves situations where interrogators might need insight into active medical issues to ensure that interrogations are safely limited. A second basis arises when detainees claim that interrogations should be restricted on medical grounds. In this instance, interrogators might wish to know if real medical issues deserve special consideration or, conversely, if the detainee is making false claims.

(U) Preventing and Reporting Suspected Abuse

(U) Under U.S. military doctrine, responsibilities for preventing and reporting detainee abuse are not limited to medical personnel. DoD directives, such as the DoD Enemy POW Detainee Program (discussed above), require all military personnel to know their obligations under international law. Others, such as the DoD Law of War Program (discussed below) establish strict requirements for reporting suspected violations.

(U) DoD Law of War Program

(U) DoD Law of War Program (DoD Directive 5100.77) was issued December 9, 1998. It emphasizes that *law of war* encompasses "all international law for the conduct of hostilities binding on the United States or its individual citizens, including treaties and international agreements to which the United States is a party, and applicable customary international law." The directive specifically references all four Geneva Conventions of 1949, and it goes on to establish DoD policy that all possible, suspected, or alleged violations of the law of war be reported through chains of command, and then thoroughly investigated.

(U) Other Sources of Guidance

(U) A number of professional organizations have issued ethical statements or proposed standards for professional behavior. Although useful as ethical guidelines, none are legally controlling. One often-cited example is the World Medical Association's 1975 Declaration of Tokyo, "Guidelines for Medical Doctors Concerning Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment in Relation to Detention and Imprisonment," which forbids physician participation, observation, or counte-

nance of torture or cruel and inhuman punishment.

(U) Cause of Death Determinations

(U) Military guidance on detainee autopsy has evolved since 2001. Although autopsy is the rule for any death of a prison inmate in the American civilian sector, medical doctrine of the U.S. Armed Forces did not specifically address the issue until recently.

(U) AR 190-8

(U) AR 190-8 only briefly mentions "Death and burial" in identical sections that apply respectively to EPW/RP and to CI, but not to ODs. These provisions call for investigative reports of suicides, deaths or serious injury caused by guards or others, and deaths resulting from unnatural or unknown causes. Autopsies are not addressed, and much of the focus is on disposition of remains. That theme is also reflected in an attached Certificate of Death format (DA Form 2669-R, May 62), which only allows one-third of one line for indicating Cause of Death and does not ask whether an autopsy has been performed.

(U) Interim Efforts

~~(FOUO)~~ Upon recognizing that some detainee death cases were not being referred for autopsy, the Office of the Armed Forces Medical Examiner (OAFME) coordinated with the U.S. Army Office of the Provost Marshall General (OPMG), which in October 2005 directed its Criminal Investigative Division (CID) personnel to ensure that all detainee deaths are referred for autopsy. The situation improved, but some subsequent cases still involved release of remains before notifying CID.

(U) Recent DoD Policy Guidance

(U) Secretary of Defense Memorandum, "Procedures for Investigation into Deaths of Detainees in the Custody of the Armed Forces of the United States," signed June 9, 2004, formalizes requirements to immediately report the death of any detainee in the custody of U.S. Armed Forces (including EPW, RP, CI, and OD) to a U.S. Armed Forces service investigative agency. The memorandum establishes the OAFME as having primary jurisdiction within DoD for determining the cause and manner of death in such cases, and explicitly presumes that autopsies will be performed unless otherwise determined by the Armed Forces Medical Examiner (AFME) specifically. It goes on to summarize, "Determination of the cause and manner of death in these cases will be the sole responsibility of the AFME or another physician designated by the AFME."

Medical Findings (U)

(U) Our findings relevant to medical issues are organized below into four sections. The first section is an overview of detainee deaths and the processes in place to determine causes of death. Three site-specific sections then follow, addressing Guantanamo Bay, Afghanistan, and Iraq, respectively. The site-specific sections include reviews of individual detainee deaths, along with other impressions from local site visits and interviews of medical personnel. In this regard, our discussion of Guantanamo Bay is more extensive and detailed than those of Afghanistan and Iraq. Although unintended, this is no accident. The concentration of facilities and stable environment at Guantanamo Bay allowed us, in a very brief period, to aggressively tour detention and medical facilities, review medical records, and interview medical personnel. This was not possible in Afghanistan and Iraq.

(U) Our findings in relation to detainee deaths are based primarily on our own review of investigative summary reports by CID as of September 30, 2004. We augmented these reviews with discussion of overall processes and selected individual cases during a visit to the OAFME in Rockville, Maryland.

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(U) We elected to study detainee deaths for pragmatic reasons. Detainee deaths are sentinel events more likely to trigger attention, reporting, and independent CID investigation. In many cases, forensic autopsies add objective corroboration of other findings. The overall result is a reasonable body of documentation on a manageable number of cases. Meanwhile, our medical interest in reviewing summary reports on detainee deaths differed from the focus of CID investigators. Even though we sometimes applied our own label of "Suspicious for Abuse" in categorizing detainee deaths, we did not attempt to definitively assess detainee abuse. Instead, we looked for references to healthcare or medical personnel, and for insights on how their roles related to those of non-medical processes and individuals. Our assessments in this regard are necessarily subjective.

(U) Overview of Detainee Deaths

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(U) Guantanamo Bay

(U) Detainee Screening and Medical Treatment

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~~(FOUO)~~ Detainees at Guantanamo Bay

Individual Detainee Deaths Cited in DoD Investigations in Guantanamo Bay, Afghanistan and Iraq (March 2003 - September 2004) (U)

Location	False Report	Killed by Enemy Attack	Killed in Riding	Detainee Other Deaths	Total
Guantanamo Bay	0	0	0	0	0
Afghanistan	0	0	0	5	5
Iraq	1	27	13	49	90
Total	1	27	13	54	95

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receive several levels of healthcare. The first involves daily sick call held in each callblock. Sick call teams are based in a fixed-facility clinic within the Camp Delta compound, where detainees sometimes receive other outpatient care. The inpatient Detention Hospital is a separate and modern facility within Camp Delta with its own physician staff and capabilities equivalent to a field surgical hospital. [redacted]

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~~(FOUO)~~ Health Records. Health records are maintained for each detainee. [redacted]

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~~(FOUO) Detainee Nutrition~~. Medical personnel attempt to weigh all detainees monthly, but 10 percent of detainees refuse this. Detainees are categorized by Body Mass Index (BMI) and tracked over time. [redacted]

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~~(FOUO)~~ Mental Health Care. [redacted]

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(U) Medical Involvement in Interrogation

~~(FOUO)~~ Recent Involvement. Detainee Hospital personnel coordinate extensively with

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(U) Behavioral Science Consultation Team

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to a combat support role.

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(U) Interrogator Access to Medical Information

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(U) Preventing and Reporting Suspected Abuse

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(U) Afghanistan

(U) Interviews of Medical Personnel in Afghanistan

~~(FOUO)~~ Our larger process of structured interviews included seven medical personnel in June 2004 at Kandahar, Afghanistan, including a physician, a physician assistant, and five enlisted medics. The enlisted medics were all assigned to a Military Police company. These interviews focused on the same themes we have used to organize other parts of our report on medical issues. In contrast to our discussions of Guantanamo Bay, we group these themes closely together here as interview findings only, because our processes in Afghanistan and Iraq did not allow us to corroborate interview findings with medical facility tours and files review as had been possible at Guantanamo Bay. While our sample size of interviewed medical personnel in Afghanistan was small, our findings closely match those reported on July 21, 2004 in Department of the Army Inspector General Report on Detainee Operations.

~~(FOUO)~~ Detainee Screening and Medical Treatment. All interviewees described the goal of offering detainees a standard of medical care similar to that available to U.S. soldiers. One medic thought the detainees got more responsive care than U.S. soldiers. Each interviewee described ini-

tial medical evaluations of every detainee. Several described visual rectal and genital examinations that had been performed to look for weapons or bruising that might indicate abuse. As noted elsewhere, Brigadier General Jacoby issued guidance prohibiting further rectal or genital examinations of detainees at about this same time.

~~(FOUO)~~ Specific training with regard to detainee medical care was limited to informal sessions after deployment to help them distinguish between real and "pseudo" complaints by detainees. Responses to a question about governing directives for detainee medical care were vague, and none mentioned the Geneva Conventions. At the same time, each individual seemed strongly aware of a general responsibility to treat detainees humanely and with respect.

~~(FOUO)~~ Detainee sick call is held on a daily basis, but processes are sometimes informal - medics talk to detainees and guards to see who needs care. There is no infirmary at the detention facility, although medics are available at all times if summoned by a guard. Detainees are taken to a nearby military medical unit as needed for medical care, although detainee complaints are usually routine and transport is seldom necessary.

~~(FOUO)~~ The medical personnel we interviewed all seemed committed to providing humane medical care for detainees in Afghanistan. The general circumstances they described, however, make it clear they were not equipped to fully comply with all doctrinal requirements for detainee medical care. For example, there was no mention of monthly medical assessments or weight recordings, as required by AR 190-8, and it seems unlikely these would be feasible under the broader conditions described.

~~(FOUO)~~ Medical Involvement in Interrogation. None of the medical personnel described any medical participation in interrogation processes except the need to medically clear detainees for interrogation and the responsibility to inform interrogators when medical problems might warrant special accommodations.

~~(FOUO)~~ Interrogator Access to Medical Information. Documentation of medical care is not standardized or rigorous, although clearly some care is recorded. Separate detainee medical records are not maintained. Instead, medical records that do exist were kept in Person Under Control (PUC) files used also for other purposes. This practice makes it impossible to control or even monitor access to detainee medical information. No interviewee had ever been asked to alter medical documentation.

~~(FOUO)~~ Preventing and Reporting Suspected Abuse. None of interviewed medical personnel had seen or suspected detainee abuse.

Each indicated they would report abuse to their chain of command if they suspected it.

(U) Psychology Support of Interrogations

~~(FOUO)~~ Analogous to the BSCT in Guantanamo Bay, the Army has a number of psychologists in operational positions (in both Afghanistan and Iraq), mostly within Special Operations, where they provide direct support to military operations. They do not function as mental health providers, and one of their core missions is to support interrogations. According to the Director, Psychological Applications Directorate (U.S. Army Special Operations Command), the only reason for sharing any medical information would be to ensure that detainees are treated in accordance with their medical requirements. He personally knew of no cases where medical records were used to plan an interrogation. A manual is currently being developed to function both as a training document and a set of guidelines (standards of practice) for psychologists who perform in this role.

(U) Detainee Deaths in Afghanistan

~~(FOUO)~~ As shown in the table on the next page, we reviewed CID summary investigative reports on five detainee deaths occurring in Afghanistan between August 28, 2002 and November 6, 2003. No other detainee death investigations have been initiated in Afghanistan as of September 30, 2004. Also presented below are brief synopses of these five cases. Two similar detainee deaths at Bagram raise concerns that medical personnel may have misrepresented detainee injuries likely to have been apparent at the time of death. These two cases deserve further investigation into the appropriateness of medical documentation. The three other reports describe individual deaths with little or no mention of medical involvement. The table below shows our own categorization of reported detainee deaths, which differ from that used internally by CID. The differences reflect our separate focus on medical perspectives and not any disagreement with the investigative interpretation of case findings. "Point of Capture" deaths represent individuals killed by U.S. forces at about the time of apprehension under diverse circumstances that are difficult to assess. "Suspicious for Abuse" is our own subjective label for four deaths individually described further below.

~~(FOUO)~~ 12/4/02 and 12/10/02 at Bagram (Suspicious for Abuse) - Two separate cases, five days apart, suggest very similar circumstances. Both involve disruptive detainees who were restrained in their cells in standing positions; then apparently beaten; still later found collapsed in their cells; and ultimately rushed to a nearby medical facility. The first case is described only as dead on arrival. Notes on the second case indicate that cardio-pulmonary resuscitation (CPR) was begun at the scene and continued during transport, but

with death declared shortly thereafter. In both cases, separate physicians are cited as finding no evidence of bruising or injury. Also in both cases, however, autopsies within days subsequently revealed massive blunt force injuries to the legs, with muscle injury so severe that bilateral leg amputations would have been necessary if the detainee had survived. CID investigations into possible detainee abuse by guards, completed in October 2004, have led to criminal charges against several individuals. Review of these cases with OAFME support our concern that local physicians may have misrepresented, either consciously or due to incomplete examinations, the condition of these detainees at death. The appropriateness of medical documentation in these cases deserves further review, separate from the issue of abuse by guards. We do not know whether medical personnel reported suspicions of detainee abuse in this case, but the circumstances should probably have led them to consider detainee abuse.

~~(FOUO)~~ 11/6/03 at Gereshk (Suspicious for Abuse) - Detainee arrived with extensive bruising noted by U.S. medical personnel after interrogation elsewhere by Afghani military forces. He remained under Afghani guard within a U.S. compound. Two days later, he was found dead in his cell. Exact circumstances of treatment and interrogation are unclear. A local U.S. military surgeon attempted a preliminary autopsy but could not determine a cause of death, and so he appropriately referred the case for forensic autopsy by OAFME. Subsequent laboratory tests at that autopsy revealed evidence of severe muscle injury. Investigation of this case remains open. We do not know whether medical

Individual Detainee Deaths Cited in DoD Investigations in Afghanistan (March 2003 - September 2004) (U)

	Cause of Death Category		
	Point of Capture	Suspicious for Abuse	Total
Number of Individuals Mentioned	1	4	5
Status of Associated Investigations			
Investigations Still Open	0	4	4
Investigations Closed	1	0	1

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personnel reported suspicions of detainee abuse in this case, but the circumstances should probably have led them to consider detainee abuse.

~~(FOUO)~~ 2/1/03 at Gardez (Suspicious for Abuse) - Seven Afghanis reported they had been held for three months at an isolated location along with another eighth person. They claim to have been abused during this period, and that the eighth fellow detainee had been killed. Local Afghani officials were interviewed and doubted the story. No body was ever produced. The report of death was originally thought by CID investigators to be false, but recent information has led them to suspect detainee abuse and to re-open their investigation. At this point, the circumstances are unclear. Investigative summary report makes no mention of medical involvement.

~~(FOUO)~~ 8/28/02 at Lwara (Point of Capture) - Detainee was shot and died shortly after capture by U.S. forces. Summary investigative report makes no mention of medical care or medical personnel.

(U) Iraq

(U) Interviews of Medical Personnel in Iraq

~~(FOUO)~~ We interviewed 38 medical personnel in Iraq during June 2004, including two headquarters-level physicians, 20 other physicians, four other medical department officers, and 12 enlisted medics and corpsmen. Most were directly involved in detainee medical care. They represented at least a dozen different units at various locations. Feedback did not differ in any obvious way between these groups of interviewees. Our interviews focused on the same themes we have used to organize other parts of our report on medical issues. In contrast to our discussions of Guantanamo Bay, we group these themes closely together here as interview findings only, because our processes in Afghanistan and Iraq did not allow us to corroborate interview findings with medical facility tours and files review as had been possible at Guantanamo Bay.

~~(FOUO)~~ Detainee Screening and Medical Treatment. None of the interviewed medical personnel described pre-deployment training related to detainee medical care or Geneva Convention responsibilities, although one physician described such training previously in medical school. When asked about directives governing their duties relative to providing medical care for detainees, only a handful mentioned the Geneva Conventions at all. Most made vague reference to unspecified Army regulations. Training received in theater related mostly to specific medical issues or approaches to unruly detainees.

~~(FOUO)~~ Detainees appear to always receive initial medical examinations and must be medically cleared before interrogation. The examinations vary widely in comprehensiveness and are sometimes cursory. No interviewee mentioned detainee rectal examinations, but several described strip-

ping detainees naked for exams.

~~(FOUO)~~ Some detention facilities have detainee clinics or infirmaries, while others do not. All locations appear to conduct routine detainee sick call operations, but actual procedures for detainee access vary. Most locations conduct some form of daily sick call. A few do so twice daily.

~~(FOUO)~~ Responses to an interview question about routine medical examinations varied widely. Only a couple interviewees confirmed monthly medical examinations with recorded detainee weights. A few others mentioned monthly examinations more vaguely. One officer described monthly weights tracked on a spreadsheet but no routine medical inspections. Several enlisted medics responded that routine examinations were conducted daily or even twice daily, apparently confusing the distinction between sick call operations and periodic routine examinations.

~~(FOUO)~~ With one exception, all interviewees denied that appropriate medical care had ever been consciously denied. That exception involved one medic interviewed in Baghdad who described how detainee access to optometry services for glasses was managed by interrogators and as a reward for cooperation.

~~(FOUO)~~ Impressions of proper procedures following detainee death varied. Most personnel indicated a requirement to notify their chain of command. Two thought that remains should be released to families or other civilians. One interviewee thought he should first notify the ICRC upon death of a detainee.

~~(FOUO)~~ Medical Involvement in Interrogation. All interviewees indicated they had no involvement in detainee interrogations and that interrogators respected the need for medical clearance before detainees were interrogated.

~~(FOUO)~~ Interrogator Access to Medical Information. No interviewee indicated they should provide any medical information to interrogators except when medical conditions warranted special accommodations. None indicated they had ever been asked for medical information about detainees except in this context. All denied ever being asked by interrogators to alter medical documents.

~~(FOUO)~~ Interviewees described widely varied procedures for maintaining detainee medical records. At some places, especially in Baghdad, individual detainee medical records were managed and kept secure by medical personnel. At least one unit also backed up detainee medical records on a computerized data system. A medic in Baghdad even described how ICRC representatives were denied access to detainee medical records out of privacy concerns. Overall, however, procedures were not standardized. At one location, the Persons Under Control (PUC) manager kept copies

of detainee medical records. At another, military interrogators held the detainee medical records. Several interviewees indicated they did not maintain individual detainee medical records, and instead kept occasional medical notes in other detainee record files. One unit kept medical information on individual detainees in a common medical logbook.

~~(FOUO)~~ Preventing and Reporting Suspected Abuse. Virtually all interviewees recognized the need to report suspected detainee abuse, and most indicated they would notify their chain of command. Of the 38 medical personnel interviewed, four said they had seen or suspected detainee abuse. In one case, an enlisted Navy corpsman serving with the Marines noted broken ribs and temporary unconsciousness occurring after detention - he reported this to the commanding officer of the Military Police company. In a second case, another enlisted Navy corpsman noted suspicious bruises at initial screening of a detainee - he reported this to the sergeant of the guard. The third case involved a physician working at the Baghdad airport in June 2003 when a detainee died under unclear circumstances. He had not initially suspected detainee abuse, but came to this belief later and reported his concerns to investigators. Finally, a mental health physician at the 28th Combat Support Hospital in Baghdad (supports Abu Ghraib) had observed medical personnel handling detainees unnecessarily roughly during transportation. He reported this to medical supervisors and the behavior was stopped. We attempted to validate the nature of any corrective actions taken in each of these cases, but we were unable to cross-reference the brief comments with our other records.

~~(FOUO)~~ As with our own processes, Major General Fay's recent investigation at Abu Ghraib was not designed to focus specifically on medical aspects of detainee operations. However, some of his findings add to our own with regard to the roles of medical personnel in preventing and reporting suspected detainee abuse. Specifically, he found that enlisted medics had witnessed obvious episodes of detainee abuse, apparently without reporting them to superiors. One episode involved a detainee whose wounded leg was intentionally hit. Two others involved detainees handcuffed uncomfortably to beds for prolonged periods, such that one eventually suffered a dislocated shoulder and another experienced pain when eventually forced to stand. A further episode involved a medic who saw pictures of naked detainees in a pyramid.

(U) Psychology Support of Interrogations

~~(FOUO)~~ Our basic findings for Iraq are identical to those presented for Afghanistan. The Army has a number of psychologists in operational positions (in both Afghanistan and Iraq), mostly within Special Operations, where they provide direct support to military operations. They do not function as mental health providers, and one of

their core missions is to support interrogations. In Iraq, we interviewed two military personnel and one civilian serving in this capacity. All three emphasized their separation from detainee medical care. Only one believed he had observed or suspected detainee abuse. No details were offered, except that, when this occurred, he recommended the interrogation not proceed and brought in medical personnel to evaluate the detainee.

(U) Detainee Deaths in Iraq

~~(FOUO)~~ We reviewed CID summary investigative reports on 63 reported detainee deaths in Iraq. As of September 30, 2004, 21 of these reported deaths remain the subject of open investigations. Not reflected in these summary investigative reports are an additional 27 detainees known to have been killed by enemy mortar attacks on the Abu Ghraib prison in Baghdad, Iraq. Five detainees died in such an attack on August 16, 2003, and 22 detainees died in such an attack on April 20, 2004.

~~(FOUO)~~ The table on the next page shows our own categorization of the 90 total reported detainee deaths in Iraq as of September 30, 2004. Our categorization scheme here differs from that used internally by CID. The differences reflect our separate focus on medical perspectives and not any disagreement with the investigative interpretation of case findings. We labeled as "Non-Trauma" those natural deaths from underlying medical disease, along with cases where environmental conditions may have contributed. "Killed in Rioting" deaths represent detainees killed by U.S. forces while rioting or attempting escape. "Point of Capture" deaths represent individuals killed by U.S. forces at about the time of apprehension under diverse circumstances that are difficult to assess. "Suspicious for Abuse" is our own subjective label for eight deaths individually described further below. "Battlefield Injury" deaths are those due to complications directly related to major battle wounds, despite adequate medical care.

~~(FOUO)~~ In 33 of their 63 reported detainee deaths in Iraq, CID summary investigative reports indicate that medical personnel either rendered care before death, attempted resuscitation about the time of death, or (one case only) rushed to the scene but determined that resuscitation would be futile. These cases with references to medical care include six of the eight "Suspicious for Abuse" detainee deaths (see below), and six of the seven "Non-Trauma" detainee deaths clustered in August 2003 (see further below). We cannot tell from investigative reports if medical personnel were involved or not in other reported detainee deaths, although our own interviews suggest one such case where an Army physician reported his suspicions of detainee abuse to his chain of command and was interviewed by investigators. None of the summary investigative reports suggest that medical personnel either contributed to detainee abuse or misrepresented findings. As noted below, however,

unconfirmed subsequent reports do raise concerns about misrepresentation of physical circumstances in one reported case of detainee death at Abu Ghraib, in Baghdad.

~~(FOUO)~~ Our processes did not allow us to assess the frequency with which medical personnel reported suspicions of detainee abuse or adverse conditions. Evidence from investigative reports, however, suggests that medical personnel often have exposure to the circumstances of detainee treatment. In this regard, summary reports on two different "Point of Capture" detainee deaths suggest that medical personnel (an Army medic and a Navy corpsman, respectively) caused investigations to be initiated, separate from any issues of medical care.

~~(FOUO)~~ Presented below are brief synopses of the eight reported detainee deaths in Iraq that we found to be "Suspicious for Abuse" upon after reviewing CID investigative summary notes and available autopsy results. We subsequently present overview observations regarding "Non-Trauma" detainee deaths in Iraq, along with case synopses of the seven such deaths occurring in August 2003.

Individual Detainee Deaths Cited in DoD Investigations in Iraq (March 2003 – September 2004) (U)

Site	Enemy Attacks	Non-Trauma	Killed in Rioting	Point of Capture	Suspicious for Abuse	Battlefield Injury	No Information	False Report	Total
	Task Force Categorization of Death Cause								
Abu Ghraib	27	15	10	8	1	0	1	0	54
Other Sites	0	9	3	10	7	4	2	1	36
Total	27	24	13	10	8	4	3	1	90
	Status of Associated Investigations								
Investigations Still Open	n/a	5	3	4	7	0	2	0	21
Investigations Closed	n/a	19	10	6	1	4	1	1	42
	Mention in CID Investiagtive Summary Notes of Medical Involvement								
Medical Mentioned	n/a	19	4	0	6	3	1	0	33
No Medical Mention	n/a	5	9	10	2	1	2	1	30

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(U) "Suspicious for Abuse" Detainee Deaths in Iraq

~~(FOUO)~~ 11/4/03 at Abu Ghraib in Baghdad (Suspicious for Abuse) - Detainee was initially reported to have slumped over during interrogation and then to have died despite attempted medical resuscitation. Autopsy by OAFME revealed broken ribs and compromised respiration. Sources outside of the CID investigative summary report have subsequently suggested that respiration may have been compromised by hooding, and that medical personnel may have placed an IV line after death to falsely suggest that resuscitation had been attempted. The CID investigation of this case is still open. Aside from the issue of possible detainee abuse during interrogation, the appropriateness of medical documentation in this case deserves further review, as does the possibility that medical personnel may have acted to misrepresent circumstances. We do not know whether medical personnel reported suspicions of detainee abuse in this case, but the circumstances should probably have led them to consider detainee abuse.

~~(FOUO)~~ 6/6/03 at Al Nasiriyah (Suspicious for Abuse) - Detainee died of strangulation, with broken ribs and neck bone found at autopsy. Investigation suggests he was beaten and then dragged by the neck by a guard. He had earlier been screened by medical personnel; medics were called to the scene at the time of his death. The CID investigation of this case is still open. We do not know whether medical personnel reported suspicions of detainee abuse in this case, but the circumstances should probably have led them to consider detainee abuse.

~~(FOUO)~~ 11/26/03 at Forward Operating Base (FOB) Tiger (Suspicious for Abuse) - Investigation and autopsy suggest this detainee died of asphyxia caused by smothering and chest compression during an interrogation. Medics were called to scene and attempted resuscitation, but were unsuccessful. The CID investigation of this case remains open. We do not know whether medical personnel reported suspicions of detainee abuse in this case, but the circumstances should probably have led them to consider detainee abuse.

~~(FOUO)~~ 1/9/04 at Al Asad (Suspicious for Abuse) - Detainee was found slumped, shortly after being gagged and shackled to a doorframe. Medics were summoned but determined that attempted resuscitation would be futile. Autopsy by OAFME found that death was due to asphyxia, with bruising, and multiple broken ribs. The CID investigation of this case is still open. We do not know whether medical personnel reported suspicions of detainee abuse in this case, but the circumstances should probably have led them to consider detainee abuse.

~~(FOUO)~~ 12/1/03 at Balad (Suspicious for Abuse) - Detainee died of blunt head injury shortly

after being taken to the 21st Combat Support Hospital (CSH). The circumstances of injury are unclear. The CID investigation of this case is still open. Concerns of medical personnel are suggested in a Memorandum for the Record, dated May 11, 2004 from personnel of 21st CSH. We do not know whether medical personnel reported suspicions of abuse at the time of death.

~~(FOUO)~~ 6/13/03 at Baghdad Airport (Suspicious for Abuse) - Circumstances of death are not well known. Autopsy by OAFME revealed that death was caused by closed head injury. Investigative summary report makes no mention of medical involvement, but our own interviews revealed that an Army physician suspected detainee abuse and reported this to investigators within a month or so of the death. The CID investigation of this case is still open.

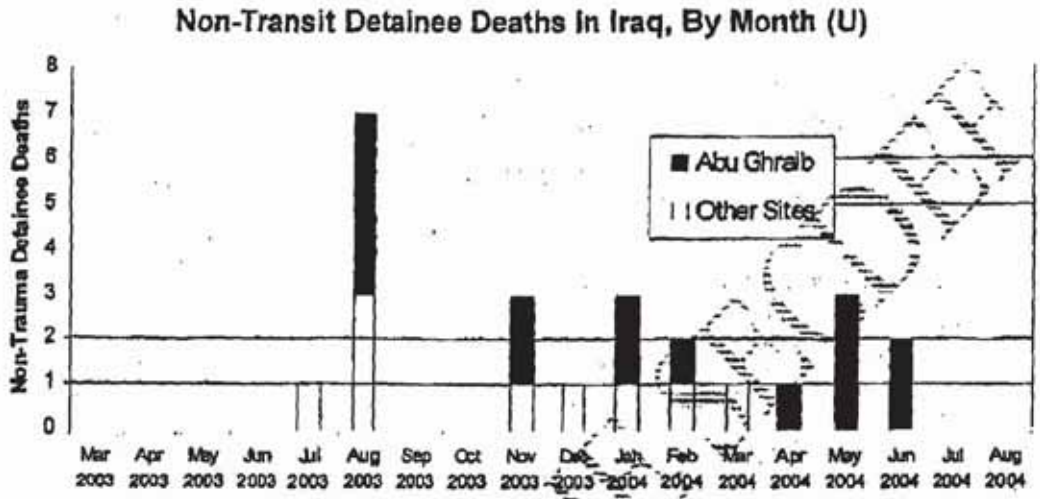
~~(FOUO)~~ 4/2/04 at Mosul (Suspicious for Abuse) - Detainee was allowed to sleep after interrogation, and later was found unresponsive. He died despite emergency medical resuscitation efforts at 67th CSH lasting about one hour. An Army physician at the time suspected cardiac arrest, but the exact cause of death remains uncertain even after an autopsy by OAFME. Meanwhile, subsequent other testimony suggests detainee abuse. The CID investigation of this case is still open.

~~(FOUO)~~ 9/11/03 at Tikrit (Suspicious for Abuse) - Detainee was reportedly shot by a U.S. guard without apparent justification. Investigative summary report makes no mention of medical involvement. The CID investigation is closed, and charges have been initiated.

(U) "Non-Trauma" Detainee Deaths in Iraq

~~(FOUO)~~ The chart on the next page shows the monthly distribution of 24 total "Non-Trauma" detainee deaths in Iraq. One observation is the reasonably similar pattern of "Non-Trauma" deaths occurring at Abu Ghraib and elsewhere; another is the higher number of deaths in August 2003, when the local climate was very hot.

~~(FOUO)~~ Summary notes mention a possible role of environmental heat in two of the non-trauma deaths, both occurring in August 2003. One detainee had intentionally restricted his own diet, and an autopsy by OAFME revealed coronary artery disease - comments about extreme heat are made by the investigator. In a second case, the OAFME officially labeled the death as heat related. An unusual incidence of non-trauma detainee deaths in August 2003 suggests, but does not prove, that extreme heat may have been a factor in other deaths, as well. The available data, however, makes it unclear whether environmental factors



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influenced non-trauma detainee deaths at other times. The seven "Non Trauma" detainee deaths occurring in Iraq in August 2003 are summarized below. In each of these seven cases, CID investigations of detainee death are now closed.

~~(FOUO)~~ 8/3/03 at Camp Cropper in Baghdad (Non-Trauma) - Data is incomplete. Detainee was observed by other detainees to be extremely ill before death. They ultimately brought him to the aid station, where medical life-saving measures were unsuccessful. Medical photos support a military physician's impression of no external injuries. No autopsy was performed.

~~(FOUO)~~ 8/7/03 at Diwania (Non-Trauma) - Detainee became short of breath and suffered low blood pressure during a transport by bus. He briefly improved after medics administered a fluid bolus, but later worsened and died. Autopsy by OAFME showed no evidence of trauma, although a precise cause of death could not be determined.

~~(FOUO)~~ 8/8/03 at Abu Ghraib in Baghdad (Non-Trauma) - Detainee with known diabetes had been on a hunger strike for two days. Other detainees saw him suffer chest pain and eventually collapse. Medics were summoned and they began cardiopulmonary resuscitation, which was not successful. Autopsy by OAFME cited atherosclerotic heart disease complicated by diabetes.

~~(FOUO)~~ 8/11/03 at Abu Ghraib in Baghdad (Non-Trauma) - Detainee had been treated for shortness of breath during medical in-processing, but he later refused to accept an inhaler. He was later found unconscious. Medics were summoned and began cardiopulmonary resuscitation, which was not successful. Autopsy by OAFME cited atherosclerotic heart disease.

~~(FOUO)~~ 8/13/03 at Abu Ghraib in Baghdad (Non-Trauma) - Detainee was found by other detainees to have no breathing or pulse. They carried him to prison gate area. Autopsy by OAFME found atherosclerotic heart disease. Investigative summary report mentions a suspicion the detainee suffered a heart attack due to the combined effects of extreme heat and self-induced dietary restriction. No mention is made of medical involvement except for the autopsy.

~~(FOUO)~~ 8/20/03 at Abu Ghraib in Baghdad (Non-Trauma) - Other detainees told guards of this detainee's apparent distress from illness. Medical staff arrived within ten minutes and found the detainee to have no pulse. They began cardiopulmonary resuscitation and advanced cardiac life support, without success. Autopsy by OAFME found atherosclerotic heart disease.

~~(FOUO)~~ 8/22/03 at Camp Sathe in Baghdad (Non-Trauma) - Detainee was found on the ground with shallow breathing, decreased perspiration, and a high temperature. Aggressive administration of intravenous fluids by medical personnel failed to prevent his rapid subsequent death. Autopsy by OAFME cited the death as heat-related.

~~(FOUO)~~ We do not know whether medical personnel reported concerns about climate impacts on detainee health in August 2003 or at other times. Sources outside our process suggest that at least some medical personnel did report concerns about detainee welfare during such hot periods. Overall circumstances would probably have led a number of medical personnel to have such concerns.

Conclusions (U)

(U) Medical doctrine of the U.S. Armed Forces is ultimately rooted in the Geneva Conventions of 1949, and applies the standard of humane medical care to all categories of detainees. This doctrine has been in place throughout operations in GTMO, Afghanistan and Iraq. In addition, we note that the Office of the Secretary of Defense is currently developing specific policies to address the issues raised below.

(U) The medical personnel that we interviewed appeared to understand, in general terms, their responsibility for providing humane medical care to detainees, but few had received training specifically relevant to detainee screening and medical treatment. In Afghanistan and Iraq, however, we found inconsistent field-level implementation of specific requirements, such as monthly medical inspections and weight recordings. One

obvious need is for a clear and concise training curriculum in a standardized format amenable to use in diverse settings.

(U) Two specific areas deserve further policy-level and legal review, as appropriate. Both touch on important ethical issues not specifically addressed by the Geneva Conventions of 1949. The first involves the roles and responsibilities of behavioral science personnel working in direct non-medical support of detainee interrogators to refine interrogation techniques. The status of medical personnel assigned to these non-medical duties deserves clarification, even though much of their work actually focused on encouraging less coercive interrogation techniques for most detainees. The second area deserving further policy-level review involves standards for detainee medical records and who should have access to them. We found substantial variation in field-level practices for maintaining and securing detainee medical records. In some situations, interrogators had easy access to detainee medical information, even though we separately found little interest by interrogators for that information and no instances where detainee medical information had been used coercively during interrogations. Although U.S. law provides no absolute confidentiality of medical information for any person, including detainees, DoD policy-level review is necessary in order to balance properly these reporting concerns. Meanwhile, a third important policy area, involving requirements for reporting detainee death, performing autopsies, and determining causes of death, was addressed by updated DoD policy guidance in June 2004, as previously discussed.

(U) While it is clear to us that medical personnel had frequent opportunities to observe the circumstances of detainee confinement, it was not possible for us to comprehensively assess when or whether medical personnel reported suspicions of detainee abuse. We were able, however, to obtain useful insights from a systematic review of investigative notes and autopsy results from detainee death cases. We found no cases of detainee death where we suspected direct involvement of medical personnel in detainee abuse. We did identify three individual cases of detainee death that warrant additional focused review of whether medical personnel may have attempted to misrepresent the circumstances of death. Specifically, in two similar cases from Bagram, Afghanistan, military physicians are said to have reported no evidence of trauma, when subsequent autopsies found severe soft tissue injuries to both legs. The third case involves a detainee death during interrogation at Abu Ghraib, in Baghdad, Iraq. Some reports suggest that medical personnel may have attempted to place an IV line after death to create a false appearance that life-saving efforts had been attempted. Finally, we identified several cases where medical personnel witnessed behavior or circumstances that should probably have led them to suspect detainee abuse. We do not know whether they reported those suspicions. In one instance from Iraq, military physicians documented concerns about possible detainee abuse in a Memorandum for the Record dated May 11, 2004 - six months after the detainee's death. Although

existing doctrine of the U.S. Armed Forces requires that all military personnel report suspicions of detainee abuse to their chain of command, our insights, taken together, suggest the need to clarify and reinforce the special responsibilities of medical personnel in preventing and reporting suspected detainee abuse. Further, ongoing CID investigations should address this additional aspect of detainee abuse or detainee death cases.

(U) We were reassured by the credible practices of the Office of the Armed Forces Medical Examiner (OAFME) in determining causes of detainee death, and in the unbiased summary reports from investigators of Army's Criminal Investigative Division (CID). In addition, OAFME and the Army Provost Martial General have collaborated progressively for some time to develop field guidance to ensure OAFME autopsies in cases of detainee death. We anticipate that those efforts will culminate in expanded and clarified medical doctrine regarding procedures in such cases. We have no additional recommendations with regard to detainee cause of death determinations.

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Report No. 06-INTEL-10
August 25, 2006
Evaluation Report

OFFICE OF THE INSPECTOR GENERAL OF THE DEPARTMENT OF DEFENSE

DEPUTY INSPECTOR GENERAL FOR INTELLIGENCE

Review of DoD-Directed Investigations of Detainee Abuse (U)

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(U)

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Inspector General of the Department of Defense
400 Army Navy Drive (Room 703)
Arlington, VA 22202-4704

Acronyms (U)

CJCS	Chairman, Joint Chiefs of Staff
CJTF	Combined Joint Task Force
DIA	Defense Intelligence Agency
DSLOC	Detainee Senior Leadership Oversight Committee
HUMINT	Human Intelligence
JIDC	Joint Interrogation and Debriefing Center
JTF	Joint Task Force
OGA	Other Government Agency
SERE	Survival, Evasion, Resistance, and Escape
SOP	Standard Operating Procedure

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INSPECTOR GENERAL
DEPARTMENT OF DEFENSE
400 ARMY NAVY DRIVE
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August 25, 2006

MEMORANDUM FOR SECRETARY OF DEFENSE
UNDER SECRETARY OF DEFENSE FOR POLICY
UNDER SECRETARY OF DEFENSE FOR INTELLIGENCE
DIRECTOR, JOINT STAFF
COMMANDER, U.S. JOINT FORCES COMMAND
SECRETARY OF THE ARMY

SUBJECT: Review of DoD-Directed Investigations of Detainee Abuse (Report No. 06-INTEL-10) (U)

(U) We are providing this report for review and comment. We performed this review as a result of our monitoring and oversight of the investigations of allegations of detainee abuse and of the 13 senior-level reports appointed to inspect, assess, review, and investigate detention and interrogation operations initiated as a result of allegations of detainee abuse. We considered management comments on a draft of this report when preparing the final report.

(U) We requested and received written comments from the Under Secretary of Defense for Policy; the Director, Joint Staff; and the Deputy Chief of Staff, Army G-2. While not required, we received written comments from the Director, Defense Intelligence Agency, and the Department of the Army Inspector General.

(U) DoD Directive 7650.3 requires that all recommendations be resolved promptly. The Under Secretary of Defense for Policy and the Department of the Army G-2's comments were responsive. The Director, Joint Staff's comments were partially responsive and we request additional comments on Recommendation A.2. and B.3. We did not receive written comments from the Secretary of Defense; the Under Secretary of Defense for Intelligence; and the Commander, U.S. Joint Forces Command. We redirected Recommendation B.2. to the Secretary of the Army based on comments from the Under Secretary of Defense for Policy. We revised Recommendation B.4. to include the Under Secretary of Defense for Intelligence in addition to the Secretary of the Army. We request comments on the final report by September 29, 2006.

(U) If possible, please send management comments in electronic format (Adobe Acrobat file only) to Team2@dodig.mil. Copies of the management comments must contain the actual signature of the authorizing official. We cannot accept the / Signed / symbol in place of the actual signature. If you arrange to send classified comments electronically, they must be sent over the SECRET Internet Protocol Router Network (SIPRNET) or the Joint World-wide Communications System (JWICS).

(U) We appreciate the courtesies extended to the staff. Questions should be directed to [redacted] at (703) 604-[redacted] (DSN 664-[redacted]) or [redacted] at (703) 604-[redacted] (DSN 664-[redacted]). See Appendix X for the report distribution. The evaluation team members are listed inside the back cover.

Shelton Young

Shelton R. Young
Deputy Inspector General
for Intelligence

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Office of the Inspector General of the Department of Defense

Report No. 06-INTEL-10 **August 25, 2006**
(Project No. D2004-DINT01-0174)

Review of DoD-Directed Investigations of Detainee Abuse (U)

Executive Summary (U)

(U) **Who Should Read This Report and Why?** DoD officials overseeing and determining policy on detainee operations and training personnel involved in detention and interrogation operations should read this report to understand the significance of oversight, timely reporting, and investigating allegations of detainee and prisoner abuse.

(U) **Background.** Following news media reports of allegations that U.S. Forces were abusing detainees held at detention facilities in Iraq, on May 7, 2004, 110 Members of Congress formally requested of the Secretary of Defense that the DoD Inspector General "supervise the investigations of tortured Iraqi prisoners of war and other reported gross violations of the Geneva Conventions at Abu Ghraib Prison in Iraq." In response to this request, the Inspector General announced, in a May 13, 2004, memorandum to the Secretaries of the Military Departments, the establishment of a multidisciplinary team to monitor allegations of detainee and prisoner abuse. This announcement generated a reporting requirement for the various military criminal investigative organizations and other agencies reporting allegations of detainee and prisoner abuse on the status of all open and closed investigations. The multidisciplinary team comprised personnel from two separate functional components of the DoD Office of Inspector General, with two separate objectives. For the first objective, the Office of Investigative Policy and Oversight evaluated the thoroughness and timeliness of criminal investigations into allegations of detainee abuse by focusing on the closed case files of 50 criminal investigations of allegations. That office issued a separate report on August 25, 2006.

(U) For the second objective, the Office of the Deputy Inspector General for Intelligence monitored allegations of detainee and prisoner abuse and evaluated the 13 senior-level inspections, assessments, reviews, and investigations of detention and interrogation operations that were initiated as a result of allegations of detainee abuse. The purpose of this review was to evaluate the reports to determine whether any overarching systemic issues should be addressed.

(U) The Deputy Inspector General for Intelligence's team developed a matrix to assist in tracking the growth in the number of allegations of criminal and noncriminal detainee abuse. As of February 27, 2006, DoD Components opened 842 criminal investigations or inquiries into allegations of detainee and prisoner abuse. A matrix detailing the status of these allegations is at Appendix P. According to the Deputy Assistant Secretary of Defense for Detainee Affairs, as of May 2005, more than 70,000 individuals have been detained by U.S. military and security forces since military operations began in Afghanistan on October 7, 2001.

(U) Beginning on August 31, 2003, through April 1, 2005, DoD officials released 13 senior-level reports that included 492 separate recommendations. The Secretary of Defense established the Detainee Senior Leadership Oversight Committee to review and track all recommendations. Commanders and their respective Inspectors General should implement adequate corrective actions to prevent reoccurrence of the conditions identified. As of March 1, 2006, 421 recommendations were closed and 71 recommendations remained open.

(U) Results. The 13 senior-level reports provided extensive coverage of interrogation and detention operations, including detainee abuse. However, we identified three areas that should be examined further.

(U) Allegations of detainee abuse were not consistently reported, investigated, or managed in an effective, systematic, and timely manner. Multiple reporting channels were available for reporting allegations and, once reported, command discretion could be used in determining the action to be taken on the reported allegation. We did not identify any specific allegations that were not reported or reported and not investigated. Nevertheless, no single entity within any level of command was aware of the scope and breadth of detainee abuse. The Secretary of Defense should, when applicable, direct that all Combatant Commanders assign a Deputy Commanding General for Detention Operations, based on mission assignments. The Chairman, Joint Chiefs of Staff should expedite issuance of Joint Publications that outline responsibilities for intelligence interrogations. (See Finding A.)

(U) Interrogation support in Iraq lacked unity of command and unity of effort. Multiple DoD organizations planned and executed diverse interrogation operations without clearly defined command relationships, common objectives, and a common understanding of interrogation guidance. The Under Secretary of Defense for Intelligence and the Under Secretary of Defense for Policy should expedite issuance of relevant Manuals and Directives. The Chairman, Joint Chiefs of Staff and the Secretary of the Army should also expedite issuance of Joint and Multi-Service Publications. (See Finding B.)

(U) Counterresistance interrogation techniques migrated to Iraq, in part, because operations personnel believed that traditional interrogation techniques were no longer effective for all detainees. In addition, policy for and oversight of interrogation procedures were ineffective. As a result, interrogation techniques and procedures used exceeded the limits established in the Army Field Manual 34-52, "Intelligence Interrogation," September 28, 1992. The Under Secretary of Defense for Intelligence in coordination with the Commander, U.S. Joint Forces Command should develop and implement policy and procedures to preclude introducing survival, escape, resistance, and evasion techniques in an environment other than training. (See Finding C.)

(U) Management Comments. The Under Secretary of Defense for Policy concurred with one recommendation and nonconcurred with Recommendation B.2. requesting we redirect the recommendation to the Secretary of the Army. We redirected Recommendation B.2. to the Secretary of the Army.

(U) The Department of the Army G-2 concurred with the report, with comments. In response to verbal comments from the Under Secretary of Defense for Intelligence, we revised Recommendation B.4. to request that the Under Secretary of Defense for Intelligence, in coordination with the Secretary of the Army, expedite the issuance of Army Field Manual 2-22.3, "Human Intelligence Collector Operations."

(U) Although not required to provide comments, the Director, Defense Intelligence Agency and the Department of the Army Inspector General concurred with the report, with comments.

(U) The Director, Joint Staff nonconcurred with findings and recommendations that he believed assigned responsibilities to the Chairman of the Joint Chiefs of Staff that were beyond his statutory authority. The Director, Joint Staff did not address specific recommendations directed to the Chairman that are within his statutory authority. We consider these comments nonresponsive and request that the Director, Joint Staff comment on the recommendations by September 29, 2006.

(U) We did not receive written comments on the draft report from the Secretary of the Defense; the Under Secretary of Defense for Intelligence; and the Commander, Joint Forces Command. Therefore, we request the Secretary of Defense, the Under Secretary of Defense for Intelligence, and the Commander, Joint Forces Command provide comments by September 29, 2006.

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Background (U)

(U) On May 13, 2004, the DoD Inspector General announced the establishment of a multidisciplinary team to monitor allegations of abuse of Enemy Prisoners of War and other detainees (hereafter referred to collectively as detainees). This action was precipitated by the growing number of investigations subsequent to the April 2004 media release of photos taken from October through December 2003 that showed various abuses of detainees held at the Abu Ghraib Prison. The review also followed a May 7, 2004, letter to the Secretary of Defense in which 110 Members of Congress formally requested that the DoD Inspector General "supervise the investigation of tortured Iraqi prisoners of war, and other reported gross violations of the Geneva Convention at Abu Ghraib Prison in Iraq."

(U) The multidisciplinary team comprised personnel from two separate functional components of the DoD Office of Inspector General--the Office of Investigative Policy and Oversight and the Office of the Deputy Inspector General for Intelligence. The Office of Investigative Policy and Oversight evaluated the thoroughness and timeliness of criminal investigations into allegations of detainee abuse by focusing on the closed case files of 50 criminal investigations of allegations. The Office of Investigative Policy and Oversight prepared a separate report (see Appendix A). The Office of the Deputy Inspector General for Intelligence monitored allegations of detainee and prisoner abuse and evaluated the 13 senior-level inspections, assessments, reviews, and investigations of detention and interrogation operations that were initiated as a result of allegations of detainee abuse. (See Appendix B.) The purpose of this review was to evaluate the reports to determine whether any overarching systemic issues should be addressed.

(U) Although there are legal distinctions between Enemy Prisoners of War, civilian internees, retained personnel, and others captured or detained by U.S. Forces, this report focuses on reports, investigations, and reviews of matters involving persons who were in custody of the U.S. military, without regard to the status of the person in custody.

(U) On May 19, 2004, the DoD Inspector General tasked DoD Components to report the status of their organizations' review of allegations of detainee and prisoner abuse. Following a prescribed format, organizations reported on their opened and closed cases for criminal and non-criminal investigations, inspections, or reviews. Components started weekly reporting on May 20, 2004, and biweekly reporting on March 1, 2005. As of February 27, 2006, DoD Components opened 842 criminal investigations or inquiries into allegations of detainee and prisoner abuse. A reporting matrix detailing these Service-specific efforts is at Appendix P.

(U) From August 2003 through December 2004, senior officials directed the accomplishment of 13 senior-level reviews and investigations on

detention and interrogation operations. The last report was issued on April 13, 2005. Although the purpose, mandate, and format of the reports were different, each report ultimately highlighted specific problems in the management and conduct of detention and interrogation operations. (See Appendix B.)

(U) The Secretary of Defense signed an order on July 16, 2004, that created the Office of Detainee Affairs to review detainee problems and formulate a coherent and seamless policy. The Deputy Assistant Secretary of Defense for Detainee Affairs, who is responsible for developing policy recommendations, reports to the Under Secretary of Defense for Policy.

(U) The 13 senior-level reports resulted in 492 recommendations. In November 2004, the Deputy Assistant Secretary of Defense for Detainee Affairs and the Joint Staff J-5 Deputy Director, War on Terrorism established the Detainee Senior Leadership Oversight Council (DSLOC) to review and monitor the status of the recommendations and actions in the major detainee abuse reviews, assessments, inspections and investigations. Working in concert with the Office of Detainee Affairs, the DSLOC meets quarterly to review the status reports and action plans from the designated office of primary responsibility on all open recommendations. See Appendix Q for information on the DSLOC as well as for observations and suggestions from the DoD Office of the Deputy Inspector General for Intelligence.

Detainee Treatment (U)

(U) Various international laws and national treaties govern the treatment of detainees taken during war and other armed hostilities. The Geneva Conventions set the standard for international law to address humanitarian concerns. Overall, the laws and treaties are intended to ensure that detainees taken during armed hostilities are treated humanely.

(U) As of May 2004, the date of the congressional request, the DoD programs governing detainee treatment were prescribed in DoD Directive 5100.77, "DoD Law of War Program," December 9, 1998, and DoD Directive 2310.1, "DoD Program for Enemy Prisoners of War (EPOW) and Other Detainees," August 18, 1994.

(U) **Detention Operations.** Within DoD, the Under Secretary of Defense for Policy has overall responsibility for the coordination, approval, and implementation of major DoD policies and plans relating to detainee operations. The Secretary of the Army, as the DoD Executive Agent, administers the program through DoD Directive 2310.1 and Army Regulation 190-8 (AR 190-8), "Enemy Prisoners of War, Retained Personnel, Civilian Internees, and Other Detainees," October 1, 1997.

(U/~~FOUO~~) The Deputy Assistant Secretary of Defense for Detainee Affairs reported that, as of May 2005, the United States had eight theater-level holding facilities, and coalition forces had five facilities in Iraq; two

theater-level holding facilities and 20 Forward Operating Bases in Afghanistan; and one facility at Guantanamo Bay. Further, U.S. military and security forces detained over 70,000 individuals since military operations began in Afghanistan on October 7, 2001.

Interrogation (U)

(U) Department of the Army Field Manual 34-52 (FM 34-52), "Intelligence Interrogation." Prior to the issuance of the Deputy Secretary of Defense memorandum, "Interrogation and Treatment of Detainees by the Department of Defense," December 30, 2005, there was no official DoD-wide interrogation doctrine, but FM 34-52 was the de facto doctrine for intelligence personnel who conduct interrogations. The FM 34-52 expressly prohibits inhumane treatment and warns that the use of torture by U.S. personnel will bring discredit upon the United States and its armed forces, while undermining domestic and international support for the war effort.

(U) Interrogation Operations. DoD defines intelligence interrogation as the systematic process of using approved interrogation approaches to question a captured or detained person to obtain reliable information to satisfy intelligence requirements, consistent with applicable law. Interrogation is an art that can only be effective if practiced by trained and certified interrogators. Certified interrogators are trained to employ techniques that will convince an uncooperative source to provide accurate and relevant information.

(U) Tactical to Strategic Interrogation. Interrogation may be conducted at any level, from tactical questioning at the point of capture to the debriefing or interrogation conducted at a detainee's long-term internment facility. AR 190-8 recognizes that the value of intelligence information diminishes with time and therefore allows prisoners to be interrogated in the combat zone, usually by intelligence or counterintelligence personnel. Additionally, non-Military Intelligence personnel can conduct "tactical questioning" of detainees in the field prior to moving them to short-term or long-term holding facilities. After capture and tactical questioning, detainees should be expeditiously transferred to collecting points, corps holding areas, internment, or resettlement facilities. High value detainees are then selected for debriefing or interrogation at a Joint Interrogation and Debriefing Center (JIDC) or Joint Interrogation Facility.

(U) Coercive Techniques. The FM 34-52 states that:

> Physical or mental torture and coercion revolves around eliminating the source's free will and are expressly prohibited by GWS [Geneva Convention for the Amelioration of the Wounded and Sick in Armed Forces in the Field], Article 13; GPW [Geneva Convention Relative to the Treatment of Prisoners of War], Articles 13 and 17; and GC [Geneva

> Convention Relative to the Protection of Civilian Persons in Time of War], Articles 31 and 32. Torture is defined as the infliction of intense pain to body or mind to extract a confession or information, or for sadistic pleasure. Examples of physical torture include-- electric shock, forcing an individual to stand, sit, or kneel in abnormal positions for prolonged periods of time, food deprivation, and any form of beating. Examples of mental torture include--mock executions, abnormal sleep deprivation, and chemically induced psychosis. Coercion is defined as actions designed to unlawfully induce another to compel an act against one's will. Examples of coercion include—threatening or implying physical or mental torture to the subject, his family or others to whom he owes loyalty.

According to the FM 34-52, prohibited techniques are not needed to gain the cooperation of detainees; their use leads to unreliable information that may damage subsequent collection efforts. Not only does a detainee under duress provide information simply to stop the pain, but future interrogations will require more coercive, perhaps more dangerous, techniques. Finally, the interrogator must consider the negative effect that captivity stories will have on the local population, such as choosing not to communicate with or to actively oppose the presence of U.S. military personnel.

(U) **Field Manual 27-10 (FM 27-10), "The Law of Land Warfare."** provides authoritative guidance to military personnel on customary and treaty law for conducting warfare as follows:

> Places limits on the exercise of a belligerent's power…and requires that belligerents refrain from employing any kind or degree of violence which is not actually necessary for military purposes and that they conduct hostilities with regard for the principles of humanity and chivalry."

FM 27-10 further discusses prisoners of war and persons entitled to be treated as prisoners of war.

(U) **Presidential Military Order.** In a memorandum dated February 7, 2002, the President stated that Taliban and al Qaeda detainees were "unlawful combatants" not legally entitled to prisoner of war status. However, he did determine that al Qaeda and Taliban detainees were to be treated "humanely and to the extent appropriate and consistent with military necessity, in a manner consistent with the principles of Geneva [Conventions]."

(U) ~~(S//NF)~~ **Approved Counterresistance Interrogation Techniques for Guantanamo Bay.** On April 16, 2003, the Secretary of Defense approved "Counter-Resistance Techniques in the War on Terrorism," which were designed for the U.S. Southern Command, specifically the Guantanamo Bay, Cuba, facility. The April 16, 2003, memorandum reiterated that U.S. Forces must continue to treat detainees humanely. A previous

memorandum dated December 2, 2002, incorporated techniques not found in the Army FM 34-52, but that were designed for those detainees identified as "unlawful combatants." (See Appendix V.) In response to Service-level concerns, the Secretary of Defense rescinded the harsher techniques and directed that a study be completed before he provided further guidance. This action led to a Working Group which evaluated 39 techniques for compliance with U.S. and international law and policy. The Secretary of Defense approved 24 of these interrogation techniques and included them in the April 16, 2003, memorandum. All 17 approved interrogation techniques found in Army FM 34-52 were also included in the April memorandum. Once again, these techniques were limited to interrogations of unlawful combatants held at Guantanamo Bay, Cuba. (See Appendix S.)

Objectives (U)

(U) Our overall objective was to monitor allegations of detainee and prisoner abuse. Specifically, our objective was to evaluate each of the 13 senior-level reports and recommendations to determine whether any overarching systemic problems should be addressed. We identified three areas of concern and they are described as Findings A, B, and C. See Appendix A for a discussion of the scope and methodology and related report coverage. We did not review the management control program of any organization discussed in this report because such a review would be outside the scope of this review.

A. Reporting Incidents of Alleged Detainee Abuse (U)

The primary objective that the staff seeks to attain for the commander and for subordinate commanders is understanding, or situational awareness--a prerequisite for commanders anticipating opportunities and challenges. True understanding should be the basis for information provided to commanders in order to make decisions.

Joint Publication 0-2, "Unified Action Armed Forces (UNAAF)," July 10, 2001.

(U) Allegations of detainee abuse were not consistently reported, investigated, or managed in an effective, systematic, and timely manner because clear procedural guidance and command oversight were either inadequate or nonexistent. As a result, no single entity within any level of command was aware of the scope and breadth of detainee abuse.

(U) See paragraph, Management Actions, in the finding discussion.

Background (U)

(U) **DoD Policies.** DoD Directive 2310.1 supports the DoD policy to provide humane treatment and effective care of all persons captured or detained. DoD Directive 5100.77 and DoD Directive 2310.1 prescribe policy to handle reportable incidents and require prompt reporting and thorough investigations. DoD Directive 5240.1-R, "Procedures Governing the Activities of DoD Intelligence Components that Affect United States Persons," December 1982, which applies to intelligence components, also contains reporting requirements for questionable activities.

(U) DoD Directive 5100.77 pertains to the DoD Law of War Program, which encompasses all law for the conduct of hostilities binding on the United States, applicable U.S. law, treaties to which the United States is a party, and customary international law. Among other things, DoD policy is to ensure humane treatment and full accountability for all persons under DoD control. As defined in DoD Directive 5100.77, a reportable incident is, ". . .[a] possible, suspected, or alleged violation of the law of war," and provides that:

> All reportable incidents committed by or against U.S. or enemy persons are promptly reported, thoroughly investigated, and, where appropriate, remedied by corrective action.

(U) DoD Directive 2310.1 requires the implementation of the international law of war, both customary and codified, including the Geneva Conventions for Enemy Prisoners of War, to include the sick or wounded, retained personnel, civilian internees, and other detained personnel. The program's objectives require that the U.S. Military Services observe and enforce the obligations and responsibilities of the U.S. Government for humane and efficient care and full accountability for all persons captured or detained by the U.S. Military Services throughout the range of military operations.

(U) DoD Directive 2310.1 defines a reportable incident as ". . . suspected or alleged violations of the Geneva Conventions and other violations of the international law of war," and states that the Secretaries of the Military Departments and the Commanders of the Unified Combatant Commands are responsible for reporting and investigating incidents promptly to the appropriate authorities in accordance with the DoD Law of War Program prescribed in DoD Directive 5100.77.

(U) DoD Directive 5240.1-R, "Procedures Governing the Activities of DoD Intelligence Components that Affect United States Persons," December 1982, Procedure 15, requires each employee to report any questionable activity to the General Counsel or Inspector General for the DoD Component concerned or to the DoD General Counsel or the Assistant to the Secretary of Defense (Intelligence Oversight). DoD Directive 5240.1, " DoD Intelligence Activities," April 25, 1988, requires DoD intelligence component employees to report all activities that may violate a law, an Executive order, a Presidential Directive, or applicable DoD policy to the Inspector General or General Counsel responsible for the DoD intelligence component concerned, or to the Assistant to the Secretary of Defense (Intelligence Oversight).

(U) Army Policies. Army reporting criteria for allegations of detainee abuse fall under the reporting requirements of Army Regulation 190-40, "Serious Incident Report," June 15, 2005. A serious incident is any actual or alleged incident, accident, misconduct, or act, primarily criminal in nature, that, because of its nature, gravity, potential for adverse publicity, or potential consequences, warrants timely notice to Headquarters Department of the Army.

(U) Army Regulation 15-6, "Procedure for Investigative Officers and Boards of Officers," September 30, 1996, includes procedures that Army commanders in the field typically use to conduct administrative investigations. The regulation states that the policy is limited to investigations "not specifically authorized by any other directive." Commanders' inquiries under this regulation are subordinate to criminal investigations.

Inconsistent Reporting of Incidents (U)

(U) Allegations of detainee abuse were not reported consistently, in part because multiple channels existed to report them.[1] Multiple reporting channels were available for reporting allegations and, once reported, command discretion could be used in determining the action to be taken on the reported allegation. We did not identify any allegations that were not reported or reported and not investigated. Appendix R includes a case study on the difficulty of reporting and investigating allegations in a command environment with multiple organizations and differing reporting chains of command.

(U) Each command level has multiple channels available to report an allegation of abuse: the supervisor/commander, Inspector General, criminal investigators, and others, such as doctors, Staff Judge Advocates, and Chaplains. Once received by a commander, the following general options may be considered:

- Based on the lack of information or evidence, the receiving official may decide there is not enough evidence to take any action or that the alleged actions may not violate approved interrogation techniques.
- The receiving officials may initiate an internal investigation.
- The receiving official may also refer the case for outside review to a higher command or other channel.

(U) The reporting processes of the various Services and DoD agencies were different and therefore less than effective. Multiple reporting channels added to the challenge of maintaining situational awareness of authority and responsibility for directing, conducting, and overseeing unit-level investigations. Different DoD personnel could report an observed incident through any number of reporting channels. This is further exacerbated when some personnel are temporarily assigned or embedded with organizations that have different reporting procedures. The presence and activities of other Government agencies and Coalition partners not wholly subject to U.S. military procedures and policies also present intense challenges to commanders charged with overall situational awareness and oversight within their geographic and operational areas of responsibility. Despite the existence of DoD specialty-specific guidance for criminal investigators, Inspectors General, and medical organizations, the overarching guidance on detainee treatment was either not specific enough or nonexistent.

[1] We are not suggesting that multiple reporting channels be removed. However, multiple reporting channels do not provide the commander with situational awareness; therefore no single entity within the command is aware of the scope and breadth of the detainee abuse.

(U) As documented in the Vice Admiral Church Report (Appendix M), Service members, DoD civilians, and contractors all agreed that they had an obligation to report any observed abuse. However, their descriptions of what constituted abuse (which ranged from "beating" to "verbal abuse"), to whom they would report abuse (ranging from supervisor to command's Inspector General), and finally who would determine the legitimacy of those allegations (senior enlisted or warrant officer, the interrogator, or the unit judge advocate) were varied.

Investigations Not Managed in an Effective Manner (U)

(U) We believe that allegations of detainee abuse were not consistently investigated or managed in an effective, systematic, and timely manner. Commanders usually exemplify a strong tendency to limit information sharing during ongoing investigations. For example, the need to protect evidence and privacy in criminal cases may discourage Service investigative organizations from readily sharing case information, particularly during open cases and investigations or other high profile inquiries. The need to protect and the need to communicate are at odds with each other. For example, information developed by the Inspector General tends to stay in a restricted Inspector General channel, while private medical information remains within medical channels. Although this process works well for investigations in which one office has primary jurisdiction, such stove-piping otherwise disrupts and impedes a commander's oversight ability and prevents information from reaching the commander. As a result, decision makers often do not have the necessary information to make effective and informed decisions.

(U) The Military Criminal Investigative Organizations are responsible for investigating felony crimes committed in their respective Military Departments. In May 2004, the Commander, U.S. Army Criminal Investigation Command, announced that it would investigate all allegations involving detainees under U.S. Army personnel control or within U.S. Army facilities.

(U) As discussed in the Office of Investigative Policy and Oversight report, commanders frequently did not expeditiously refer potential criminal matters to the Army Criminal Investigation Command. Delays in investigations frequently resulted in evidence degradation or less reliable testimonial evidence as memories faded. Military commanders who do not refer potentially criminal matters to the Military Criminal Investigative Organizations in a timely fashion may also contribute to the perceptions of conspiracies and "coverups." Additionally, a commander's administrative investigation into a criminal matter may prematurely influence witness testimony in a subsequent criminal investigation, or eliminate interviews by trained investigators altogether when individuals invoke their right to counsel.

(U) A delay occurred in reporting potential felony crimes to the Army Criminal Investigation Command in 13 of the 50 cases reviewed

(26 percent), which may have adversely affected the collection of evidence and subsequent punitive or remedial action. (See Appendix A.)

Procedural Guidance and Command Oversight

(U) The inconsistency in reporting and investigating allegations was caused, in part, by the lack of clear procedural guidance and command oversight. Without command oversight, no single entity within any level of command was aware of the results of all investigations.

(U) At the initiation of enemy hostilities and planning for the War on Terrorism, DoD operations orders, local standard operating procedures, and other command guidance did not include or require clear criteria and procedures for reporting, processing, and investigating incidents of alleged detainee abuse.

(U) Before the position of Deputy Commanding General for Detention Operations, Multi-National Force-Iraq was established in July 2004, no single office was specifically responsible for detainee operations and treatment. This position is now the natural focal point for all allegations of detainee abuse in Iraq. All detention-related incidents in theater are now required to be reported through the Deputy Commanding General for Detention Operations.

Summary

(U) A lack of oversight and uniformity in reports and investigations and in following up on incidents of alleged detainee abuse adversely affected situational awareness at the command level. With the establishment of the Deputy Commanding General for Detention Operations, Multi-National Force-Iraq, the commander created the focal point required for situational awareness on detainee abuse and any potential systemic problems. DoD needs to establish policy on detainee abuse that covers reporting criteria, mechanisms, chains of command, and responsibilities for the Services to include applicable Joint and Service policies and regulations.

Management Actions

(U) The following directive was published after the 13 senior-level reports were issued.

(U) DoD Directive 3115.09, "DoD Intelligence Interrogations, Detainee Debriefings and Tactical Questioning," November 3, 2005, consolidates and codifies existing DoD policies and assigns responsibilities for intelligence interrogation, detainee debriefings, tactical questioning, and support activities conducted by DoD personnel. The Directive also establishes requirements for reporting violations of the policy on humane treatment during intelligence interrogations, detainee debriefings, or tactical questioning. Reportable incidents must be reported immediately

through command or supervisory channels to the responsible Combatant Commander.

Recommendations (U)

A.1 (U) We recommend that the Secretary of Defense, when appropriate, direct all Combatant Commanders to assign a Deputy Commanding General for Detention Operations.

(U) Management Comments. The Secretary of Defense did not respond to this recommendation. We request a response from the Office of the Secretary of Defense to this recommendation by September 29, 2006.

A.2 (U) We recommend that the Chairman, Joint Chiefs of Staff expedite issuance of Joint Publications that outline responsibilities for intelligence interrogations, debriefings, and tactical questioning, and issue guidance for reporting, tracking, and resolving reports of all detainee abuse inquiries and investigations.

(U) Management Comments. The Director, Joint Staff nonconcurred with the findings and recommendations assigning responsibilities to the Chairman of the Joint Chiefs of Staff that are beyond his statutory authority. The complete response is included in the Management Comments section of the report.

(U) Evaluator Response. We agree that some recommendations in the report are not within the Chairman of the Joint Chiefs of Staff's statutory authority; however, this specific recommendation is. Therefore we request comments on this recommendation by September 29, 2006.

B. Joint Interrogation Support (U)

To be effective, interrogations must be conducted by specially trained personnel operating under strict guidelines and with proper oversight.
LTG William Boykin, USA
Deputy Under Secretary for Intelligence & Warfighter Support (House Permanent Select Committee on Intelligence, July 14, 2004)

(U) Interrogation in Iraq lacked unity of command and unity of effort. Multiple DoD organizations planned and executed interrogation operations without clearly defined command relationships and common objectives and understanding of interrogation guidance. These conditions occurred because:

- Interrogation policy was not uniform and consistent.
- Interrogation oversight was inadequate, and
- The Joint planning documents did not adequately consider the possible need for sustained and widespread detention and interrogation operations.

As a result, operational commanders may have failed to realize the full potential of interrogations.

(U) See Management Actions in the finding discussion.

Background (U)

(U) **Staff Planning.** Planning for effective command and control is the result of commanders and their staffs collaborating to define the commander's intent, the mission statement, and the operational objectives. A collaborative environment disseminates the overarching strategic plan for staffs working on the various sections and helps commanders quickly identify and resolve conflicts early in the planning process. In this way, campaign objectives and operational guidance are communicated at every level, from beginning to end of operations. The Joint Strategic Capabilities Plan and other planning documents provide a complete description of the forces and resources required to execute the Combatant Commander's concept of operations for all phases of a campaign. Military planners prioritize and apportion available forces and resources, including limited and critical support forces.

Interrogation Support Lacked Unity of Command and Unity of Effort (U)

(U) Strategic interrogation support in Iraq lacked unity of command and unity of effort because multiple organizations performed interrogations without common objectives and clearly defined roles and responsibilities for all command participants.

(U) Unity of Command. Command is central to all military actions, and inherent in command is the authority that a military commander lawfully exercises over subordinates to demand accountability. Unity of command means that all forces operate under a single commander who has the requisite authority to direct all forces employed in pursuit of a common purpose. Unity of command is the foundation for the trust, coordination, and teamwork necessary for unified action and requires responsibility among commanders to be described in detail.

(U) Unity of Effort. Unity of command is central to unity of effort. A single commander with the necessary authority can influence all forces, even those that are not part of the same command structure, to coordinate and collaborate to achieve a common objective of obtaining intelligence within the established rules and winning the cooperation of the populace. This unity of effort cannot be achieved when command relationships and procedures for coordination are unclear.

(U) Combined Joint Task Force-7 (CJTF-7). The U.S. Central Command ordered the formation of CJTF-7 to coordinate and execute all Coalition military operations in Iraq. The primary mission of the CJTF-7 was to conduct "stability and support" operations to facilitate the eventual transfer of power to an Iraqi government. The CJTF-7 was also responsible for interrogation operations, including the maintenance of interrogation facilities at all locations. The objective of the interrogations was to obtain actionable tactical and operational intelligence on insurgency groups. However, the CJTF-7 did not control the detention and interrogation operations conducted by the Iraq Survey Group, the Special Mission Unit Task Force, and Other Government Agencies. There was no unity of command for all detention and interrogation operations in Iraq until July 2004 when Major General Geoffrey Miller was assigned as Deputy Commanding General for Detainee Operations.

(U) ~~(S//NF)~~ **Iraq Survey Group.** In May 2003, the Secretary of Defense established the Iraq Survey Group to undertake the U.S. Central Command's search for weapons of mass destruction. The Iraq Survey Group was responsible for operating an interagency JIDC comprising a mix of intelligence community, allied, and contractor personnel. The objective of their debriefings and interrogations was to obtain strategic intelligence from high value detainees.

(U) ~~(S//NF)~~ [redacted]

(U) ~~(S//NF)~~ **Human Intelligence Augmentation Teams.** The Defense Intelligence Agency (DIA) assigned human intelligence (HUMINT) augmentation teams to assist the special mission units in Iraq. These task-organized, direct-support interrogators and case officers plan, coordinate, conduct, and supervise interrogation operations.

(U) ~~(S//NF)~~ **Other Government Agencies.** DoD interrogation operations were sometimes conducted in conjunction with external agencies. In particular, Other Government Agencies (OGAs) operated with military units and used military facilities without interagency agreements that clearly defined roles and responsibilities. The lack of specific guidance led to the development of local agreements and contributed to the concerns expressed about what interrogation techniques were appropriate. (See Appendix M.)

(U) ~~(S//NF)~~ **Command Relationships.** For approximately 1 year, from May 2003 to June 2004, interrogations in Iraq were not conducted as part of a coordinated intelligence campaign plan. The command or supporting relationships among those elements operating in the U.S. Central Command Area of Responsibility were often not clearly understood. This ambiguous condition negatively impacted resource management. For example, Lieutenant General Jones stated in his report that the Iraq Survey Group did not acknowledge a mutual support relationship with the CJTF-7 and went so far as to "deny a request for interrogation support" from the Commander, U.S. Central Command. (See Appendix H.) Based on interviews with cognizant HUMINT personnel, we concluded that the DIA interrogators assigned to the Iraq Survey Group and attached to the special mission unit task forces were unable to effectively collaborate or support operations at the CJTF-7 JIDC when it was overwhelmed with detainees. Because these organizations had no previous common operational experience, as was the case with the Iraq Survey Group when it was first established in May 2003, formal command relationships were not fully developed enough to deal with complex coordination required in Iraq. In a July 6, 2004, memorandum to the Director, DIA, the Commander responsible for special mission units emphasized the need to build and maintain the right team for the mission, but admitted that the command "did not adequately in-brief and assimilate your personnel into the scheme of operations."

b(1)

Interrogation Policy Was Not Uniform and Consistent (U)

(U) Interrogations in Iraq lacked uniform execution of interrogation policy because approved interrogation techniques varied. Although the Commander, U.S. Central Command had primary responsibility for establishing interrogation policy in theater, the Under Secretary of Defense for Intelligence and the Under Secretary of Defense for Policy did not promulgate one definitive interrogation policy to reinforce the existing FM 34-52.[2]

(U) ~~(S//NF)~~ **Combined Joint Task Force-7.** The CJTF-7 September 2003 Interrogation Policy used the FM 34-52 as a baseline for conducting interrogations, but expanded the techniques by incorporating more aggressive counterresistance policies. (See Appendix V.) As discussed in the Church Report,[3] it was only after the U.S. Central Command's legal review that some of the techniques, such as stress positions, isolation, sleep management, yelling, and loud music, were removed when CJTF-7 released a revised policy on October 12, 2003.

(U) Major General Fay (see Appendix H) reported that interrogation policies promulgated by CJTF-7 were poorly defined and had changed three times in less than 30 days so that it became very confusing as to what techniques could be employed. According to the Schlesinger Report:[4]

> "changes in DoD interrogation policies between December 2, 2002 and April 16, 2003 were an element contributing to uncertainties in the field as to which techniques were authorized." "in the absence of specific guidance from [U.S.] CENTCOM [Central Command], interrogators in Iraq relied on Field Manual FM 34-52 and on unauthorized techniques that had migrated from Afghanistan. . .clearly led to confusion on what practices were acceptable."

(U) Iraq Survey Group. The Iraq Survey Group used interrogation or debriefing techniques in the Army FM 34-52. The Commander, Iraq Survey Group and numerous interrogators operating at the Iraq Survey Group described debriefing techniques that included direct questions and incentives.

(U) ~~(S//NF)~~ **Special Mission Unit Task Force.** At the commencement of Operation Iraqi Freedom, the special mission unit forces used a January 2003 Standard Operating Procedure (SOP) which had been developed for operations in Afghanistan. The Afghanistan SOP was influenced by the

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[2] Army FM 34-52 was the guideline used until December 29, 2005. (See Background for more information on FM 34-52.

[3] See original Church Report.

[4] See original Schlesinger Report.

counterresistance memorandum that the Secretary of Defense approved on December, 2, 2002 (see Appendix U), and incorporated techniques designed for detainees who were identified as "unlawful combatants." Subsequent battlefield interrogation SOPs included techniques such as yelling, loud music, light control, environmental manipulation, sleep deprivation/adjustment, stress positions, 20 hour interrogations, and controlled fear (muzzled dogs) that are not in the FM 34-52. The special mission unit did not submit, and was not required to submit, SOPs to the U.S. Central Command for review. We believe that because the U.S. Central Command failed to provide overarching guidance, the special mission units and CJTF-7 never synchronized their counterresistance techniques.

(U) ~~(S//NF)~~ **Human Intelligence Augmentation Teams.** DIA personnel assigned to these teams were trained to follow Army FM 34-52. Conflicts arose when the DIA personnel were assigned to special mission unit task force operators who had expanded their interrogation techniques. In June 2004, not long after the Abu Ghraib photos became public, DIA HUMINT augmentation team members attached to the Special Mission Unit Task Force redeployed to the Iraq Survey Group and provided accounts of some task force personnel abusing detainees. Based on this information, as well as fearing for the team's safety, the Director, DIA authorized the Iraq Survey Group to remove all DIA personnel from special mission unit task force operations pending further review.

(U) ~~(C)~~ According to DIA Policy Memorandum No. 73, "DIA Policy for Interrogation Operations," March 2002, both the operational commander and Defense HUMINT, who will seek urgent resolution of the conflict through appropriate channels, must be informed immediately when conflicts arise between the operational chain of command's orders and DIA policy and procedures.

(U) ~~(S//NF)~~ Reports of detainee abuse by special mission unit task force personnel dated back to June 2003, but we believe it took the publicized abuse at Abu Ghraib and the revelation of threats to HUMINT augmentation team members to elevate the issue to the Flag Officer level. Earlier allegations of interrogation irregularities, which included use of techniques not consistent with interrogation techniques designed for Iraq, were not always decisively reported, investigated, and acted on. Consequently, the disagreements between the DIA and special mission units were not reconciled to the benefit of all those conducting interrogation operations in Iraq. Instead, the issue of disaffected interrogators from DIA who were not prepared for the demanding and exacting pace of operations overshadowed the reality that different interrogation policies were in effect.

(U) **Other Government Agencies.** As discussed in the Church report (see Appendix M) there was no uniform understanding of what rules govern the involvement of OGAs in the interrogation of DoD detainees. Such uncertainty could create confusion regarding the permissibility and limits of various interrogation techniques.

Interrogation Oversight Inadequate (U)

(U) Interrogation oversight, including high-level oversight of facilities and interrogation techniques, was often limited.

(U) We concluded that multiple organizations providing interrogation at multiple levels and locations in Iraq had separate reporting chains of command, ranging from tactical interrogations performed by special mission units to operational and strategic interrogations and debriefings conducted by the Iraq Survey Group and the CJTF-7. No single organization at the U.S. Central Command or the CJTF-7 was responsible for overarching oversight of planning and execution for the interrogation mission and, as a result, no one was responsible for reconciling the numerous competing demands from the operational and tactical levels.

(U) ~~(S//NF)~~ We believe that the absence of universal interrogation standards may have significantly affected how allegations of abuse were reported up the chain of command. If certain actions that DIA personnel characterized as abusive by their doctrinal standards were judged by a special mission unit investigating officer to be in compliance with the task force "interrogation guidelines," the case would be closed. These on-scene rulings may have prevented accurate reporting of incidents from reaching a level at which decision makers could identify a problem that was potentially systemic.

Joint Planning Was Not Fully Developed (U)

(U) Joint planning documents did not adequately define the full extent of sustained detention and interrogation operations. Planning was influenced by the U.S. Central Command's assumption that long-term detention in Iraq would not be necessary. With the support of the local population and a new Iraqi government, the Commander, U.S. Central Command believed that "detainees should not be an issue." When this support did not materialize, sustaining operations amidst a hostile insurgency became much more difficult.

(U) **Perseverance, Legitimacy, and Restraint**. According to Joint Publication 3-0, "Doctrine for Joint Operations," September 10, 2001, operational planners should always prepare for the worst-case scenario application of military capability to sustain long-term operations. Commanders must balance the temptation to seek crisis-response options with the long-term goals of the strategic campaign plan to establish a legitimate government. The actions of military personnel are framed by the disciplined application of force, including specific rules of engagement. Therefore, the patient, resolute, and persistent restraint to achieve strategic campaign plan objectives is preferred over the expedient pursuit of actionable intelligence.

(U) There are many well-documented reasons why detention and interrogation operations were overwhelmed. Interrogators had to adjust to the following conditions: a wartime environment; an expanding detainee population; an initial reluctance to release anyone in the mixture of regular criminals and active insurgents; a lack of unity of command; inconsistent training; a critical shortage of skilled interrogators, translators, and guard force personnel; and the external influence of special operations forces and OGAs.

(U) ~~(FOUO)~~ [redacted]

(U) The Chairman, Joint Chiefs of Staff, should develop doctrine that provides planners and warfighters with an approved framework to conduct detention and interrogation operations in a manner consistent with law, joint doctrine, and applicable policy.

Impact on Operational Requirements (U)

(U) ~~(S)~~ Operational commanders may have failed to realize the full potential of interrogations. In the words of the Commander, CJTF-7:

> "We did not envision having to conduct detention operations of this scope and for this length of time. . .we did not envision continuing to conduct operations and increase the number of detainees. . .the same thing happened with interrogations. . .it clearly was not sufficient."

The Under Secretary of Defense for Intelligence draft study, "Taking Stock of Defense Intelligence Assessment," November 13, 2003, stated that planning for intelligence operations was not synchronized and that Combat Support Agency involvement did not occur early enough in the Combatant Command planning process to ensure timely and adequate support. Finally, the 2005 Combat Support Agency Review Team Assessment of the DIA reported that HUMINT policies and procedures needed to be updated to reflect changes in operational parameters and coordination mechanisms. Supporting the Iraq war in addition to other worldwide missions led to personnel shortages and a lack of adequately trained interrogators that hampered their ability to effectively collect intelligence to satisfy critical Combatant Command requirements.

b(1)

Summary

(U) A lack of unity of command and unity of effort in mission planning and execution by multiple organizations, with varying levels of interrogation and inconsistent interrogation standards negatively affected interrogation operations. The Office of the Secretary of Defense should establish authoritative directives and instructions that define both detention operations and interrogation policies and the Chairman, Joint Chiefs of Staff should update Joint doctrine to incorporate operational standards, roles and responsibilities, and oversight for interrogation and detention operations.

Management Actions

(U) The following policy and guidance documents were published after the 13 senior-level reports discussed in this report were issued. See Appendix Q for a discussion on the DSLOC, which was established to ensure that the recommendations are addressed by the appropriate DoD Component.

(U) DoD Directive 3115.09, "DoD Intelligence Interrogations, Detainee Debriefings and Tactical Questioning," November 3, 2005, consolidates existing policies, including the requirement for humane treatment during all intelligence interrogations, detainee debriefings, or tactical questioning to gain intelligence from captured or detained personnel. The directive also assigns responsibilities as well as establishes requirements for reporting violations, intelligence interrogations, detainee debriefings, tactical questioning, and supporting activities that DoD personnel conduct.

(U) Deputy Secretary of Defense memorandum, "Interrogation and Treatment of Detainees by the Department of Defense," December 30, 2005, states that under the Defense Appropriations Act, 2006, no one in the custody of or under the effective control of DoD or detained in a DoD facility will be subject to any treatment or interrogation approach or technique that is not authorized and listed in U.S. Army FM 34-52, "Intelligence Interrogation," September 28, 1992. (See Appendix T.)

(U) Joint Publication 2-01.2, "Counterintelligence and Human Intelligence Support to Joint Operations, June 13, 2006." This revision establishes joint doctrine for interrogation operations.

(U) The following policy and guidance documents are pending release.

(U) DoD Directive 2310.1E, "The Department of Defense Detainee Program," establishes the responsibilities of the Office of Detainee Affairs under the Under Secretary of Defense for Policy. The directive reinforces the policy that all captured or detained personnel, to include enemy combatants, enemy prisoners of war, civilian internees, and retained

personnel, shall be treated humanely and in accordance with applicable law and policy.

(U) Joint Publication 3-63, "Detainee Operations." This publication provides guidelines for planning and executing detainee operations. It outlines responsibilities and discusses organizational options and command and control considerations across the range of military operations.

(U) Multi-Service Tactics, Techniques, and Procedures, "Detainee Operations in the Global War on Terror." This publication will support planners and warfighters by providing consolidated, accurate information on handling detainees from point of capture to release.

(U) Army Field Manual 2-22.3, "Human Intelligence Collector Operations." The new Field Manual will supersede Army FM 34-52 and update interrogation guidance with wartime lessons learned.

Recommendations (U)

In response to the comments from the Under Secretary of Defense for Policy we modified Recommendation B.2. to request that the Secretary of the Army expedite the issuance of Multi-Service Tactics, Techniques and Procedures, "Detention Operations in the Global Wars on Terrorism."

With the issuance of Joint Publication 2-01.2, "Counterintelligence and Human Intelligence Support to Joint Operations," we modified draft report Recommendation B.3. which recommended expedited issuance of the Joint Publication.

In response to verbal comments from the Under Secretary of Defense for Intelligence, we revised Recommendation B.4. to request that the Under Secretary of Defense for Intelligence, in coordination with the Secretary of the Army, expedite the issuance of Army FM 2-22.3, "Human Intelligence Collector Operations."

B.1. (U) We recommend that the Under Secretary of Defense for Policy expedite the issuance of DoD Directive 2310.1E, "The Department of Defense Detainee Program."

(U) Management Comments. The Under Secretary of Defense for Policy concurred with this recommendation and indicated that DoD Directive 2310.1E will be issued after all national-policy issues are resolved. The complete comments are included in the Management comments section.

(U) Evaluator Response. We consider these comments to be responsive and will monitor the progress that the Office of the Under Secretary of Defense for Policy makes in publishing this directive.

B.2. (U) We recommend that the Secretary of the Army review and expedite the Services issuance of the Multi-Service Tactics, Techniques, and Procedures, "Detainee Operations in the Global War on Terrorism."

(U) Management Comments. Although not required to comment, the Under Secretary of Defense for Policy nonconcurred stating that the Multi Service Tactics, Techniques and Procedures is the responsibility of the Joint Staff and the Army as the executive agent for detention operations. He further stated that the recommendation should be made to the Secretary of the Army.

(U) Evaluator Response. We redirected Recommendation B.2. to the Secretary of the Army. We request Army comments on this modified recommendation by September 29, 2006.

B.3. (U) We recommend that the Chairman, Joint Chiefs of Staff expedite issuance of Joint Publication 3-63, Detainee Operations."

(U) Management Comments. The Director, Joint Staff, nonconcurred with findings and recommendations assigning responsibilities to the Chairman of the Joint Chiefs of Staff that are beyond his statutory authority. The complete response is included in the Management Comments section.

(U) Evaluators Response. This specific recommendation is within Chairman of the Joint Chiefs of Staff's statutory authority; therefore we request that the Director, Joint Staff comment on this recommendation by September 29, 2006.

B.4. (U) We recommend that the Under Secretary of Defense for Intelligence, in coordination with the Secretary of the Army, expedite the issuance of Army Field Manual 2-22.3, "Human Intelligence Collector Operations."

(U) Management Comments. The Army Deputy Chief of Staff, G-2 concurred, but suggested that the report should present a more balanced perspective between interrogation operations and non-interrogation related detainee abuse. The G-2 also stated that on page 80-81 of the report, "the Colonel's AAR [After Action Report] did not include detainee abuse allegations." (See Appendix R.)

(U) Evaluator Response. The December 12, 2003, AAR, subject: Report of CI/HUMINT [Counterintelligence/Human Intelligence] Evaluation Visit sent to the CJTF-7 C2 describes accounts from the Officer In Charge of the Iraq Survey Group JIDC that prisoners captured by Task Force 121 showed signs of having been mistreated (beaten) by their captors, and that medical personnel noted during medical examination that detainees show signs of having been beaten. See Management Comments section for complete comments. During a status update briefing on August 4, 2006, the Under Secretary of Defense for

Intelligence stated that he is responsible for the release of Army Field Manual 2-22.3, and not the Army Deputy Chief of Staff, G-2. As a result, we revised Recommendation B.4. We request that the Under Secretary of Defense for Intelligence provide comments by September 29, 2006.

C. DoD Interrogation Techniques (U)

It is important to note that techniques effective under carefully controlled conditions in Guantanamo became far more problematic when they migrated and were not adequately safeguarded.

Final Report of the Independent Panel to Review DoD Detention Operations, August 24, 2004

(U) Counterresistance interrogation techniques migrated to Iraq because operations personnel believed that traditional interrogation techniques were no longer effective for all detainees. In addition, policy for and oversight of interrogation procedures were ineffective. As a result, interrogation techniques and procedures used exceeded the guidelines established in the Army FM 34-52.

Background (U)

(U) **Counterresistance techniques.** The FM 34-52 provides guidance on what techniques an intelligence interrogator should use to gain the cooperation of a detainee. As stated in the Secretary of Defense memorandum, "Counter-Resistance Techniques in the War on Terrorism," dated April 15, 2003, specific implementation guidance for techniques A-Q (see Appendix S) is provided in the FM 34-52. This finding addresses those techniques that are not included in FM 34-52.

(U) **Survival, Evasion, Resistance, and Escape (SERE) Training.** The U.S. Joint Forces Command is the DoD Executive Agent responsible for providing Service members with SERE training. The Joint Personnel Recovery Agency at Fort Belvoir, Virginia, monitors and oversees all DoD SERE training programs at the four DoD schools: Fairchild Air Force Base, Spokane, Washington (Air Force); Fort Bragg, North Carolina (Army); Naval Air Station Brunswick, Maine (Navy/Marines); and Naval Air Station North Island, San Diego, California (Navy/Marines). The Services train an estimated 6,200 members annually at these schools.

(U) DoD SERE training, sometimes referred to as code of conduct training, prepares select military personnel with survival and evasion techniques in case they are isolated from friendly forces. The schools also teach resistance techniques that are designed to provide U.S. military members, who may be captured or detained, with the physical and mental tools to survive a hostile interrogation and deny the enemy the information they wish to obtain. SERE training incorporates physical and psychological pressures, which act as counterresistance techniques, to replicate harsh conditions that the Service member might encounter if they are held by forces that do not abide by the Geneva Conventions.

(U) Defensive Interrogation Techniques. The U.S. Joint Forces Command defines the training employed to increase the Service member's resistance capabilities as a defensive response to interrogation. The Deputy Commander and the Command Group has concluded that the Joint Personnel Recovery Agency and the SERE schools do not have personnel assigned to be interrogators and do not advocate interrogation measures to be executed by our force. The SERE expertise lies in training personnel how to respond and resist interrogations--not in how to conduct interrogations. Therefore, the Joint Personnel Recovery Agency and SERE mission is defensive in nature, while the operational interrogation mission is sometimes referred to as offensive.

(U) Migration of Techniques. Migration refers to the introduction of interrogation techniques from one theater of operation to another. Official migration relates to those interrogation techniques intended only for use at a specific facility that are officially approved for use at other facilities. Unofficial migration occurred when interrogators remained unaware of the approved guidance and believed that techniques that they may have experienced, including those from basic training, SERE training, or tours at other detention facilities, were permissible in other theaters of operation.

(U) While this report primarily addresses the U.S. Central Command Area of Operations, some discussion of the involvement of the Joint Personnel Recovery Agency with the JTF 170 at Guantanamo Bay, Cuba, is necessary background information explaining how SERE techniques migrated to Iraq.

Joint Personnel Recovery Agency Involvement in the Development of Interrogation Policy at Guantanamo Bay, Cuba (U)

(U) ~~(S)~~ Counterresistance techniques taught by the Joint Personnel Recovery Agency contributed to the development of interrogation policy at the U.S. Southern Command. According to interviewees, at some point in 2002, the U.S. Southern Command began to question the effectiveness of the Joint Task Force 170 (JTF-170), the organization at Guantanamo that was responsible for collecting intelligence from a group of hard core al Qaeda and Taliban detainees. As documented in the Vice Admiral Church report (Appendix M), the interrogators believed that some of the detainees were intimately familiar with FM 34-52 and were trained to resist the techniques that it described.

(U) ~~(S//NF)~~ Counterresistance techniques were introduced because personnel believed that interrogation methods used were no longer effective in obtaining useful information from some detainees. On June 17, 2002, the Acting Commander, Southern Command requested that the Chairman, Joint Chiefs of Staff (CJCS) provide his command with an external review of ongoing detainee intelligence collection operations at Guantanamo Bay,

which included an examination of information and psychological operations plans. The CJCS review took place between August 14, 2002, and September 4, 2002, and concluded that the JTF-170 had limited success in extracting usable information from some of the detainees at Guantanamo because traditional interrogation techniques described in FM 34-52 had proven to be ineffective. The CJCS review recommended that the Federal Bureau of Investigation Behavioral Science Unit, the Army's Behavioral Science Consultation Team, the Southern Command Psychological Operations Support Element, and the JTF-170 clinical psychologist develop a plan to exploit detainee vulnerabilities. The Commander, JTF-170 expanded on the CJCS recommendations and decided to also consider SERE training techniques and other external interrogation methodologies as possible DoD interrogation alternatives.

(U) ~~(S//NF)~~ Between June and July 2002, but before the CJCS review, the Chief of Staff of the Joint Personnel Recovery Agency, working with the Army Special Operations Command's Psychological Directorate, developed a plan designed to teach interrogators how to exploit high value detainees.

(U) ~~(S//NF)~~ On September 16, 2002, the Army Special Operations Command and the Joint Personnel Recovery Agency co-hosted a SERE psychologist conference at Fort Bragg for JTF-170 interrogation personnel. The Army's Behavioral Science Consultation Team from Guantanamo Bay also attended the conference. Joint Personnel Recovery Agency personnel briefed JTF-170 representatives on the exploitation techniques and methods used in resistance (to interrogation) training at SERE schools. The JTF-170 personnel understood that they were to become familiar with SERE training and be capable of determining which SERE information and techniques might be useful in interrogations at Guantanamo. Guantanamo Behavioral Science Consultation Team personnel understood that they were to review documentation and standard operating procedures for SERE training in developing the standard operating procedure for the JTF-170, if the command approved those practices. The Army Special Operations Command was examining the role of interrogation support as a "SERE Psychologist competency area."

(U) ~~(C)~~ On September 24, 2002, a Joint Personnel Recovery Agency representative at the SERE conference recommended in a conference memorandum report to his Commander that their organization "not get directly involved in actual operations." Specifically, the memorandum states that the agency had "no actual experience in real world prisoner handling," developed concepts based "on our past enemies," and assumes that "procedures we use to exploit our personnel will be effective against the current detainees." In a later interview, the Commander, Joint Personnel Recovery Agency stated that his agency's support to train and teach "was so common that he probably got 15 similar reports [memoranda] a week and it was not his practice to forward them to the U.S. Joint Forces Command."

(U) ~~(S//NF)~~ The Commander, JTF-170 forwarded a request on October 11, 2002, to the Commander, U.S. Southern Command, seeking approval of counterresistance strategies. This memorandum in part stated:

> "...the following techniques and other aversive techniques, such as those used in U.S. military interrogation resistance training or by other U.S. government agencies, may be utilized in a carefully coordinated manner to help interrogate exceptionally resistant detainees. Any or [sic] these techniques that require more than light grabbing, poking, or pushing, will be administered only by individuals specifically trained in their safe application."
>
> The use of scenarios designed to convince the detainee that death or severely painful consequences are imminent for him and/or his family; exposure to cold weather or water (with appropriate medical monitoring); use of a wet towel and dripping water to induce the misperception of suffocation; use of mild, noninjurious physical contact such as grabbing, poking in the chest with the finger, and light pushing.

The accompanying legal brief recommended that the proposed methods of interrogation be approved and that the interrogators be properly trained in the approved methods of interrogation.

(U) ~~(S//NF)~~ On at least two occasions, the JTF-170 requested that Joint Personnel Recovery Agency instructors be sent to Guantanamo to instruct interrogators in SERE counterresistance interrogation techniques. SERE instructors from Fort Bragg responded to Guantanamo requests for instructors trained in the use of SERE interrogation resistance techniques. Neither of those visits was coordinated with the Joint Forces Command, which is the office of primary responsibility for SERE training, or the Army, which is the office of primary responsibility for interrogation.

(U) As discussed previously, the U.S. Southern Command's request led to the issuance of Secretary of Defense, December 2, 2002, memorandum (see Appendix V). In response to Service-level concerns, a Working Group was formed to examine counterresistance techniques, leading to the Secretary of Defense, April 16, 2003, memorandum that approved counterresistance techniques for U.S. Southern Command.

Migration of Counterresistance Interrogation Techniques into the U.S. Central Command Area of Operation (U)

(U) Counterresistance interrogation techniques in the U.S. Central Command Area of Operation derived from multiple sources that included migration of documents and personnel, the JTF-Guantanamo Assessment Team, and the Joint Personnel Recovery Agency.

(U) Unlike Guantanamo and Afghanistan where detainees were designated as unlawful combatants, the Geneva Conventions applied in Iraq. The Commander, CJTF-7 confirmed this by stating that "we all clearly understood that the conditions in GTMO [Guantanamo] were different than what the conditions were in Iraq because the Geneva Conventions applied."

(U) ~~(S/NF)~~ **Afghanistan.** The Church report acknowledges that a draft copy of a Working Group report from which the Secretary of Defense's April 16, 2003, Guantanamo policy was derived influenced the development of interrogation policy in Afghanistan. The Jacoby Report observed the following: "There is a void in the availability of interrogation guidance in the field, and interrogation practice is as inconsistent and varied across the theater as are detention methods. There is some correlation between individual training and experience and interrogation methods being used, but there is little correlation between location and techniques employed." To fill this perceived void, interrogators attempted to integrate draft policy and "unevenly applied standards" in Afghanistan.

(U) ~~(S/NF)~~ **Iraq**. The Church report also acknowledges the migration of policy and personnel in the interrogation procedures used. As documented in the Church Report, the CJTF-7 interrogation policy (Appendix V) itself drew from the techniques found in FM 34-52, the April 2003 Guantanamo policy, the special mission unit policy, and the experiences of interrogators in Afghanistan. Because interrogators were often unaware of the approved guidance, they relied on their prior training and experience.

(U) Between August 2003 and February 2004, several visiting teams went to Iraq to advise the task force and assess interrogation operations within the Central Command's area of responsibility. On at least two occasions, visiting assessment teams discussed interrogation methods not sanctioned by FM 34-52.

(U) ~~(FOUO)~~ **JTF-Guantanamo Assessment Team.** In August 2003, the Joint Chiefs of Staff J3 requested the U.S. Southern Command to send experts in detention and interrogation operations from Guantanamo to Iraq to assess the Iraq Survey Group's interrogation operations. The Iraq Survey Group did not request the assessment because they believed they had the proper interrogation standard operating procedures in place and in compliance with FM 34-52. Based on interviews with cognizant personnel, the JTF-Guantanamo assessment team reportedly discussed the use of harsher counterresistance techniques with Iraq Survey Group personnel. The Iraq Survey Group interrogators disagreed with what they described as the "hard line approach" that the assessment team recommended.

(U) ~~(S/NF)~~ While the Iraq Survey Group did not endorse the JTF-Guantanamo techniques, the CJTF-7 incorporated some of the techniques in its policies and procedures. As discussed in the Church report, the CJTF-7 Staff Judge Advocate stated that its September 14, 2003,

Interrogation Policy was influenced by multiple factors, including the Army Field Manual. The Interrogation Policy also incorporated the Guantanamo counterresistance policies. The CJTF-7 Staff Judge Advocate attributed the "genesis of this product" to the JTF-Guantanamo assessment team.

(U) ~~(S//NF)~~ **Joint Personnel Recovery Agency Team.** The Joint Personnel Recovery Agency was also responsible for the migration of counterresistance interrogation techniques into the U.S. Central Command's area of responsibility. In September 2003, at the request of the Commander, TF-20, the Commander, Joint Personnel Recovery Agency sent an interrogation assessment team to Iraq to provide advice and assistance to the task force interrogation mission. The TF-20 was the special mission unit that operated in the CJTF-7 area of operations. The Joint Personnel Recovery Agency did not communicate its intent to introduce SERE interrogation resistance training to TF-20 interrogators with the Commander, U.S. Joint Forces Command.

(U) ~~(S//NF)~~ The Commander, Joint Personnel Recovery Agency, explained that he understood that the detainees held by TF-20 were determined to be Designated Unlawful Combatants (DUCs), not Enemy Prisoners of War (EPW) protected by the Geneva Convention and that the interrogation techniques were authorized and that the JPRA team members were not to exceed the standards used in SERE training on our own Service members. He also confirmed that the U.S. Joint Forces Command J-3 and the Commanding Officer, TF-20 gave a verbal approval for the SERE team to actively participate in "one or two demonstration" interrogations.

(U) ~~(S//NF)~~ SERE team members and TF-20 staff disagreed about whether SERE techniques were in compliance with the Geneva Conventions. When it became apparent that friction was developing, the decision was made to pull the team out before more damage was done to the relationship between the two organizations. The SERE team members prepared After Action Reports that detailed the confusion and allegations of abuse that took place during the deployment. These reports were not forwarded to the U.S. Joint Forces Command because it was not a common practice at that time.

Oversight (U)

(U) A lack of uniform interrogation standards and oversight at the Combatant Command level from 2002-2004 as well as a lack of oversight over the Joint Personnel Recovery Agency activities allowed counterresistance techniques to influence interrogation operations. It was only after the Joint Personnel and Recovery Agency requested to take a SERE team to Afghanistan in May 2004, that the U.S. Joint Forces Command concluded that "the use of resistance to interrogation knowledge for offensive purposes lies outside the roles and responsibilities of JPRA [Joint Personnel Recovery Agency]." A Joint Personnel Recovery Agency Mission Guidance Memorandum,

September 29, 2004, from the Commander, U.S. Joint Forces Command expressly prohibited such activities without specific approval from the U.S. Joint Forces Commander, Deputy, or Chief of Staff.

Conclusion (U)

(U) ~~(S//NF)~~ Many causes contributed to the migration of counterresistance interrogation techniques in Iraq. As shown in the Church report, even the process of developing policy can contribute to the development of policy in other theaters. The Church report states:

> "...the experience of SERE school impresses itself indelibly in the minds of graduates, and is frequently their first and most vivid association with the broad concept of interrogation. Although our interview data did not reveal the employment of any specific SERE techniques in Afghanistan, the prevalence of the association between SERE school and interrogation suggests that specific cautions should be included in approved interrogation policies to counter the notion that any techniques employed against SERE students may be appropriate for use in interrogation of captured personnel."

(U) This finding recognizes those avenues, and also focuses on the role of the Joint Personnel Recovery Agency. The Joint Personnel Recovery Agency mission is extremely important in preparing select military personnel with survival and evasion techniques in case they are isolated from friendly forces. We are not suggesting that SERE training is inappropriate for those subject to capture; however, it is not appropriate to use in training interrogators how to conduct interrogation operations. We agree with the conclusion of the U.S. Joint Forces command that the use of resistance to interrogation knowledge for offensive purposes lies outside the role of the Joint Personnel Recovery Agency. The following recommendations are meant to institutionalize this conclusion.

Management Actions

(U) The following guidance is pending release:

(U) Army Field Manual 2-22.3, "Human Intelligence Collector Operations." The new Field Manual will supersede Army FM 34-52 and update interrogation guidance with wartime lessons learned.

Recommendations (U)

C.1. (U) We recommend that the Under Secretary of Defense for Intelligence develop policies that preclude the use of Survival, Evasion, Resistance, and Escape physical and psychological coercion

techniques and other external interrogation techniques that have not been formally approved for use in offensive interrogation operations.

(U) **Management Comments.** The Under Secretary of Defense for Intelligence did not provide written comments on the draft report. Therefore, we request that the Under Secretary of Defense for Intelligence comment on the final report by September 29, 2006.

C.2. (U) We recommend that the Commander, U.S. Joint Forces Command, Office of Primary Responsibility for Personnel Recovery and Executive Agent for all Survival, Evasion, Resistance and Escape training implement formal policies and procedures that preclude the introduction and use of physical and psychological coercion techniques outside the training environment.

(U) **Management Comments.** The Commander, U.S. Joint Forces Command, did not respond to this recommendation. We request that the Commander, U.S. Joint Forces Command provide comments on the final report by September 29, 2006.

Appendix A. Scope and Methodology (U)

(U) This review is the result of monitoring and oversight of all of the DoD organizations involved in the investigation of allegations of detainee abuse. In addition to tracking the status of detainee abuse investigations, we reviewed the senior-level reports, covering the period August 2003 through April 2005, and their recommendations to determine whether any overarching systemic issues should be addressed. We performed this review in accordance with the *Quality Standards for Federal Office of Inspector General* during the period May 2004 through March 2006.

(U) To achieve our objective, we:

- Tracked reports on detainee abuse investigation from all of the Military Criminal Investigative Organizations,
- Examined more than 11,000 pages of documentation including DoD regulations, policy letters, briefings, and course curricula,
- Participated as observers in the quarterly meetings of the DSLOC,
- Interviewed senior officials from Combatant Commands, the Joint Personnel Recovery Agency, and DIA intelligence professionals assigned to the Iraq Theater of Operations,
- Reviewed in detail each of the 13 senior-level reports of investigation into allegations of detainee and prisoner abuse, and,
- Reviewed other reports and external reviews on intelligence collection operations at detention facilities.

(U) Related Coverage: During the last 5 years, The DoD Office of the Inspector General has issued one report discussing detainee abuse.

OIG, DoD

(U) Report No. IPO2004C005, "Report on Review of Criminal Investigations of Alleged Detainee Abuse," August 25, 2006, Office of the Deputy Inspector for Inspections and Policy, Investigative Policy and Oversight.

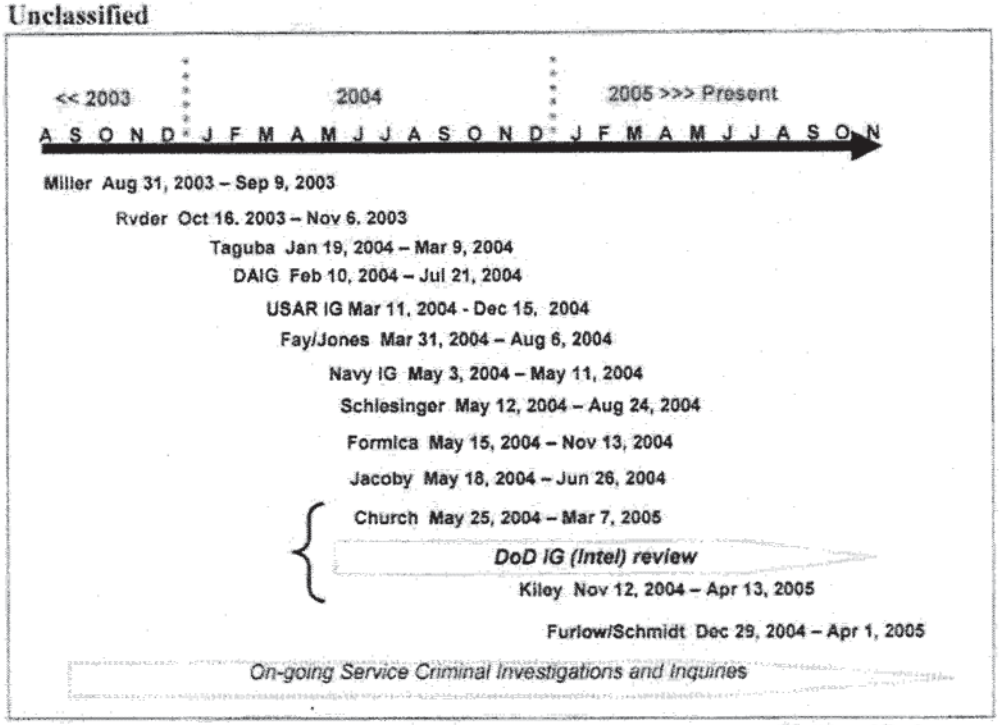
Appendix B. Timeline of Senior-Level Reports (U)

(U) DoD officials directed or conducted 13 separate senior-level reviews and investigations related to detention and interrogation operations or training in the Global War on Terrorism. The first review commenced August 31, 2003, and the last report ended April 1, 2005. The following timeline shows when each major DoD review or investigation was conducted.

(U) Appendix C through Appendix O provides a synopsis of each report's scope, a limited extract of its executive summary, and a brief OIG assessment of the specific report. Although the reports represent widely differing scopes and various methodologies, they, intentionally or unintentionally, ultimately highlighted specific and systemic problems in the overall management and conduct of detention and interrogation operations. However, the narrow scope of some reports may also have unduly limited, or in some cases understated, the need, focus, and results of subsequent investigations.

TIMELINE: MAJOR SENIOR LEVEL REPORTS AND INVESTIGATIONS

Unclassified



Unclassified

Appendix C. Assessment of DoD Counter-terrorism Interrogation and Detention Operations in Iraq (Miller Report) (U)

Investigating Officer: MG Miller, formerly Commander, Guantanamo
Appointing Authority: Secretary of Defense
Date of Initiation: August 31, 2003
Date of Completion: September 9, 2003

(U) **Scope:** Using the "JTF-GTMO operational procedures and interrogation authorities as baseline," visit to Iraq to "conduct assistance visits to CJTF-7, TF-20, and the Iraqi Survey Group to discuss current theater ability to rapidly exploit internees for actionable intelligence." The assessment focused on three areas: intelligence integration, synchronization, and fusion; interrogation operations; and detention operations.

(U) **Extract of Executive Summary**

(U) The dynamic operational environment in Iraq requires an equally dynamic intelligence apparatus. To improve velocity and operational effectiveness of counterterrorism interrogation, attention in three major mission areas is needed. The team observed that the Task Force did not have authorities and procedures in place to affect a unified strategy to detain, interrogate, and report information from detainees/internees in Iraq. Additionally, the corps commander's information needs required an in-theater analysis capability integrated throughout the interrogation operations structure to allow for better and faster reach-back to other worldwide intelligence databases.

(U) The command initiated a system to drive the rapid exploitation of internees to answer CJTF-7, theater, and national level counterterrorism requirements. This is the first stage toward the rapid exploitation of detainees. Receipt of additional resources currently in staffing will produce a dramatic improvement in the speed of delivering actionable intelligence and leveraging the effectiveness of the interrogation efforts. Our assessment is that a significant improvement in actionable intelligence will be realized within 30 days.

(U) **OIG Assessment:** The report focused on how to conduct and exploit interrogation and detention operations. Although the findings and recommendations were limited to Iraq, they also applied to the U.S. Central Command's entire area of responsibility. The report did not discuss command and control of interrogation and detention facilities.

Appendix D. Office of the Provost Marshal General of the Army – Assessment of Detention and Corrections Operations in Iraq (Ryder Report) (U)

Investigating Officer: MG Ryder, Army Provost Marshal General
Appointing Authority: LTG Sanchez, Commander, CJTF-7
Date of Initiation: October 16, 2003
Date of Completion: November 6, 2003

(U) **Scope:**

- "…to assess, and make specific recommendations concerning detention and corrections operations in Iraq." and to:
- "Verify that detainees are held and processed in accordance with United States and international law."
- "Identify problems, propose solutions and recommend the resources necessary to implement the solutions."

- Restated Mission:
  - "Assume an assistance role; not an investigation."
  - "…emphasize overall Program issues, not specific facility operations."
  - "Identify bridging mechanism from current operations to an Iraqi-run prison system, synched with the Coalition Provisional Authority."

- Objective: "…to observe detention and prison operations, identify potential systemic and human rights issues, and provide near-term, midterm, and long-term recommendations to improve operations and transition the fledgling Iraqi prison system from military control/oversight to the Coalition Provisional Authority and eventually to the Iraqi government."

(U) **Executive Summary Extract:**

(U) "Coalition Forces are detaining EPW's [enemy prisoner of war] and Civilian Internees (both security internees and criminal detainees) in accordance with DoD Directives and accepted U.S. and international practices. To date, Coalition Forces have processed over 30,000 detainees. The transition to an Iraqi-run corrections operation is progressing, though there is disparate progress in different regions/unit areas of responsibility throughout the country. Iraqi Police or Correctional Officers, requiring only periodic monitoring and mentorship by U.S. personnel already operate many facilities outside of Baghdad. However, in and around Baghdad, U.S. Military Police units and Iraqi Correctional Officers jointly operate facilities, while in

al-Anbar province (e.g., ar-Ramadi and Falluja); U.S. Forces have allowed Iraqi officials greater autonomy with their police and prison operations. As reconstruction of larger regional prisons, detention centers and additional city jails approach completion (or are approved for funding), there will be a future challenge to train sufficient Iraqi Corrections Officers in basic tasks, intermediate level supervision, and senior management. There will also be an increased requirement to provide oversight and mentoring by the CPA [Coalition Provisional Authority] MOJ [Minister of Justice] Prisons Department of the more complex long-term correctional facilities; vice the current smaller operations. Finally, as several detention facilities currently under MOI [Ministry of Interior] (Iraqi Police) control likely transfer to MOJ control, the hiring of all authorized personnel within that CPA MOJ Prisons Department and the development of an Iraqi National Prison leadership takes on greater importance.

(U) Generally, conditions in existing prisons, detention facilities and jails meet minimal standards of health, sanitation, security, and human rights established by the Geneva Conventions and encouraged in the Practical Guidelines for the Establishment of Correctional Services within United Nations Peace Operations. There is room for continued improvement in all areas. New prison facilities must be constructed during the next one to three years to achieve projected prison bed capacity requirements (approx 23,000 within five years). This will require a major capital investment to ensure appropriate security, health care, adequate living space, food service, and staff training (custody and control, security and safety, and basic human rights). In the near term, CPA should continue to prioritize training of Iraqi correctional officers in basic tasks and aggressively hire sufficient corrections subject-matter experts to mentor Iraqi prison officials on the application of effective correctional practices and ensure humane treatment of detainees and prisoners.

(U) Lessons learned regarding necessary changes in doctrine and organizational structure related to detention and corrections operations will not be addressed in any detail in this report. The team did identify a significant paradigm shift in standard EPW/Detainee operations doctrine, as applied to post-hostilities detention of security internees, let alone the reconstruction of the Iraqi prison system. Similar doctrinal lessons learned had been identified in Operation Enduring Freedom, leading to work on a Military Police Bottom-up review and Force Design Update. The team will forward the suggested doctrinal and organizational changes to the appropriate proponent school for review and action."

(U) OIG Assessment: Because the investigation was limited to Iraq, the report focused primarily on the management of prison operations: segregation, movement and accountability, command and control, integration with the CPA and adequacy of transition plans, medical care, legal processing, logistics, and automation and records management. The report did not discuss specific allegations of detainee abuse, nor did it wholly address Military Police and Military Intelligence interaction and responsibilities in detainee operations.

Appendix E. Army Regulation 15-6 Investigation of the 800th Military Police Brigade (Taguba Report) (U)

Investigating Officer: MG Taguba, CJTF-7
Appointing Authority: LTG Sanchez, Commander, CJTF-7
Date of Initiation: January 19, 2004
Date of Completion: March 9, 2004

(U) **Scope:** To investigate the conduct of operations at 800th MP Brigade. Specifically, investigate the detention and internment operations conducted by the Brigade from 1 Nov 03 to Jan 04.

(U) **Executive Summary Extract:**

Note: Although originally classified as overall SECRET, the Taguba Report lacked individual paragraph classification markings and subsequently was published widely in open-source media and other UNCLASSIFIED public venues. For this OIG evaluation, the following summary extract portion is marked UNCLASSIFIED in its entirety.

1. (U) This inquiry into all facts and circumstances surrounding recent allegations of detainee abuse at Abu Ghraib Prison (Baghdad Central Confinement Facility) has produced incontrovertible evidence that such abuse did occur. While those who perpetrated the criminal acts are individually responsible, the command climate, unclear command structure, and insufficient training created an environment conducive to the commission of these offenses.

a. (U) Two prior external assessments, the Report on Detention and Corrections in Iraq (MG Ryder) and the Assessment of DoD Counter-Terrorism Interrogation and Detention Operations in Iraq (MG Miller), both agreed that there was a lack of command guidance and structure regarding detainee internment operations. Based on my investigation, I find that these were contributing factors leading to the criminal actions of Soldiers at Abu Ghraib Prison. In an effort to provide structure, the CJTF-7 Commander attempted to create a single chain of command under FRAGO ["Fragmentary" Order] #1108 to OPORD [Operation Order] 03-036. The FRAGO stated "Effective Immediately, Commander 205th MI BDE assumes responsibility for the Baghdad Central Confinement Facility (BCCF) and is appointed the FOB [Forward Operating Base] Commander and units currently at Abu Ghraib (BCCF) are TACON [Tactical Control] to 205th MI BDE for security of detainees and FOB protection." However, the Commanders of these respective units failed to adhere to the FRAGO and continued to operate independently.

b. (U) Lack of clear understanding of the command structure led to insufficient control and oversight of detainee operations at Abu Ghraib (BCCF). The command and supervisory presence within the facility was non-existent due to the weak and ineffective leadership at the 800th MP BDE and 320th MP BN. These leadership failures resulted in an environment that allowed those criminally culpable of the abuse to feel they had free rein in their treatment of detainees.

c. (U) The lack of Internment/Resettlement (I/R) training of 800th MP BDE units at home and mobilization stations, and also in theater, was a factor leading to the criminal actions by Soldiers and US contract civilians assigned to the 205th MI BDE at Abu Ghraib Prison.

3. (U) This inquiry found that a perversive command climate in the 800th MP Brigade created conditions that allowed for the loss of accountability and abuse of the detainees.

a. (U) Commanders and staff officers failed to prioritize their missions or take responsibility for their actions and those of their subordinates. Commanders failed to ensure that Soldiers within the command were properly trained for their mission.

b. (U) Basic Soldier standards were infrequently met and not enforced. A lack of enforcement of Army standards by leaders with regard to uniforms and basic military customs and courtesies, as well as unclear command policies, contributed to a lack of military discipline.

c. (U) Units were not properly task organized, which created unclear command relationships. Furthermore, lack of effective leaders in key positions resulted in ambiguous chains of command. Leaders were unable or unwilling to confront situations of misbehavior and misconduct. Addressing these situations may have obviated some of the underlying problems.

4. (U) My investigation is based on numerous oral interviews; reviews of written statements, AR 190-8, FM 3-19.40, FM 34-52, the Geneva Convention, and The Law of Land Warfare (AR 27-10); facility visits of Abu Ghraib Prison (BCCF) and three other detention facilities; and review of Command Standing Operating Procedures, the written Assessment of DoD Counter-Terrorism Interrogation and Detention Operations in Iraq, and the written Assessment of Detention and Corrections Operations in Iraq. Based on my investigation, I recommend the following:

a. (U) Establish a single command structure in CJTF-7 and/or Iraq Joint Operations Area (JOA) with responsibility for detainee and interrogation operations.

b. (U) Reorganize the Abu Ghraib / BCCF under a single command and control element to ensure Army and higher authority standards are met. The BCCF is currently under control of the Commander, 504th MI BDE.

Resource the BCCF with sufficient personnel, Information Technology, and other resources to ensure the success of the mission.

c. (U) Immediately train all Coalition forces conducting detainee operations in a comprehensive and multi-functional training program. All units must be resourced and trained properly to use Biometric Automated Toolset System (BATS) technology to facilitate detainee accounting and management in order to enable mission accomplishment. The use of this technology will enhance accountability procedures but not replace doctrinally proven techniques that must be reinforced.

d. (U) Expedite release process for detainees who offer little or no intelligence value and pose minimal or no security risk.

e. (U) Establish distinctly separate facilities for detainees under US control and Iraqi criminals under Iraqi control.

f. (U) Develop a deliberate plan to address detainee program shortfalls, considering recommendations from this investigation and previous AR 15-6 investigations related to detainee abuse.

6. (U) I find that there is sufficient credible information to warrant an Inquiry Procedure 15, AR 381-10, US Army Intelligence Activities, be conducted to determine the extent of culpability of MI personnel, assigned to the 205th MI Brigade and the Joint Interrogation and Debriefing Center (JDIC) at Abu Ghraib (BCCF).

8. (U) In conclusion, I have determined that as Operation Iraqi Freedom continues, internment and resettlement operations will become a significant and resource intensive endeavor that will potentially be scrutinized by international organizations.

a. (U) Immediate and comprehensive actions must be taken to meet the minimum standards required by Army Regulations and the Law of Land Warfare, in order to accomplish the mission and intent of detention and interrogation operations in the Iraq Joint Operations Area (JOA).

b. (U) U.S. Soldiers have committed egregious acts of abuse to detainees in violation of the UCMJ [Uniform Code of Military Justice] and international law at Abu Ghraib (BCCF). Key senior leaders in both the 800th MP Brigade and the 205th MI Brigade have failed to comply with established Army standards, DoD policies, and command guidance.

(U) OIG Assessment: The report provided a detailed description of the failings of the military police and the role of military intelligence personnel at Abu Ghraib. However, the scope was limited primarily to detainee-related issues only within the 800th MP Brigade. A separate AR-15 investigation was conducted on the 205th Military Intelligence Brigade.

Appendix F. Department of the Army Inspector General: Detainee Operations Inspection (Department of Army IG Report) (U)

Investigating Officer: LTG Mikolashek, The Army Inspector General
Appointing Authority: Hon R. L. Brownlee, Acting Secretary of the Army
Date of Initiation: February 10, 2004
Date of Completion: July 21, 2004

(U) **Scope:**

- To conduct a functional analysis of the Army's conduct of detainee and interrogation operations in order to identify any capability shortfalls *(sic)* with respect to internment, EPW, detention operations, and interrogation procedures and recommend appropriate resolutions or changes if required.
- Note: Included analysis of, reported incidents, "to determine their root or fundamental cause."
- Inspect and assess doctrine and training of personnel conducting detention operations.

(U) **Executive Summary Extract:**

(U) Background: On 10 February 2004, the Acting Secretary of the Army directed the Department of the Army Inspector General (DAIG) to conduct an assessment of detainee operations in Afghanistan and Iraq. The DAIG inspected the internment and enemy prisoner of war detention operations, and interrogation procedures in Afghanistan and Iraq. The inspection focused on the adequacy of Doctrine, Organization, Training, Materiel, Leadership and Education, Personnel, and Facilities (DOTMLPF), standards, force structure, and policy in support of these types of operations.

(U) This inspection was not an investigation of any specific incidents or unit but rather a comprehensive review of how the Army conducts detainee operations in Afghanistan and Iraq.

(U) The DAIG did not inspect the U.S. military corrections system or operations at the Guantanamo Bay Naval Base during this inspection. Central Intelligence Agency (CIA) and Defense HUMINT Services (DHS) operations were not inspected.

(U) Synopsis:

(U) In the areas that we inspected, we found that the Army is accomplishing its mission both in the capture, care, and custody of detainees and in its interrogation operations. The overwhelming majority of our leaders and Soldiers understand and adhere to the requirement to treat detainees humanely and consistent with the laws of land warfare. Time and again these Soldiers, while under the stress of combat operations and prolonged insurgency operations, conduct themselves in a professional and exemplary manner.

(U) The abuses that have occurred in both Afghanistan and Iraq are not representative of policy, doctrine, or Soldier training. These abuses were unauthorized actions taken by a few individuals, coupled with the failure of a few leaders to provide adequate monitoring, supervision, and leadership over those Soldiers. These abuses, while regrettable, are aberrations when compared to their comrades in arms who are serving with distinction.

(U) We determined that despite the demands of the current operating environment against an enemy who does not abide by the Geneva Conventions, our commanders have adjusted to the reality of the battlefield and, are effectively conducting detainee operations while ensuring the humane treatment of detainees. The significant findings regarding the capture, care, and control of detainees are:

(U) We determined that the nature of the environment caused a demand for tactical human intelligence. The demands resulted in a need for more interrogators at the tactical level and better training for Military Intelligence officers. The significant findings regarding interrogation are:

- Tactical commanders and leaders adapted their tactics, techniques, and procedures, and held detainees longer than doctrinally recommended due to the demand for timely, tactical intelligence.
- Doctrine does not clearly specify the interdependent, and yet independent, roles, missions, and responsibilities of Military Police and Military Intelligence units in the establishment and operation of interrogation facilities.
- Military Intelligence units are not resourced with sufficient interrogators and interpreters to conduct timely detainee screenings and interrogations in the current operating environment, resulting in a backlog of interrogations and the potential loss of intelligence.
- Tactical Military Intelligence Officers are not adequately trained to manage the full spectrum of the collection and analysis of human intelligence.
- Officially approved CJTF-7 and CJTF-180 policies and the early CJTF-180 practices generally met legal obligations under U.S. law, treaty obligations and policy, if executed carefully, by trained soldiers, under the full range of safeguards. The DAIG Team found that policies were not clear and contained ambiguities. The DAIG Team found implementation, training, and oversight of

these policies was inconsistent; the Team concluded, however, based on a review of cases through June 9, 2004, that no confirmed instance of detainee abuse was caused by the approved policies.

(U) Capture, Care, and Control of Detainees:

(U) Army forces are successfully conducting detainee operations to include the capture, care, and control of detainees. Commanders and leaders emphasized the importance of humane treatment of detainees. We observed that leaders and Soldiers treat detainees humanely and understand their obligation to report abuse. In those instances where detainee abuse occurred, individuals failed to adhere to basic standards of discipline, training, or Army Values; in some cases individual misconduct was accompanied by leadership failure to maintain fundamental unit discipline, failure to provide proper leader supervision of and guidance to their Soldiers, or failure to institute proper control processes.

(U) Our review of the detainee abuse allegations attempted to identify underlying causes and contributing factors that resulted in abusive situations. We examined these from the perspective of the Policy and Doctrine, Organizational Structures, Training and Education, and Leadership and Discipline systems. We also examined them in terms of location on the battlefield and sought to determine if there was a horizontal, cross-cutting system failure that resulted in a single case of abuse or was common to all of them. Based on this inspection, we were unable to identify system failures that resulted in incidents of abuse. These incidents of abuse resulted from the failure of individuals to follow known standards of discipline and Army Values and, in some cases, the failure of a few leaders to enforce those standards of discipline. We also found that our policies, doctrine, and training are being continually adapted to address the existing operational environment regarding detainee operations. Commanders adjusted existing doctrinal procedures to accommodate the realities of the battlefield. We expect our leaders to do this and they did. The Army must continue to educate for uncertain environments and develop our leaders to adapt quickly to conditions they confront on the battlefield.

(U) Using a data cut-off of June 9, 2004, we reviewed 103 summaries of Army CID [Criminal Investigative Command] reports of investigation and 22 unit investigation summaries conducted by the chain of command involving detainee death or allegations of abuse. These 125 reports are in various stages of completion: 31 cases have been determined that no abuse occurred; 71 cases are closed; and 54 cases are open or undetermined. Of note, the CID investigates every occurrence of a detainee death regardless of circumstances.

(U) Recognizing that the facts and circumstances as currently known in ongoing cases may not be all-inclusive, and that additional facts and circumstances could change the categorization of a case, the Team placed each report in a category for the purposes of this inspection to understand the overall numbers and the facts currently known, and to examine for

trends or systemic issues. This evaluation of allegations of abuse reports is not intended to influence commanders in the independent exercise of their responsibilities under the Uniform Code of Military Justice (UCMJ) or other administrative disciplinary actions. As an Inspector General inspection, this report does not focus on individual conduct, but on systems and policies.

(U) This review indicates that as of June 9, 2004, 48%,(45 of 94) of the alleged incidents of abuse occurred at the point of capture, where Soldiers have the least amount of control of the environment. For this inspection, the DAIG [Department of the Army, Office of the Inspector General] Team interpreted point of capture events as detainee operations occurring at battalion level and below, before detainees are evacuated to doctrinal division forward or central collecting points (CPs). This allowed the DAIG Team to analyze and make a determination to where and what level of possible abuse occurred. The point of capture is the location where most contact with detainees occurs under the most uncertain, dangerous, and frequently violent circumstances.

(U) This review further indicates that as of June 9, 2004, 22% (21 of 94) of the alleged incidents of abuse occurred at Internment/Resettlement (I/R) facilities. This includes the highly publicized incident at Abu Ghraib. Those alleged abuse situations at I/R facilities are attributed to individual failure to abide by known standards and/or individual failure compounded by a leadership failure to enforce known standards, provide proper supervision, and stop potentially abusive situations from occurring. As of June 9, 2004, 20%, (19 of 94) of the alleged incidents of abuse occurred at CPs. For the remaining 10% (9 of 94) of the alleged incidents of abuse, a location could not be determined based on the CID case summaries.

(U) Detainee abuse does not occur when individual Soldiers remain disciplined, follow known procedures, and understand their duty obligation to report abusive behavior. Detainee abuse does not occur when leaders of those Soldiers who deal with detainees enforce basic standards of humane treatment, provide oversight and supervision of detainee operations, and take corrective action when they see potentially abusive situations developing. Our site visits, interviews, sensing sessions, and observations indicate that the vast majority of Soldiers and leaders, particularly at the tactical level, understand their responsibility to treat detainees humanely and their duty obligation to report infractions.

Interrogation Operations

(U) The need for timely, tactical human intelligence is critical for successful military operations particularly in the current environment. Commanders recognized this and adapted by holding detainees longer at the point of capture and collecting points to gain and exploit intelligence. Commanders and interrogators also conducted tactical questioning to gain immediate battlefield intelligence. Commanders and leaders must set the conditions for success, and commanders, leaders, and Soldiers must adapt to the ever changing environment in order to be successful.

(U) Doctrine does not clearly and distinctly address the relationship between the MP operating Internment/Resettlement facilities and the Military Intelligence (MI) personnel conducting intelligence exploitation at those facilities. Neither MP nor MI doctrine specifically defines the interdependent, yet independent, roles, missions, and responsibilities of the two in detainee operations. MP doctrine states MI may collocate with MP at detention sites to conduct interrogations, and coordination should be made to establish operating procedures. MP doctrine does not, however, address approved and prohibited MI procedures in an MP-operated facility. It also does not clearly establish the role of MPs in the interrogation process.

(U) Conversely, MI doctrine does not clearly explain MP internment procedures or the role of MI personnel within an internment setting. Contrary to MP doctrine, FM 34-52, Intelligence Interrogation, 28 September 1992, implies an active role for MPs in the interrogation process: "Screeners coordinate with MP holding area guards on their role in the screening process. The guards are told where the screening will take place, how EPWs and detainees are to be brought there from the holding area, and what types of behavior on their part will facilitate the screenings." Subordination of the MP custody and control mission to the MI need for intelligence can create settings in which unsanctioned behavior, including detainee abuse, could occur. Failure of MP and MI personnel to understand each other's specific missions and duties could undermine the effectiveness of safeguards associated with interrogation techniques and procedures.

(U) Shortfalls in numbers of interrogators and interpreters, and the distribution of these assets within the battlespace, hampered human intelligence (HUMINT) collection efforts. Valuable intelligence-timely, complete, clear, and accurate-may have been lost as a result. Interrogators were not available in sufficient numbers to efficiently conduct screening and interrogations of the large numbers of detainees at collecting points (CPs) and internment/resettlement (I/R) facilities, nor were there enough to man sufficient numbers of Tactical Human Intelligence Teams (THTs) for intelligence exploitation at points of capture. Interpreters, especially those Category II personnel authorized to participate in interrogations, were also in short supply. Units offset the shortage of interrogators with contract interrogators. While these contract interrogators provide a valuable service, we must ensure they are trained in military interrogation techniques and policy.

(U) Current interrogation doctrine includes 17 interrogation approach techniques. Doctrine recognizes additional techniques may be applied. Doctrine emphasizes that every technique must be humane and be consistent with legal obligations. Commanders in both OEF and OIF adopted additional interrogation approach technique policies. Officially approved CJTF-180 and CJTF -7 generally met legal obligations under U.S. law, treaties and policy, if executed carefully, by trained soldiers, under the full range of safeguards. The DAIG Team found that some interrogators were not trained on the additional techniques in either formal

school or unit training programs. Some inspected units did not have the correct command policy in effect at the time of inspection. Based on a review of CID case summaries as of 9 June 2004, the team was unable to establish any direct link between the proper use of an approved approach technique or techniques and a confirmed case of detainee abuse.

(U) Conclusion: The Army's leaders and Soldiers are effectively conducting detainee operations and providing for the care and security of detainees in an intense operational environment. Based on this inspection, we were unable to identify system failures that resulted in incidents of abuse. This report offers 52 recommendations that are designed to improve the ability of the Army to accomplish the key tasks of detainee operations: keep the enemy off the battlefield in a secure and humane manner, and gain intelligence in accordance with Army standards."

(U) OIG Assessment: In accordance with Army Regulation 20-1, Department of the Army Inspector General records are restricted and may not be used for adverse action without prior approval from the Army Inspector General. The Army IG report did not identify any traditional management control or systemic failure that might have led to incidents of abuse. It attributed detainee abuse only to the failure of individuals, "…to follow known standards of discipline and Army Values and, in a few cases, the failure of a few leaders to enforce those standards of discipline."

Appendix G. U.S. Army Reserve Command Inspector General Special Assessment of Training for Army Reserve Units on the Law of Land Warfare, Detainee Treatment Requirements, Ethics, and Leadership (Army Reserve IG Report) (U)

Investigating Officer: USARC Inspector General
Appointing Authority: LTG Helmly, Commanding General US Army Reserve Command
Date of Initiation: March 11, 2004
Date of Completion: December 15, 2004

(U) **Scope:** (verbatim per Directing Authority memo dated March 11, 2004)

- "…conduct a review of training for Army Reserve Soldiers and units on the Law of Land Warfare, Detainee Treatments Requirements, Ethics and Leadership. The assessment will focus on the following objectives:"
- "Determine the frequency and standards for training Army Reserve Soldiers on the Law of Land Warfare, Detainee Treatment Requirements, Ethics and Leadership training."
- "Assess the adequacy of specified training for Army Reserve units."
- "Assess the quality of specified training in Army Reserve units."
- "Observe specified training to determine if training is conducted to standard."
- "Identify and recommend any changes to training guidance and procedures related to the Law of Land Warfare, detainee treatment Requirements, Ethics and Leadership."

Additional instructions included, "… conduct the assessment at selected Army Reserve units and locations. *Military Police and Military Intelligence units are given a higher priority for assessment (emphasis added)*, but a cross sample of the Army Reserve will be obtained. You will also observe specific training conducted by Army reserve instructors to include: Advanced Individual training; One Station Unit Training;

Officer Basic course; during unit assemblies; at the Army Reserve Center and School; and at Power Projection Platforms."

(U) **Executive Summary Extract:**

(U) This Assessment was not an investigation.

a. (U) In the areas assessed, shortcomings were found in training on the Law of Land Warfare and detainee operations; however, Soldiers and leaders expressed knowledge of the requirements. IGs observed briefings on "The Soldier's Rules" used as the training vehicle on the Law of Land Warfare. These briefings provided Soldiers a good overview of the Law of Land Warfare and the Geneva and Hague Convention requirements, but they were not conducted to standard for the specified Soldier task. IGs also noted that during detainee operations training, trainers did not always include all Soldier task performance steps and test performance measures. Nearly all Soldiers indicated an understanding of the Army Values and had a strong belief in their own personal ethics, to include adherence to the Law of Land Warfare. Soldiers also had a positive belief that their peers and leaders would adhere to the Army Values and would ethically treat detainees in accordance with the Law of War. This is encouraging in spite of a lack of systematic training on the Army Values and values-based ethics in Army Reserve units.

(U) Conclusion. The Army Reserve is aggressively moving to correct faults in Law of Land Warfare and detainee handling training. Training initiatives were developed and implemented to better teach Soldiers, particularly MPs [Military Police], how unit mission relates to the principles of the Law of Land Warfare. The same model must be applied to other Combat Support and Combat Service Support units to ensure that all Soldiers understand the application of Law of Land Warfare training. Training should be integrated with different units, particularly, but not limited to, MP and MI [Military Intelligence] units. The training of future Army Reserve Force Packages in annual "Warrior Exercises" can be critical to accomplishing integration. Army Reserve Soldiers expressed strong feelings of individual ethics and the Army Values. Capitalizing on this with relevant training and dedicated leadership can only make the Army Reserve a better, stronger national asset.

(U) **OIG Assessment:** As indicated by its stated scope, the U.S. Army Reserve Command IG report is a comprehensive assessment only of the type, frequency, and adequacy of Reserve training on the Law of Land Warfare, Detainee Treatments Requirements, and Ethics and Leadership. It is not a comprehensive assessment of the causes or frequency of substantiated detainee abuse committed by Army Reserve Soldiers. While some statistics in the report may possibly be perceived as slightly skewed by the overwhelmingly higher proportion of MP soldiers and MP units surveyed compared to Military Intelligence personnel and other non-MP units, the report's overall methodology and findings appear to otherwise adequately support the root cause for the issues addressed.

Appendix H. Army Regulation 15-6 Investigation of the Abu Ghraib Prison and the 205th MI Bde (Fay Report; and/or Fay/Jones Report; and/or Kern Report) (U)

Investigating Officer: LTG Jones, Deputy Commanding General, U.S. Army Training and Doctrine Command and MG Fay, Assistant Deputy Chief of Staff Army G2
Appointing Authority: GEN Kern, Commander, U.S. Army Materiel Command
Date of Initiation: March 31, 2004
Date of Completion: August 6, 2004

(U) **Scope:** To investigate all relevant facts and circumstances surrounding alleged misconduct on the part of personnel assigned and/or attached to the 205th MI Bde from 15 Aug 03 to 1 Feb 04 at the Abu Ghraib Detention facility in Iraq.

(U) **Executive Summary Extract:**

(Part I MG Fay's unclassified version)

(2) (U) This investigation identified forty-four (44) alleged instances or events of detainee abuse committed by MP [Military Police] and MI [Military Intelligence] Soldiers, as well as civilian contractors. On sixteen (16) of these occasions, abuse by the MP Soldiers was, or was alleged to have been, requested, encouraged, condoned, or solicited by MI personnel. The abuse, however, was directed on an individual basis and never officially sanctioned or approved. MI solicitation of MP abuse included the use of isolation with sensory deprivation, the removal of clothing to humiliate, the use of dogs as an interrogation tool to induce fear, and physical abuse. In eleven (11) instances, MI personnel were found to be directly involved in the abuse. MI personnel were also found not to have fully comported with established interrogation procedures and applicable laws and regulations. Theater Interrogation and Counterresistance Policies (ICRP) were found to be poorly defined, and changed several times. As a result, interrogation activities sometimes crossed into abusive activity.

(3) (U) This investigation found that certain individuals committed offenses in violation of international and US law to include the Geneva Conventions and the UCMJ [Uniform Code of Military Justice] and violated Army Values. Leaders in key positions failed to properly

supervise the interrogation operations at Abu Ghraib and failed to understand the dynamics created at Abu Ghraib. Leaders also failed to react appropriately to those instances where detainee abuse was reported, either by other Service members, contractors, or by the International Committee of the Red Cross (ICRC).

(4) (U) Leader responsibility, command responsibility, and systemic problems and issues also contributed to the volatile environment in which the abuse occurred. These systemic problems included: inadequate interrogation doctrine and training, an acute shortage of MP and MI Soldiers, the lack of clear lines of responsibility between the MP and MI chains of command, the lack of a clear interrogation policy for the Iraq Campaign, and intense pressure felt by the personnel on the ground to produce actionable intelligence from detainees.

b. (U) Problems: Doctrine, Policy, Training, Organization, and Other Government Agencies.

(1) (U) Inadequacy of doctrine for detention operations and interrogation operations was a contributing factor to the situations that occurred at Abu Ghraib. The Army's capstone doctrine for the conduct of interrogation operations is Field Manual (FM) 34-52, Intelligence Interrogation, dated September 1992. Non-doctrinal approaches, techniques, and practices were developed and approved for use in Afghanistan and GTMO as part of the Global War on Terrorism (GWOT). These techniques, approaches, and practices became confused at Abu Ghraib and were implemented without proper authorities or safeguards. Soldiers were not trained in non-doctrinal interrogation techniques such as sleep adjustment, isolation, and the use of dogs. Many interrogators and personnel overseeing interrogation operations at Abu Ghraib had prior exposure to or experience in GTMO or Afghanistan. Concepts for the non-doctrinal, non field-manual approaches and practices came from documents and personnel in GTMO and Afghanistan. By October 2003, interrogation policy in Iraq had changed three times in less than thirty days and soldiers became very confused about what techniques could be employed and at what level non-doctrinal approaches had to be approved.

(2) (U) MP personnel and MI personnel operated under different and often incompatible rules for treatment of detainees. The military police referenced DoD-wide regulatory and procedural guidance that clashed with the theater interrogation and counterresistance policies that the military intelligence interrogators followed. Further, it appeared that neither group knew or understood the limits imposed by the other's regulatory or procedural guidance concerning the treatment of detainees, resulting in predictable tension and confusion. This confusion contributed to abusive interrogation practices at Abu Ghraib. Safeguards to ensure compliance and to protect against abuse also failed due to confusion about the policies and the leadership's failure to monitor operations adequately.

(4) (U) The term Other Government Agencies (OGA) most commonly referred to the Central Intelligence Agency (CIA). The CIA conducted

unilateral and joint interrogation operations at Abu Ghraib. The CIA's detention and interrogation practices contributed to a loss of accountability and abuse at Abu Ghraib. No memorandum of understanding existed on the subject interrogation operations between the CIA and CJTF-7, and local CIA officers convinced military leaders that they should be allowed to operate outside the established local rules and procedures. CIA detainees in Abu Ghraib, known locally as "Ghost Detainees," were not accounted for in the detention system. With these detainees unidentified or unaccounted for, detention operations at large were impacted because personnel at the operations level were uncertain how to report or classify detainees.

c. (U) Detainee Abuse at Abu Ghraib.

(1) (U) The physical and sexual abuses of detainees at Abu Ghraib were by far the most serious. The abuses spanned from direct physical assault, such as delivering head blows rendering detainees unconscious, to sexual posing and forced participation in group masturbation. At the extremes were the death of a detainee in OGA custody, an alleged rape committed by a US translator and observed by a female Soldier, and the alleged sexual assault of a female detainee. These abuses are, without question, criminal. They were perpetrated or witnessed by individuals or small groups. Such abuse can not be directly tied to a systemic US approach to torture or approved treatment of detainees. The MPs being prosecuted claim their actions came at the direction of MI. Although self-serving, these claims do have some basis in fact. The environment created at Abu Ghraib contributed to the occurrence of such abuse and it remained undiscovered by higher authority for a long period of time. What started as nakedness and humiliation, stress and physical training (exercise), carried over into sexual and physical assaults by a small group of morally corrupt and unsupervised Soldiers and civilians.

(2) (U) Abusing detainees with dogs started almost immediately after the dogs arrived at Abu Ghraib on 20 November 2003. By that date, abuses of detainees was already occurring and the addition of dogs was just one more device. Dog Teams were brought to Abu Ghraib as a result of recommendations from MG G. Miller's assessment team from GTMO. MG G. Miller recommended dogs as beneficial for detainee custody and control issues. Interrogations at Abu Ghraib, however, were influenced by several documents that spoke of exploiting the Arab fear of dogs. The use of dogs in interrogations to "fear up" detainees was utilized without proper authorization.

(3) (U) The use of nudity as an interrogation technique or incentive to maintain the cooperation of detainees was not a technique developed at Abu Ghraib, but rather a technique which was imported and can be traced through Afghanistan and GTMO. As interrogation operations in Iraq began to take form, it was often the same personnel who had operated and deployed in other theaters and in support of GWOT who were called upon to establish and conduct interrogation operations in Abu Ghraib. The lines of authority and the prior legal opinions blurred. They simply carried

forward the use of nudity into the Iraqi theater of operations. The use of clothing as an incentive (nudity) is significant in that it likely contributed to an escalating "de-humanization" of the detainees and set the stage for additional and more severe abuses to occur.

(4) (U) There was significant confusion by both MI and MPs between the definitions of "isolation" and "segregation." LTG Sanchez approved the extended use of isolation on several occasions, intending for the detainee to be kept apart, without communication with their fellow detainees. His intent appeared to be the segregation of specific detainees. The technique employed in several instances was not, however, segregation but rather isolation - the complete removal from outside contact other than required care and feeding by MP guards and interrogation by MI. Use of isolation rooms in the Abu Ghraib Hard Site was not closely controlled or monitored. Lacking proper training, clear guidance, or experience in this technique, both MP and MI stretched the bounds into further abuse; sensory deprivation and unsafe or unhealthy living conditions. Detainees were sometimes placed in excessively cold or hot cells with limited or poor ventilation and no light."

(Part II Extract from LTG Jones' Separate Classified Report)

c. (U) Abuse at Abu Ghraib

(1) (U) Clearly, abuses occurred at the prison at Abu Ghraib. For purposes of this report, I defined abuse as treatment of detainees that violated U.S. criminal law or international law or treatment that was inhumane or coercive without lawful justification. Whether the Soldier or contractor knew, at the time of the acts, that the conduct violated any law or standard is not an element of the definition. MG Fay's portion of this report describes the particular abuses in detail.

(2) (U) I found that no single, or simple, explanation exists for why some of the Abu Ghraib abuses occurred. For clarity of analysis, my assessment divides abuses at Abu Ghraib into two different types of improper conduct: First, intentional violent or sexual abuses and, second, actions taken based on misinterpretations of or confusion about law or policy.

(3) (U) Intentional violent or sexual abuses include acts causing bodily harm using unlawful force as well as sexual offenses including, but not limited to rape, sodomy and indecent assault. No Soldier or contractor believed that these abuses were permitted by any policy or guidance. If proven, these actions would be criminal acts. The primary causes of the violent and sexual abuses were relatively straightforward - individual criminal misconduct clearly in violation of law, policy, and doctrine and contrary to Army values.

(4) (U) Incidents in the second category resulted from misinterpretations of law or policy or resulted from confusion about what interrogation techniques were permitted. These latter abuses include some cases of clothing removal (without any touching) and some uses of dogs in interrogations (uses without physical contact or extreme fear). Some of these incidents may have violated international law. At the time the Soldiers or contractors committed the acts, however, some of them may have honestly believed the techniques were condoned.

d. (U) Major Findings

(1) (U) The chain of command directly above the 205th MI Brigade was not directly involved in the abuses at Abu Ghraib. However, policy memoranda promulgated by the CJTF-7 Commander led indirectly to some of the non-violent and non-sexual abuses. In addition, the CJTF-7 Commander and Deputy Commander failed to ensure proper staff oversight of detention and interrogation operations. Finally, CJTF-7 staff elements reacted inadequately to earlier indications and warnings that problems existed at Abu Ghraib. Command and staff actions and inaction must be understood in the context of the operational environment discussed above. In light of the operational environment, and CJTF-7 staff and subordinate unit's under-resourcing and increased missions, the CJTF-7 Commander had to prioritize efforts. CJTF-7 devoted its resources to fighting the counter-insurgency and supporting the CPA, thereby saving

Coalition and civilian Iraqi lives and assisting in the transition to Iraqi self-rule. I find that the CJTF-7 Commander and staff performed above expectations, in the over-all scheme of OIF.

(2) (U) Most, though not all, of the violent or sexual abuses occurred separately from scheduled interrogations and did not focus on persons held for intelligence purposes. No policy, directive or doctrine directly or indirectly caused violent or sexual abuse. Soldiers knew they were violating the approved techniques and procedures.

(3) (U) Confusion about what interrogation techniques were authorized resulted from the proliferation of guidance and information from other theaters of operation; individual interrogator experiences in other theaters; and the failure to distinguish between interrogation operations in other theaters and Iraq. This confusion contributed to the occurrence of some of the non-violent and non-sexual abuses.

(4) (U) MI and MP units also had missions throughout the Iraqi Theater of Operations (ITO), however, 205th MI Brigade and 800th Military Police Brigade leaders at Abu Ghraib failed to execute their assigned responsibilities. The leaders from these units located at Abu Ghraib or with supervision over Soldiers and units at Abu Ghraib, failed to supervise subordinates or provide direct oversight of this important mission. These leaders failed to properly discipline their Soldiers. These leaders failed to learn from prior mistakes and failed to provide continued mission-specific training. The 205th MI Brigade Commander did not assign a specific subordinate unit to be responsible for interrogations at Abu Ghraib and did not ensure that a Military Intelligence chain of command at Abu Ghraib was established. The absence of effective leadership was a factor in not sooner discovering and taking actions to prevent both the violent/sexual abuse incidents and the misinterpretation/confusion incidents.

(5) (U) Neither Defense nor Army doctrine caused any abuses. Abuses would not have occurred had doctrine been followed and mission training conducted. Nonetheless, certain facets of interrogation and detention operations doctrine need to be updated, refined or expanded, including the concept, organization, and operations of a Joint Interrogation and Debriefing Center (JIDC); guidance for interrogation techniques at both tactical and strategic levels; the roles, responsibilities and relationships between MP and MI personnel at detention facilities; and, the establishment and organization of a Joint Task Force (JTF) structure and, in particular, its intelligence architecture.

(6) (U) No single or simple theory can explain why some of the abuses at Abu Ghraib occurred. In addition to individual criminal propensities, leadership failures, and multiple policies, many other factors contributed to the abuses occurring at Abu Ghraib, including: safety and security conditions at Abu Ghraib; multiple agencies/organizations involvement in interrogation operations at Abu Ghraib; failure to effectively screen, certify, and then integrate contractor interrogators/analysts/linguists; lack of a clear understanding of MP and MI roles and responsibilities in

interrogation operations; and dysfunctional command relationships at brigade and higher echelons, including the tactical control relationship between the 800th MP Brigade and CJTF-7.

(8) (U) Working alongside non-DoD organizations/agencies in detention facilities proved complex and demanding. The perception that non-DoD agencies had different rules regarding interrogation and detention operations was evident. Interrogation and detention policies and limits of authority should apply equally to all agencies in the Iraqi Theater of Operations.

(9) (U) Leaders and Soldiers throughout Operation Iraqi Freedom were confronted with a complex and dangerous operational environment. Although a clear breakdown in discipline and leadership, the events at Abu Ghraib should not blind us from the noble conduct of the vast majority of our Soldiers. We are a values based profession in which the clear majority of our Soldiers and leaders take great pride.

(U) OIG Assessment: The Fay report is a very detailed and exhaustive review of the allegations of misconduct by personnel assigned to the 205th MI Bde at the Abu Ghraib Detention facility in Iraq. MG Fay identified several issues that were determined to be outside the scope of his report. One issue dealt with other government agency involvement with detainees and prisoners. A second issue referred to the accounts by a Colonel (U.S. Army retired) who deployed to Iraq at the request of CJTF-7 and the U.S. Army G2 to provide feedback on the overall HUMINT process in the Iraq Theater of Operations. The Colonel became aware of allegations of detainee abuse and summarized his allegations in his after-action report following his return from Iraq. This information was eventually passed to the Church Team. The Fay report acknowledged severe shortages in personnel, training and resource issues which were beyond the control of the 205th MI Brigade's ability to overcome. The report ultimately assigned primary responsibility to the Brigade Commander under the auspices of leadership failure, while acknowledging the CJTF-7 Commander and Deputy Commander failed to ensure proper oversight of detention and interrogation operations.

Appendix I. Treatment of Enemy Combatants Detained at Naval Station Guantanamo Bay, Cuba, and Naval Consolidated Brig Charleston (First Navy IG Review; and/or Church: GITMO and Charleston Report) (U)

Note: This initial Navy IG review preceded the subsequent full Church review which began May 25, 2004.

Investigating Officer: Vice Admiral Church, Navy Inspector General
Appointing Authority: Secretary of Defense
Date of Initiation: May 3, 2004
Date of Completion: May 11, 2004

(U) **Scope:** "...ensure DoD orders concerning proper treatment of enemy combatants detained by the Department at Guantanamo Bay, Cuba and Naval Consolidated Brig Charleston are followed ... immediately review the relevant practices at such locations and...brief findings to SECDEF by May 10, 2004."

(U) **Executive Summary Extract:**

Given the short suspense of one week, a briefing was presented to the Secretary of Defense on 8 May 2004 in lieu of a more formal written report. The essence of those briefing slides provided a "snapshot of current existing conditions." The slides also reported that the review uncovered, "No evidence or suspicion of serious or systemic problems." Additionally, while humane treatment of detainees was assessed as, "Appears to be in Compliance," ... a number of possible "infractions" were described which seemed to indicate a potential pattern of a somewhat lesser degree of compliance than otherwise indicated or assumed. The briefing slides stated however, "All incidents documented during review were reported to SOUTHCOM [U.S. Southern Command] and resulted in timely action."

(U) **OIG Assessment:** The one week assessment necessitated a cursory review rather than a more thorough investigation of the assigned scope. The resulting May 8, 2004, out-brief to Secretary of Defense stated the findings were therefore "not based on 100 percent compliance" and provided a "snapshot of current existing conditions." Consequently, the review uncovered no evidence or suspicion of serious or systemic problems. Additionally, while humane treatment of detainees was assessed as "in

compliance," a number of possible infractions were also described. Those infractions seemed to indicate a lesser degree of compliance than was otherwise indicated or assumed. The briefing stated that all incidents documented during the review were reported to U.S. Southern Command and resulted in timely action; however, the review did not specify what actions, or whether any action included investigating allegations of possible detainee abuse.

Appendix J. Schlesinger: Final Report of the Independent Panel to Review DoD Detention Operations (Schlesinger Report) (U)

Investigating Officer: Schlesinger Panel
Appointing Authority: Secretary of Defense
Date of Initiation: May 12, 2004
Date of Completion: Aug 24, 2004

(U) **Scope:**

- To review all previous DoD investigations and reports.
- Provide advice on highlighting issues most important for SECDEF attention and correction.
- Provide views on the causes and contributing factors to problems in detainee operations and corrective measures required.

(U) **Executive Summary Extract:**

OVERVIEW (U)

(U) The events of October through December 2003 on the night shift of Tier 1 at Abu Ghraib Prison were acts of brutality and purposeless sadism. We now know these abuses occurred at the hands of both military police and military intelligence personnel. The pictured abuses, unacceptable even in wartime, were not part of authorized interrogations nor were they even directed at intelligence targets. They represent deviant behavior and a failure of military leadership and discipline. However, we do know that some of the egregious abuses at Abu Ghraib which were not photographed did occur during interrogation sessions and that abuses during interrogation sessions occurred elsewhere.

ABUSES (U)

(U) As of the date of this report, there were about 300 incidents of alleged detainee abuse across the Joint Operations Areas. Of the 155 completed investigations, 66 resulted in a determination that detainees under the control of U.S. forces were abused. Dozens of non-judicial punishments have already been awarded. Others are in various stages of the military justice process.

(U) Of the 66 already substantiated cases of abuse, eight occurred at Guantanamo, three in Afghanistan and 55 in Iraq. Only about one-third were related to interrogation, and two-thirds to other causes. There were five cases of detainee deaths as a result of abuse by U.S. personnel during interrogations. Many more died from natural causes and enemy mortar attacks. There are 23 cases of detainee deaths still under investigation: three in Afghanistan

and 20 in Iraq. Twenty-eight of the abuse cases are alleged to include Special Operations Forces (SOF) and, of the 15 SOF cases that have been closed, 10 were determined to be unsubstantiated and 5 resulted in disciplinary action. The Jacoby review of SOF detention operations found a range of abuses and causes similar in scope and magnitude to those found among conventional forces.

(U) Concerning the abuses at Abu Ghraib, the impact was magnified by the fact the shocking photographs were aired throughout the world in April 2004. Although U.S. Central Command had publicly addressed the abuses in a press release in January 2004, the photographs remained within the official criminal investigative process. Consequently, the highest levels of command and leadership in the Department of Defense were not adequately informed nor prepared to respond to the Congress and the American public when copies were released by the press.

CONCLUSION (U)

(U) The vast majority of detainees in Guantanamo, Afghanistan and Iraq were treated appropriately, and the great bulk of detention operations were conducted in compliance with U.S. policy and directives. They yielded significant amounts of actionable intelligence for dealing with the insurgency in Iraq and strategic intelligence of value in the Global War on Terror. For example, much of the information in the recently released 9/11 Commission's report, on the planning and execution of the attacks on the World Trade Center and Pentagon, came from interrogation of detainees at Guantanamo and elsewhere.

(U) OIG Assessment: Similarly to the Church Report, the Schlesinger Panel's report was a broad overview of detainee and detention operations along a timeline which denoted major actions taken up to August 2004. The report stated, "There is both institutional and personal responsibility at higher levels." However, the panel's overall recommendations did not specify where and to whom such culpability should be assigned for follow–up investigation. While the finding provided a useful historical perspective, it lacked sufficient detail to pinpoint the root causes and effects. Recommendation 14 acknowledged this gap and suggested that the report's recommendations and all other assessments on detention operations should be studied further. Most notably, detention and interrogation operations, including personnel and leadership resourcing, common doctrine, and skill certification training, were not fully addressed.

Appendix K. Combined Joint Special Operations Task Force (CJSOTF) Abuse (Formica Report) (U)

Investigating Officer: BG Formica, Commander, III Corps Artillery
Appointing Authority: LTG Sanchez, Commander, CJTF-7
Date of Initiation: May 15, 2004
Date of Completion: November 13, 2004

(U) **Scope:**

- Determine command and control for detainee operations within JSOTF-AP and 5th SF Group.
- Investigate specific allegations of detainee abuse within CJSOTF-AP and 5th SF Group.
- Inform LTG Sanchez if other specific incidents of abuse within CJSOTF-AP were discovered, and investigate them.
- Determine whether CJSOTF-AP was in compliance with regulatory and policy guidance established for detainee operations within Iraq.

(U) ~~(S/NF)~~ **Executive Summary Extract:**

MAJOR FINDINGS

(U) 1. ~~(S/NF)~~ CJSOTF-AP units are conducting operations that result in the killing or capturing of known AIF [Anti-Iraqi Forces]. They have detained and interrogated AIF consistent with their mission and CJTF-7 policy as capturing units. Based upon available data, the vast majority of CJSOTF-AP detainees were transferred to a conventional unit's custody coincident to or immediately following capture. Length of detention within CJSOTF-AP facilities was generally not an issue.

(U) 2. ~~(S/NF)~~ CJSOTF-AP (10th SF GP) operated six (6) tactical interrogation facilities: one at their headquarters at Radwaniya Palace Complex (RPC) in Baghdad; one each with NSWTD [Naval Special Warfare Task Detachment]-N and NSWTD-W (Mosul and Al Asad); and three at ODA [Operational Detachment Alpha] safe houses (Adamiya Palace in Baghdad, Tikrit, and Samarra). These were not internment facilities, i.e. facilities intended for long-term detention, but rather temporary facilities to elicit tactical intelligence coincident to capture. These facilities at least met the minimum standards for tactical interrogation facilities, except as noted below. Only the RPC facility remains in operation at this time.

(U) 3. ~~(S/NF)~~ NSWTUs [Naval Special Warfare Task Units] and ODAs are specially trained teams that are organized, trained, and resourced to conduct direct action missions in support of tactical operations. They have seasoned,

experienced personnel who are trained in conducting battlefield questioning coincident to capture. Some personnel received additional training in interrogations prior to deployment. There is a valid requirement for immediate tactical intelligence derived from temporary detention by capturing units. However, without augmentation, CJSOTF-AP units do not have the facilities or resources to conduct such operations, except for short periods of time (i.e. 24-48 hours) coincident to capture.

4. (U) The specific allegations of egregious physical abuse by indigenous personnel working with US forces or in conjunction with US forces are not substantiated by the evidence.

(U) 5. ~~(S/NF)~~ Some detainees were held for periods of time in small (20" wide x 4' high x 4' deep) cells at ODA 065. As a technique for setting favorable conditions for interrogation, guards banged on the doors of the cells and played loud music to keep detainees awake and prevent them from communicating with one another. Two detainees claimed to have been held in these cells for five to seven days. ODA personnel stated it was not for more than 72 consecutive hours. I found an instance in which one detainee was held naked in this manner for uncertain periods of time.

(U) 6. ~~(S/NF)~~ Some detainees, including [redacted] and [redacted] were fed primarily a diet of bread and water at ODA 554. There is evidence that this diet may have been supplemented by some ODA team members. ODA 554 could not specifically recall to what extent this occurred in each case. One detainee may have been fed just bread and water for 17 days.

(U) 7. ~~(S/NF)~~ CJSOTF-AP (10th SF GP) units employed five (5) interrogation techniques that were no longer authorized by CJTF-7 policy, including Sleep Management, Stress Positions, Dietary Manipulation, Environmental Manipulation, and Yelling / Loud Music.

(U) 8. ~~(S/NF)~~ As a general rule, CJSOTF-AP employed assigned personnel to conduct interrogations. In most cases, CJSOTF-AP used their targeting warrant officers (180A) and/or their intelligence NCO [Non Commissioned Officer] (18F).

9. (U) During the course of this investigation, I received information about seven (7) previously investigated incidents of alleged detainee mistreatment that potentially involved CJSOTF-AP units. As part of my general assessment of CJSOTF-AP detention and interrogation operations, I reviewed and considered these investigations and summarize them in PART II, SECTION FOUR. Of the seven, one was found not to involve CJSOTF-AP personnel; two were unfounded; two were founded; and two remain under investigation.

RECOMMENDATIONS (U)

(U) 1. ~~(S/NF)~~ CJSOTF-AP, 10th and 5th SF GP commands should be provided a copy of this report and cautioned to ensure greater oversight of their subordinate units' detention / interrogation operations. CJSOTF-AP should respond by

b(6)

endorsement upon implementation of appropriate corrective action consistent with this report.

(U) 2. ~~(S/NF)~~ The evidence does not support imposing adverse action against any CJSOTF-AP personnel in connection with the allegations that are the subject of this investigation. However, all CJSOTF-AP personnel, especially ODA 554 and ODA 065, should receive mandatory corrective training and education in the principles of the Geneva Conventions relating to the treatment of detainees, specifically including adequate diet, sufficiently comfortable quarters, and the provision of adequate clothing.

3. (U) Ensure dissemination of MNF-I [Multi National Forces-Iraq]/ MNC-I [Multi National Corps-Iraq] policies to CJSOTF-AP and provide oversight of compliance.

(U) 4. ~~(S/NF)~~ CJSOTF-AP should publish policy guidance that:

- (U) Clarifies authorized interrogation techniques;
- (U) ~~(S/NF)~~ Differentiates between tactical questioning and interrogation - NSWTDs and ODAs authorized to conduct tactical questioning unless specifically trained and / or augmented with trained interrogators;
- (U) ~~(S/NF)~~ Authorizes subordinate NSWTDs and ODAs to detain as capturing units with the explicit, documented approval of an LTC (0-5) or above and, then only long enough to get detainees to RPC or another suitable CF detention facility, i.e. 24-48 hours;

(U) ~~(S/NF)~~ Establishes SOP for conduct of detention and interrogation operations and ensures periodic review for compliance with current MNF / MNC-I policies;

(U) ~~(S)~~ Ensures all Special Operations Forces (SOF) personnel are trained on the SOP and implementing procedures.

5. (U) MNF-I should establish policy guidance that delineates minimum standards for detention facilities, including capturing unit operations, to include:

- Adequate, environmentally controlled holding areas in a secure, guarded facility;
- Adequate bedding (blanket or mat) and clothing;
- Adequate food and water (type and quantity; three meals a day);
- Documented, systematic medical screenings at every level of detention;
- Formalized accountability process at every level.

6. (U) MNF-I policy should ensure that the accountability process requires annotation of dates of capture, transfers between units, medical screenings, and detainee locations starting at the capturing unit level and through each transfer. Results of this process should be maintained in a permanent file that travels with the detainee and copies should be retained by the units involved at each stage in the process.

7. (U) While the specific allegations of abuse are not substantiated by the evidence, these circumstances raise the issue of how indigenous personnel are employed to conduct or participate in Coalition detention operations or interrogations.

(U) 8. ~~(S/NF)~~ [redacted]"

(U) ~~(S/NF)~~ [redacted]

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Appendix L. Detention Operations and Facilities in Afghanistan (Jacoby Report) (U)

Investigating Officer: BG Jacoby, Deputy Commanding General CJTF-76
Appointing Authority: MG Eric Olson, Commanding General, CJTF-76
Date of Initiation: May 18, 2004
Date of Completion: June 26, 2004

(U) **Scope:**

- Conduct "top-to-bottom review" of all detainee operations across the CFC-A CJOA (Afghanistan), to ensure compliance with current operational guidance and Army regulations for detention and safeguarding of detainees.

- "…ascertain the standard of treatment provided to persons detained by US forces throughout the detention process from apprehension to release or long-term confinement."

- Focus Areas: "C2" [Command and Control]
  - "medical treatment provided to detainees"
  - "collection area procedures"
  - "Soldier special instructions and general orders"
  - "compliance with international humanitarian law as it applies to this conflict." {War on Terrorism}

- Review and assess:
  - Requests for Forces (RFF)
  - Request for training
  - Technology support
  - Facility upgrades

(U) **Executive Summary Extract:**

3. (U) While there was a near universal understanding in CJTF-76 that humane treatment was the standard by which detainees would be treated, guard awareness and application of standard operating procedures (SOP) was lacking. Comprehensive SOP do exist in theater, but dissemination, implementation, and a corresponding appreciation for assigned responsibilities were inconsistent across the AO [Area of Operations]. Failure to establish and enforce standards throughout the detention process creates friction on the process, which increases risk of detainee abuse and frustrates effective collection and dissemination of intelligence and information. A lack of focused training for Soldiers responsible for both handling and collecting intelligence and information also increases the risk of potential abuse.

6. (U) Conditions--within a month of the Transfer of Authority (TOA) between the outgoing 10th Mountain Division and the incoming 25th Infantry Division (Light), allegations of detainee abuse surfaced in Iraq. Amidst concerns about the scope of these issues, this inspection was initiated within a command actively engaged in major combat operations and extensive civil-military operations. Approximately one-third of the bases visited as part of this inspection were established within the past three months or were under construction. All had either recently conducted a relief in place (RIP) or were in the process of a RIP. This same period also witnessed an on-going shift in operational focus from active counter-terrorism operations to complex counter-insurgency and stability operations."

(U) OIG Assessment: The review was limited to inspecting detainee operations in Afghanistan and did not assess factors which may have influenced detainee interrogation operations. However, the report notes that, "Of special interest in this inspection was the humane treatment of detainees." Despite this acknowledgement, there is no indication that the Jacoby team pursued any specific allegations of detainee abuse.

Appendix M. Review of DoD Detention Operations and Detainee Interrogation Techniques (Church Report) (U)

Investigating Officer: VADM Church, Navy Inspector General
Appointing Authority: Secretary of Defense
Date of Initiation: May 25, 2004
Date of Completion: March 7, 2005

(U) **Scope:**

- Identify and report, "on all DoD interrogation techniques, including those considered, authorized, prohibited and employed, identified with, or related to the following operations: GTMO from the inception of detainee operations; Operation Enduring Freedom; Operation Iraqi Freedom; Joint Special Operations in the U.S. Central Command Area of Responsibility; the Iraqi Survey Group."
- "...monitor all reviews and investigations, completed and on-going, relating to the Department's involvement in detention operations, and to report any gaps among these reviews and investigations."
- Inquire into any DoD support to or participation in non-DoD entity interrogation techniques.

(U) **Executive Summary Extract:**

(U) Interrogation is constrained by legal limits. Interrogators are bound by U.S. laws, including U.S. treaty obligations, and Executive (including DoD) policy - all of which are intended to ensure the humane treatment of detainees. The vast majority of detainees held by U.S. forces during the Global War on Terror have been treated humanely. However, as of September 30, 2004, DoD investigators had substantiated 71 cases of detainee abuse, including six deaths. Of note, only 20 of the closed, substantiated abuse cases – less than a third of the total - could in any way be considered related to interrogation, using broad criteria that encompassed any type of questioning (including questioning by non-military-intelligence personnel at the point of capture), or any presence of military-intelligence interrogators. Another 130 cases remained open as of September 30, 2004, with investigations ongoing.

(U) The events at Abu Ghraib have become synonymous with the topic of detainee abuse. We did not directly investigate those events, which have been comprehensively examined by other officials and are the subject of ongoing investigations to determine criminal culpability. Instead, we considered the findings, conclusions and recommendations of previous Abu Ghraib investigations as we examined the larger context of interrogation policy

development and implementation in the Global War on Terror. In accordance with our direction from the Secretary of Defense, our investigation focused principally on: (a) the development of approved interrogation policy (specifically, lists of authorized interrogation techniques), (b) the actual employment of interrogation techniques, and (c) what role, if any, these played in the aforementioned detainee abuses. In addition, we investigated DoD's use of civilian contractors in interrogation operations, DoD support to or participation in the interrogation activities of Other Government Agencies (OGAs), and medical issues relating to interrogations. Finally, we summarized and analyzed detention-related reports and working papers submitted to DoD by the International Committee of the Red Cross (ICRC). Our primary observations and findings on these issues are set forth below.

Interrogation Policy Development (U)

(U) Overview

(U) An early focus of our investigation was to determine whether DoD had promulgated interrogation policies or guidance that directed, sanctioned or encouraged the abuse of detainees. We found that this was not the case. While no universally accepted definitions of "torture" or "abuse" exist, the theme that runs throughout the Geneva Conventions, international law, and U.S. military doctrine is that detainees must be treated "humanely." Moreover, the President, in his February 7, 2002, memorandum that determined that al Qaeda and the Taliban are not entitled to EPW [Enemy Prisoner of War] protections under the Geneva Conventions, reiterated the standard of "humane" treatment. We found, without exception, that the DoD officials and senior military commanders responsible for the formulation of interrogation policy evidenced the intent to treat detainees humanely, which is fundamentally inconsistent with the notion that such officials or commanders ever accepted that detainee abuse would be permissible. Even in the absence of a precise definition of "humane" treatment, it is clear that none of the pictured abuses at Abu Ghraib bear any resemblance to approved policies at any level, in any theater. We note, therefore, that our conclusion is consistent with the findings of the Independent Panel, which in its August 2004 report determined that "[n]o approved procedures called for or allowed the kinds of abuse that in fact occurred. There is no evidence of a policy of abuse promulgated by senior officials or military authorities."

(U) Nevertheless, with the clarity of hindsight we consider it a missed opportunity that no specific guidance on interrogation techniques was provided to the commanders responsible for Afghanistan and Iraq, as it was to the U.S. Southern Command (SOUTHCOM) for use at Guantanamo Bay. As the Independent Panel noted, "[w]e cannot be sure how the number and severity of abuses would have been curtailed had there been early and consistent guidance from higher levels."

(U) Another missed opportunity that we identified in the policy development process is that we found no evidence that specific detention or interrogation lessons learned from previous conflicts (such as those from the Balkans, or

even those from earlier conflicts such as Vietnam) were incorporated into planning for operations in support of the Global War on Terror.

Interrogation Techniques Actually Employed by Interrogators (U)

(U) Guantanamo Bay, Cuba

(U) In GTMO, we found that from the beginning of interrogation operations to the present, interrogation policies were effectively disseminated and interrogators closely adhered to the policies, with minor exceptions. Some of these exceptions arose because interrogation policy did not always list every conceivable technique that an interrogator might use, and interrogators often employed techniques that were not specifically identified by policy but nevertheless arguably fell within the parameters of FM 34-52.

(U) Finally, we determined that during the course of interrogation operations at GTMO, the Secretary of Defense approved specific interrogation plans for two "high-value" detainees who had resisted interrogation for many months, and who were believed to possess actionable intelligence that could be used to prevent attacks against the United States. Both plans employed several of the counter-resistance techniques found in the December 2, 2002, GTMO policy, and both successfully neutralized the two detainees' resistance training and yielded valuable intelligence. We note, however, that these interrogations were sufficiently aggressive that they highlighted the difficult question of precisely defining the boundaries of humane treatment of detainees.

(U) Afghanistan and Iraq

(U) Our findings in Afghanistan and Iraq stand in contrast to our findings in GTMO. Dissemination of interrogation policy was generally poor, and interrogators fell back on their training and experience, often relying on a broad interpretation of FM 34-52. In Iraq, we also found generally poor unit-level compliance with approved policy memoranda even when those units were aware of the relevant memoranda. However, in both Afghanistan and Iraq, there was significant overlap between the techniques contained in approved policy memoranda and the techniques that interrogators employed based solely on their training and experience.

(U) While these problems of policy dissemination and compliance were certainly cause for concern, we found that they did not lead to the employment of illegal or abusive interrogation techniques. According to our investigation, interrogators clearly understood that abusive practices and techniques - such as physical assault, sexual humiliation, terrorizing detainees with unmuzzled dogs, or threats of torture or death - were at all times prohibited, regardless of whether the interrogators were aware of the latest policy memorandum promulgated by higher headquarters.

(U) Nevertheless, as previously stated, we consider it a missed opportunity that interrogation policy was never issued to the CJTF commanders in Afghanistan or Iraq, as was done for GTMO. Had this occurred, interrogation policy could have benefited from additional expertise and oversight. In Iraq,

by the time the first CJTF-7 interrogation policy was issued in September 2003, two different policies had been thoroughly debated and promulgated for GTMO, and detention and interrogation operations had been conducted in Afghanistan for nearly two years.

Detainee Abuse (U)

(U) Overview

(U) We examined the 187 DoD investigations of alleged detainee abuse that had been closed as of September 30, 2004. Of these investigations, 71 (or 38%) had resulted in a finding of substantiated detainee abuse, including six cases involving detainee deaths. Eight of the 71 cases occurred at GTMO, all of which were relatively minor in their physical nature, although two of these involved unauthorized, sexually suggestive behavior by interrogators, which raises problematic issues concerning cultural and religious sensitivities. (As described below, we judged that one other substantiated incident at GTMO was inappropriate but did not constitute abuse. This incident was discarded from our statistical analysis, as reflected in the chart below.) Three of the cases, including one death case, were from Afghanistan, while the remaining 60 cases, including five death cases, occurred in Iraq. Additionally, 130 cases remained open, with investigations ongoing. Finally, our investigation indicated that commanders are making vigorous efforts to investigate every allegation of abuse - regardless of whether the allegations are made by DoD personnel, civilian contractors, detainees, the International Committee of the Red Cross, the local populace, or any other source.

(U) We also reviewed a July 14, 2004, letter from an FBI official notifying the Army Provost Marshal General of several instances of "aggressive interrogation techniques" reportedly witnessed by FBI personnel at GTMO in October 2002. One of these was already the subject of a criminal investigation, which remains open. The U.S. Southern Command and the current Naval Inspector General are now reviewing all of the FBI documents released to the American Civil Liberties Union (ACLU) - which, other than the letter noted above, were not known to DoD authorities until the ACLU published them in December 2004 - to determine whether they bring to light any abuse allegations that have not yet been investigated.

(U) Underlying Reasons for Abuse

(U) If approved interrogation policy did not cause detainee abuse, the question remains, what did? While we cannot offer a definitive answer, we studied the DoD investigation reports for all 70 cases of closed, substantiated detainee abuse to see if we could detect any patterns or underlying explanations. Our analysis of these 70 cases showed that they involved abuses perpetrated by a variety of active duty, reserve, and National Guard personnel from three Services on different dates and in different locations throughout Afghanistan and Iraq, as well as a small number of cases at GTMO. While this diversity argues against a single, overarching reason for abuse, we did identify several factors that may help explain why the abuse occurred.

(U) Second, there was a failure to react to early warning signs of abuse. Though we cannot provide details in this unclassified executive summary, it is clear that such warning signs were present - particularly at Abu Ghraib - in the form of communiqués to local commanders, that should have prompted those commanders to put in place more specific procedures and direct guidance to prevent further abuse. Instead, these warning signs were not given sufficient attention at the unit level, nor were they relayed to the responsible CJTF commanders in a timely manner.

(U) Finally, a breakdown of good order and discipline in some units could account for other incidents of abuse. This breakdown implies a failure of unit-level leadership to recognize the inherent potential for abuse due to individual misconduct, to detect and mitigate the enormous stress on our troops involved in detention and interrogation operations, and a corresponding failure to provide the requisite oversight.

Use of Contract Personnel in Interrogation Operations (U)

(U) Overall, we found that contractors made a significant contribution to U.S. intelligence efforts. . . not withstanding the highly publicized involvement of some contractors in abuse at Abu Ghraib, we found very few instances of abuse involving contractors.

DoD Support to Other Government Agencies (U)

(U) DoD personnel frequently worked together with OGAs to support their common intelligence collection mission in the Global War on Terror, a cooperation encouraged by DoD leadership early in Operation ENDURING FREEDOM. In support of OGA detention and interrogation operations, DoD provided assistance that included detainee transfers, logistical functions, sharing of intelligence gleaned from DoD interrogations, and oversight and support of OGA interrogations at DoD facilities. However, we were unable to locate formal interagency procedures that codified the support roles and processes.

(U) In OEF [Operation Enduring Freedom] and OIF [Operation Iraqi Freedom], senior military commanders were issued guidance that required notification to the Secretary of Defense prior to the transfer of detainees to or from other federal agencies. This administrative transfer guidance was followed, with the notable exception of occasions when DoD temporarily held detainees for the CIA – including the detainee known as "Triple-X" – without properly registering them and providing notification to the International Committee of the Red Cross. This practice of holding "ghost detainees" for the CIA was guided by oral, *ad hoc* agreements and was the result, in part, of the lack of any specific, coordinated interagency guidance. Our review indicated, however, that this procedure was limited in scope. To the best of our knowledge, there were approximately 30 "ghost detainees," as compared to a total of over 50,000 detainees in the course of the Global War on Terror. The practice of DoD holding "ghost detainees" has now ceased.

(U) Aside from the general requirement to treat detainees humanely, we found no specific DoD-wide direction governing the conduct of OGA interrogations in DoD interrogation facilities. In response to questions and interviews for our report, however, senior officials expressed clear expectations that DoD-authorized interrogation policies would be followed during any interrogation conducted in a DoD facility. For example, the Joint Staff J-2 stated that "[o]ur understanding is that any representative of any other governmental agency, including CIA, if conducting interrogations, debriefings, or interviews at a DoD facility must abide by all DoD guidelines." On many occasions, DoD and OGA personnel did conduct joint interrogations at DoD facilities using DoD authorized interrogation techniques. However, our interviews with DoD personnel assigned to various detention facilities throughout Afghanistan and Iraq demonstrated that they did not have a uniform understanding of what rules governed the involvement of OGAs in the interrogation of DoD detainees. Such uncertainty could create confusion regarding the permissibility and limits of various interrogation techniques. We therefore recommend the establishment and wide promulgation of interagency policies governing the involvement of Other Government Agencies in the interrogation of DoD detainees.

CONCLUSION (U)

(U) Human intelligence, in general, and interrogation, in particular, is an indispensable component of the Global War on Terror. The need for intelligence in the post-9/11 world and our enemy's ability to resist interrogation have caused our senior policy makers and military commanders to reevaluate traditional U.S. interrogation methods and search for new and more effective interrogation techniques. According to our investigation, this search has always been conducted within the confines of our armed forces' obligation to treat detainees humanely. In addition, our analysis of 70 substantiated detainee abuse cases found that no approved interrogation techniques caused these criminal abuses; however, two specific interrogation plans approved for use at Guantanamo did highlight the difficulty of precisely defining the boundaries of humane treatment."

(U) OIG Assessment: The Church Report largely declared that all DoD areas of concern regarding detention operations were being addressed "adequately and expeditiously." However, subsequent information and other reports demonstrated a seeming disconnect between policy for local techniques, tactics, and procedures, and leadership and command oversight of how actual, suspected, and reported incidents of detainee abuse were investigated for resolution. The Church Report did not explain if, how, or to what extent, detainee abuse practices infiltrated, and from what source, throughout U.S. Central Command's detention and interrogation operations. Although the Church review lacked the statutory authority normally associated with an issue of this magnitude, it nonetheless served as a basis for several other investigations, assessments, and reviews.

(U) Notably, the report provided a holistic, positive, yet somewhat indirect approach to DoD interrogation techniques and operations. However, it lacked clear and explicit individual findings and specific recommendations. This

lack highlighted the need for more information in several areas, including separate assessments of possible detainee abuse involving Guantanamo, Afghanistan, Iraq, Special Operations, and the Iraq Survey Group. Also, the report did not perform an in-depth review of special operations forces and protected units, although a classified attachment to the base report included some special mission unit interrogation practices. However, the Church team did attempt to determine whether responsible parties conducted any investigations, and if so, whether they reported results. For example, the classified portion dealing with special mission units assessed nonjudicial punishment under AR 15-6 and compared the consistency and equitableness of punishments throughout the theater. As appropriate, the overall report also sought to assess when and whether nonjudicial reviews were passed to criminal investigators.

Appendix N. U.S. Army Surgeon General Assessment of Detainee Medical Operations for OEF, GTMO, and OIF (Kiley Report) (U)

Investigating Officer: MG Martinez-Lopez, Commander, U.S. Army Medical Research and Materiel Command
Appointing Authority: LTG Kiley, US Army Surgeon General
Date of Initiation: November 12, 2004
Date of Completion: April 13, 2005

(U) **Scope:**

To assess detainee medical operations in OEF [Operation Enduring Freedom], GTMO [Guantanamo], and OIF [Operation Iraqi Freedom], (primarily via a 14-question assessment survey), that focused on:

- detainee medical policies and procedures
- medical records management
- the incidence and reporting of alleged detainee abuse by medical personnel
- training of medical personnel for the detainee health care mission

(U) **Executive Summary Extract:**

(U) **Methods**

(U) The team interviewed medical personnel in maneuver, combat support, and combat service support units in 22 states and 5 countries. The interviewees were preparing to deploy (future), had previously deployed (past), or were currently deployed (present) to OEF, GTMO, or OIF; they included AC [Active Component] and RC (U.S. Army Reserve (USAR) and National Guard (NG)) personnel. For the current interviews, the Team visited the detention medical facilities at Bagram, Afghanistan and Guantanamo Bay, Cuba, and in Iraq, the Team met with the Commander, Task Force (TF) 134 (TF responsible for detainee operations), and interviewed medical personnel supporting detainee operations at Abu Ghraib, Camp Danger, Camp Liberty and Camp Bucca. In Kuwait, the Team met with the Combined Forces Land Component Command (CFLCC) Deputy Commander and Chief of Staff, as well as the CFLCC Surgeon, to gain a perspective on the planning factors for detainee medical operations. For the past and future interviews, the Team traveled to units in 22 states and Germany. A leadership perspective on the issue of detainee medical operations was gained through interviews with medical personnel from command and control elements at corps, theater, and level I, II and III medical units. For training interviews, the Team visited faculty and students of training programs at the Army Medical Department Center and School (AMEDDC&S), and trainers at the Military Intelligence (MI) School, National Training Center (NTC), Joint Readiness Training

Center (JRTC), Continental U.S. Replacement Centers (CRC), and 12 Power Projection Platform (PPP) sites. Additionally, lesson plans and other training materials were reviewed at these training sites.

(U) Policy and Guidance

(U) Theater-Level Policy and Guidance. In reviewing policy and guidance, including Operation Orders (OPORDERs), Fragmentary Orders (FRAGOs), and Standing Operating Procedures (SOPs), OEF theater-specific detainee medical policies were found dating back to 2004; 47% of past and 60% of present OEF interviewees were aware of the policies. GTMO had well-defined detainee medical policies that have been in place since 2003; 100% of the interviewed personnel were aware of the policies. For OIF, there was no evidence of specific theater-level policies for detainee medical operations until 2004. Only 56% of past OIF interviewees were aware of policies in theater, whereas 88% of current OIF interviewees were aware of policies in theater. This improvement is attributed to the superlative efforts of TF134, combined with the introduction of one field hospital for level III+ detainee health care management across the theater.

(U) Standard of Care. In the early stage of OIF, there was confusion among some medical personnel, both leaders and subordinates, regarding the required standard of care for detainees. Medical personnel were unsure if the standard of care for detainees was the same as that for U.S./Coalition Forces in theater, or if it was the standard of care available in the Iraqi health care system. This confusion may be explained by the use of different classifications for detained personnel (Enemy Prisoner of War (EPW), detainees, Retained Personnel (RP), Civilian Internees (CI)) that, under Department of Defense (DoD) and Department of the Army (DA) guidance, receive different levels of care. Theater-level guidance was not provided in a timely manner to early-deploying medical units or personnel, and in the absence of guidance many units developed their own policies. As the OIF theater matured and roles and responsibilities were clarified, theater-level policy was developed and promulgated, resolving the early confusion.

(U) Recommendations. Although not required by law, DA guidance (DoD level is preferable) should standardize detainee medical operations for all theaters, should clearly establish that all detained individuals are treated to the same care standards as U.S. patients in the theater of operation, and require that all medical personnel are trained on this policy and evaluated for competency.

(U) Medical Records

(U) Medical Records Training. Medical records management was a primary area of focus for this assessment. When asking past/present/future personnel from OEF, GTMO, and OIF about their training in detainee medical records management, 4% of AC and 6% of RC interviewees received Military Occupational Specialty (MOS) or other school training.

(U) Medical Records Generation. There was wide variability in medical records generation at level I and II facilities. In some cases, no records were generated. In others, detainee care was documented in a log book for statistical purposes and unit reports. In other cases, care was documented on Field Medical Cards (FMCs) (Department of Defense Form 1380 (DD1380)) only.

(U) Access to and Security of Detainee Medical Records at Detention Medical Facilities. The Team was asked to address access to, and security of, detainee medical records at detention medical facilities. In general, the medical records for detainees were managed the same as records for the AC. The security of records and confidentiality of medical information tended to be better at detention facilities that were co-located with medical facilities. Security and confidentiality also generally improved as an individual theater matured.

(U) Medical Screening, Medical Care, and Medical Documentation Associated with Interrogation. There are inconsistencies in the guidance for pre- and post-interrogation screening. Medical care, including screenings, at or near the time of interrogation, was neither consistently documented nor consistently included in detainee medical records. Some medical personnel were unclear whether interrogations could be continued if a detainee required medical care during the interrogation.

(U) Recommendations. DA [Department of the Army] guidance (DoD level is preferable) should require that detainee medical records at facilities delivering level III and higher care be generated in the same manner as records of U.S. patients in theater. Guidance should address the appropriate location and duration of maintenance as well as the final disposition of detainee medical records at facilities that deliver level III or higher care. Most importantly, guidance is needed to define the appropriate generation, maintenance, storage, and final disposition of detainee medical records at units that deliver level I and II care.

(U) Reporting of Detainee Abuse

(U) Abuse Reporting Training. The Team found that 16% of AC and 15% of RC interviewees (past/present/future OEF/GTMO/OIF combined) received MOS or other school training about reporting possible detainee abuse.

(U) Abuse Reporting Policies. Unit policies, SOPs and Tactics, Techniques, and Procedures (TTPs) were most often either absent or not properly disseminated to deployed medical personnel. The Team found no DoD, Army, or theater policies requiring that actual or suspected abuse be documented in a detainee's medical records; however, theater-level guidance specifically requiring medical personnel to report detainee abuse was implemented just within the past year.

(U) Observing and Reporting Suspected Detainee Abuse. The personnel interviewed during this assessment were vigilant in reporting actual or suspected detainee abuse to their medical supervisor, chain of command, or

CIO. Only 5% of interviewees directly observed suspected abuse and only 5% had a detainee report abuse to them. Previously deployed interviewees reported the suspected abuse 91% of the time when the suspected abuse was alleged by a detainee and 80% if they directly observed suspected detainee abuse. For those interviewees presently deployed, 25% had a detainee report alleged abuse and 3% directly observed suspected abuse. All presently deployed interviewees reported the alleged or suspected abuse. Only two medical personnel failed to properly report actual or suspected detainee abuse that had not previously been conveyed to an appropriate authority. The Team referred these cases to the CID.

(U) Recommendations.

(U) Medical. At all levels of professional training, medical personnel should receive instruction on the requirement to detect, document and report actual or suspected detainee abuse.

(U) DoD-Wide. Medical planners at all levels should ensure clearly written standardized guidance is provided to all medical personnel. This guidance should list possible indicators of abuse and contain concise instruction documentation and procedure for reporting actual or suspected abuse.

(U) Other Issues

(U) OIF Theater Preparation for Detainee Care. In planning for detainee medical operations, there were limited assets allocated to provide support for detainee/EPW medical care. Recommend the AMEOO establish an experienced subject-matter expert team to comprehensively define the personnel, equipment, and supplies needed to support detainee medical operations, and develop a method to ensure a flexible delivery system for these special resources.

(U) Medical Screening and Sick Call at the Division Internment Facilities (DIF) and Prisons. The Team found that detainees have excellent access to daily sick call, outpatient, and inpatient medical care at the DIFs and Prisons. Recommend DA guidance (DoD level is preferable) require initial medical screening examinations shortly after arriving at the detention facility.

(U) Restraints/Security. The use of physical restraints for detainees varied widely within and among all interviewed units. The Team found no evidence that medical personnel used medications to restrain detainees. Interviewees reported medical personnel were tasked to perform a variety of detainee security roles. [a]s medical personnel were tasked to provide security support, it impacted on the ability of the medical unit to provide care to all patients, including U.S. Soldiers. Recommend DA (DoD level is preferable) standardize the use of restraints for detainees in units delivering medical care. The guidance should contain clear rules for security-based restraint versus medically-based restraints. Medical personnel should not be encumbered with duties related to security of detainees.

(U) Medical Personnel Interactions with Interrogators. DA guidance (DoD level is preferable) should prohibit all medical personnel from active participation in interrogations. This includes medical personnel with specialized language skills serving as translators. Empower medical personnel to halt interrogations when a necessary examination or treatment is required.

(U) Medical Personnel Photographing Detainees. DA guidance (DoD level is preferable) should authorize photographing detainee patients for the exclusive purpose of including these photos in medical records. Informed consent should not be required to use photographs in this manner (consistent with AR 40-66). Additionally, photographs of detainees taken by medical personnel for other reasons, including future educational material, research, or unit logs, should require a detainee's informed consent.

(U) Behavioral Science Consultation Teams (BSCT). There is no doctrine or policy that defines the role of behavioral science personnel in support of interrogation activities. DoD should develop well-defined doctrine and policy for the use of BSCT personnel. A training program for BSCT personnel should be implemented to address the specific duties. The Team recommends that more senior psychologists should serve in this type of position. There is no requirement or need for physicians/psychiatrists to function in this capacity.

(U) Stress on Medical Personnel Providing Detainee Medical Care. Recommend the U.S. Army Medical Command (MEDCOM) establish an experienced SME team comprised of a psychiatrist, a psychologist, chaplain, and clinical representation from all levels of care, to comprehensively define the training requirements for medical personnel in their pre-deployment preparation. Other initiatives include revising combat stress control doctrine to effectively deliver support to medical personnel in theater, develop an effective system to regularly monitor post deployment stress, and refine leadership competencies to assess, monitor and identify coping strategies of medical personnel in a warfare environment.

(U) Interviewee Training Requests. The Team asked interviewees the following question: "If you were responsible for the training of medical personnel prior to deployment, what aspects of training would you focus on with regard to detainee care?" Many interviewees noted that current training in this area was not sufficient.

(U) OIG Assessment: Although the assessment discussed the reporting of detainee abuse, it did not conclusively determine whether deployed medical personnel may have directly participated in or otherwise aided others in the commission of any reported or suspected case of possible detainee abuse. The report did not adequately indicate whether field medical commanders personally initiated any internal, unit-level investigations of any allegation that medical personnel may have participated in, directly or indirectly.

Appendix O. Army Regulation 15-6 Investigation into FBI Allegations of Detainee Abuse at Guantanamo Bay, Cuba Detention Facility (Furlow/Schmidt Report) (U)

Investigating Officers: BG Furlow, United States Army South Deputy Commander for Support and LTG Schmidt, United States Southern Command Air Forces Commander
Appointing Authority: GEN Craddock, Commander, USSOUTHCOM
Date of Initiation: December 29, 2004 *(note: LTG Schmidt assigned lead on February 28, 2005)*
Date of Completion: April 1, 2005

(U) **Scope:** In response to FBI agent allegations regarding possible detainee abuse at Guantanamo, the Army Regulation 15-6 was directed to address eight allegations of abuse:

- That military interrogators improperly used military working dogs during interrogation sessions to threaten detainees, or for some other purpose.
- That military interrogators improperly used duct tape to cover a detainee's mouth and head.
- That DoD interrogators improperly impersonated FBI agents and Department of State officers during the interrogation of detainees.
- That, on several occasions, DoD interrogators improperly played loud music and yelled loudly at detainees.
- That military personnel improperly interfered with FBI interrogators in the performance of their FBI duties.
- That military interrogators improperly used sleep deprivation against detainees.
- That military interrogators improperly chained detainees and placed them in a fetal position on the floor, and denied them food and water for long periods of time.
- That military interrogators improperly used heat and cold during their interrogation of detainees.

(U) Executive Summary Extract:

(U) Detention and Interrogation operations at GTMO cover a 3-year period and over 24,000 interrogations. This AR 15-6 investigation found only three interrogations acts to be conducted in violation of existing interrogation techniques authorized by Army Field Manual 34-52 and the existing DoD guidance. The AR 15 -6 also found the failure to monitor the cumulative impact of the authorized interrogations of one high value detainee resulted in abusive and degrading treatment. Finally, the AR 15-6 investigation found that the communication of a threat to another high value detainee was in violation of SECDEF guidance and the UCMJ. We found no evidence of torture."

(U) OIG Assessment: Although the report covered approximately 3 years at Guantanamo (2001-2004), the scope of the investigation was limited to allegations from the Federal Bureau of Investigation. This report also relied heavily on the Church Report's findings to establish when key policy decisions and changes in interrogation procedures occurred. The report stated, "Our independently derived findings regarding the development and adjustments to policy and interrogation techniques are identical to the Church report." Also, the report did not summarize or submit as a complete exhibit the Federal Bureau of Investigation's own internal investigation and findings.

Appendix P. Matrix of Detainee Investigations and Evaluations (U)

(U) **Purpose:** In May 2004, following the media release of photos showing abuses of prisoners and detainees of the DoD controlled Abu Ghraib Prison Facility, the DoD IG established a reporting requirement for the various Military Criminal Investigative Organizations and other agencies reporting allegations of detainee and prisoner abuse. The statistics from this reporting are presented in matrix format for the leadership and depicts the status of all open and closed investigative activities regarding reported allegations of detainee and prisoner abuse. The statistics provide a single-source database of reported detainee abuse activities and could be used for trend analysis.

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Monthly DoD IG Overview of Investigations/Evaluations

Current as of 2/27/2006

TYPE	DoD JOINT/COCOM Ongoing/Closed	ARMY Ongoing/Closed	NAVY Ongoing/Closed	MARINES Ongoing/Closed	AIR FORCE Ongoing/Closed	TOTAL (Ongoing/Closed)
Preliminary Inquiries	0[1]/7	0[2]/11	0/0	13/111	0/0	142 13/119
Criminal Investigations	3[3]/1	152/462	10/23[4]	0/0	2/3	653 164/489
Non-Criminal Investigations	0[5]/4	28[6]/0	0/0	0[7]/10	0/0	42 28/14
Inspections/ Reviews	1[8]/2	0[9]/2	0/0[10]	0/0	0/0	5 1/4
Total	15 *1/14*	655 180/475	33 10/23	134 13/121	5 2/3	842 206/636

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[1] SOUTHCOM denotes previous SOUTHCOM reporting
[2] Army IG – Senior Official Inquiries
[3] DIA initiated a criminal investigation on April 5, 2005
[4] NCIS detainee abuse cases - ongoing.
[5] BG Formica, 3 Corps, AR 15-6 into detainee completed; MG Fay CJTF-7 directed AR 15-6 – completed; MG Taguba AR 15-6 completed; BG Furlow, 15-6 JTF GITMO completed.
[6] Non-criminal command investigations (15-6) – ongoing; no further status.
[7] Marine IG reporting Command JAG non-criminal cases - ongoing.
[8] DoDIG Oversight of investigations and inspections DoD-wide - ongoing; VADM Church Interrogation Special Focus Group -complete; Honorable James R. Schlesinger Independent Panel to Review DoD Detention Operations - complete.
[9] Army IG review of detainee procedures (Report published 21 Jul) and Reserve IG assessment of training - completed.
[10] Navy review conducted at Guantanamo Bay by VADM Church - completed.

Appendix Q. Detainee Senior Leadership Oversight Committee (U)

Background (U)

(U) In November 2004, the Deputy Assistant Secretary of Defense for Detainee Affairs and the Joint Staff J-5 Deputy Director, War on Terrorism established the Detainee Senior Leadership Oversight Council (DSLOC) within the Office of the Secretary of Defense. DSLOC members include representatives from the Office of the Secretary of Defense, the Deputy Under Secretary of Defense for Intelligence, the Joint Staff, the Services, and the Combatant Commands. The DSLOC is chaired by the Vice Director, Joint Staff. A DoD Inspector General representative attends the DSLOC meetings in an observation role. Working in concert with the DoD Detainee Task Force, which provides daily oversight of detainee issues, the DSLOC meets quarterly to review and monitor the status of 492 recommendations and actions resulting from the 13 senior-level reports. These meetings provide attendees with the opportunity to brief others on the status of each plan for implementing the separate recommendations made by the reports.

Purpose (U)

(U) The primary purpose of the DSLOC is to consolidate and evaluate each of the 492 recommendations and assign an office of primary responsibility to track the implementation status of each recommendation.

(U) OIG Observation #1. The DSLOC has evaluated, assigned for action, and tracked the implementation and adjudication status of 492 recommendations as of March 2006. The recommendations include quality of life issues; infrastructure and communication requirements; medical records; incident reporting processes; and policy, doctrine and training, in an effort to systematically improve the overall conduct and management of detention and interrogation operations. The DSLOC process for assigning office of primary responsibility and tracking the implementation status of each recommendation is very effective. As a result, the DSLOC is able to consolidate key resources to support successful management and oversight. By requiring periodic updates and meeting quarterly, the DSLOC systematically tracks the implementation status of the individual recommendations.

(U) OIG Suggestion. We suggest that the Office of the Secretary of Defense continue to resource the DSLOC quarterly meetings and work with the Detainee Task Force until DoD management officials satisfactorily implement or adjudicate each recommendation. The DSLOC should report its results to the Office of the Secretary of Defense detailing the actions taken to implement

or otherwise resolve each individual recommendation. To sustain the long-term effectiveness of each recommendation, each Service Secretary, Combatant Commander, and agency Inspector General should initiate followup inspections and evaluations of actions taken to implement those recommendations.

(U) **OIG Observation #2.** Attendance at the DSLOC quarterly meeting is disappointing. Although Office of the Secretary of Defense and Joint Staff policy action officers and legal advisors are well represented, Service and Combatant Command Inspectors General, as well as representatives of the Joint and interagency intelligence community and other agencies, usually do not attend.

(U) Suggestion. The DSLCOC could increase attendance at the quarterly meetings by formally inviting the Inspectors General of the Services and Combatant Commands. The Inspectors General can assist offices of primary responsibility in preparing and reviewing DSLOC input. The Inspectors General could also use Command annual inspection programs to sustain implementation and to advise commanders of future areas of concern, as necessary. Additionally, the DSLOC could encourage more senior-level officials from the DoD intelligence community, the Department of Justice, and the Department of State to improve interagency coordination and information-sharing by formally inviting them to DSLOC meetings, where they could brief council members on the implementation status of recommendations within their areas of responsibility. The Army G2 could also encourage senior Army intelligence staff to attend quarterly DSLOC meetings and to brief other attendees on key military intelligence issues, such as interrogations.

(U) **Conclusion.** The DoD Inspector General commends the overall work of the DSLOC leadership and membership as highly exemplary. Bringing order and efficiency to widely disparate DoD offices, organizations, and issues, the DSLOC initiatives are an outstanding example of a well managed and professional program to provide senior-level DoD officials with the information they need on detainee abuse. The DSLOC ability to identify and leverage primary offices of responsibility in implementing and monitoring each recommendation is a mammoth task that has led to the successful resolution of many of the 492 recommendations. As of March 2006, 421 recommendations were closed and 71 recommendations remain open.

Appendix R. Case Study: Reporting and Investigating (U)

Part I (U)

(U) This case study illustrates the difficulty that can occur in reporting and investigating allegations of detainee abuse in a command environment with multiple organizations and differing reporting chains of command.

(U) A senior DoD civilian from a Defense agency who served in a management position within the former Iraq Survey Group, henceforth referred to as "Mr. Q," reported poor living conditions and made early allegations of detainee mistreatment. Specifically, Mr. Q said that other members of his organization reported to him that certain detainees delivered to the Joint Interrogation and Debriefing Center located at Camp Cropper showed signs of possible physical abuse. Believing that capturing units might be responsible for these actions, Mr. Q informed his immediate supervisors, his unit commander, and his agency Inspector General verbally and via e-mail. The capturing units were not in the Iraq Survey Group or Defense agency chain of command. Mr. Q departed theater shortly thereafter without the issue being resolved. Subsequently, the Iraq Survey Group Commander verbally raised the issue of possible detainee abuse with the U.S. Central Command Chief of Staff and to the Commander of the capturing unit that the allegations of abuse were directed toward. However, Mr. Q's specific allegation dealing with detainee mistreatment was seemingly overshadowed and the command initially focused only on the issue of poor living conditions. In response to a DoD Inspector General questionnaire, the former U.S. Central Command Chief of Staff discussed his conversation with the Iraq Survey Group Commander and wrote, "I took his concern more from the "physical plant" stand-point and the access of intelligence agency personal *(sic)* to these detainees – I did not take his comments as allegations of abuse by personnel at Camp Cropper." Consequently, U.S. Central Command took no initial action (i.e. formal inquiry or investigation) concerning the allegation of possible detainee abuse at that time.

(U) Approximately 5 months later, a retired U.S. Army Colonel, ("the Colonel"), visited Iraq at the request of Combined Joint Task Force-7 (CJTF- 7) and the U.S. Army Deputy Chief of Staff for Intelligence to provide feedback on the overall HUMINT process in the Iraq Theater of Operations, to include, "…advice concerning in-country detainee operations and interrogations." Informed of the Colonel's pending trip, Mr. Q forwarded the Colonel a summary of his previously submitted allegations and asked the Colonel to follow up on them during his visit to Iraq if possible.

(U) Upon completing his mission in Iraq and prior to departing, the Colonel verbally out-briefed his observations to the CJTF-7 senior intelligence officer

(C2) in December 2003. He also provided a copy of a memorandum for record that detailed the essence of Mr. Q's original allegations.

(U) Based on the memorandum for the record detailing Mr. Q's allegation, the CJTF-7 C2 then briefed the CJTF-7 Staff Judge Advocate and showed the information provided by the Colonel. The Staff Judge Advocate concurred that the matter should be presented to the CJTF-7 Commander and accompanied the CJTF-7 C2 to visit the CJTF-7 Commander the following day. The CJTF-7 C2 later related that the Staff Judge Advocate took over from that point and that the CJTF-7 Commander directed that an investigation be conducted.

(U) In January 2004, the Deputy Commanding General, Combined joint Task Force-7, appointed an officer from the III Corps G2 to conduct the AR 15-6 investigation. About 7 months had elapsed from Mr. Q's initial notification of the allegations until an AR 15-6 investigation was finally conducted. Not surprising during this confused and extremely high operational tempo period, the quality and availability of possible evidence, the accessibility of alleged victims, and witness recollections all eroded. Consequently, the investigating officer's actions were significantly constrained and the accuracy and effectiveness of the resulting report less than optimal. A III Corps Staff Judge Advocate memo to the Colonel dated April 7, 2004, detailing the investigator's findings specifically concluded, "For whatever reason, perhaps because her conversations with people took place almost four months after yours and a full eight months after the events should have been first reported, people did not remember events with the same clarity and sincerity with which they obviously recounted to you."

Part 2 (U)

(U) Returning to the case study, Mr. Q's original complaint in June 2003 was parsed into two distinct elements as it moved up the chain of command. The first element, quality of life, concentrated on the physical care, housing, and the conditions under which detainees lived. The second element focused on direct allegations of detainee abuse. However, despite the Iraq Survey Group Commander's personal briefing of Mr. Q's complaint, only detainee physical care and housing later emerged as an immediate action item. The Iraq Survey Group Commander also personally informed the Special Operations Task Force Commander of the allegations of detainee abuse and received the Special Operations Task Force Commander's assurance that an investigation would look into the allegations. However, our evaluation determined that there are no written results or indication that an investigation occurred. Meanwhile, a local subordinate commander of the local 800th MP Brigade oversaw physical improvements of living conditions at the temporary Camp Cropper facility.

(U) The III Corps G2 officer that was finally appointed as an AR 15-6 investigating officer focused primarily on the quality of life conditions described in the appointing letter. Remarkably, the substantive allegations of

possible detainee abuse were not addressed as the report moved through III Corps. Consequently:

- The AR 15-6 investigating officer failed to properly investigate the allegations of detainee abuse, but also investigated the wrong camp location. Specifically, the AR 15-6 officer's report focused on the former Joint Interrogation and Debriefing Center located at Camp Cropper, which had been closed before the AR 15-6 investigation.
- Assuming that the quality of life issue was now moot, the AR 15-6 officer closed the investigation without:
    - addressing the actual allegations of detainee abuse, or
    - pursuing contact with the original complainant.

(U) The investigating officer's failure to interview Mr. Q as the original source of the complaint greatly exasperated the case's misdirection. Likewise, the investigating officer was not aware of the Colonel's own observations and information. Regardless, III Corps accepted the investigating officer's final report as complete. Only when the results of the investigation were later sent to the complainants (the Colonel and Mr. Q) was the officer's report seriously questioned.

Summary (U)

(U) The case study aptly demonstrates some of the obvious difficulties encountered by those who sought to report allegations of possible detainee abuse. As discussed in this case study and the report findings, problems occurred in identifying the proper command element in the various operational control and administrative control relationships resulting from differences in the multiple component and task organized structures. Unity of command difficulties involved multiple players including initially V Corps, then III Corps, coalition partners, and various task forces including Commander, Joint Special Operations Task Force, CJTF-7, the Iraq Survey Group, and its assorted force providers such as the DIA and Other Government Agencies (i.e. the Central Intelligence Agency and the Federal Bureau of Investigation). The presence of multiple headquarters operating within the same theater of operations created numerous management and oversight problems in deciphering procedures and policy guidance.

(U) When allegations of abuse randomly flow up and across command channels without commanders flagging those issues for action, the result is sometimes lack of official documentation, miscommunication of key issues, and misdirection of proper response. Consequently, commanders, other official reporting channels, and investigating elements remain unaware of the actual frequency of occurrence and severity of allegations of detainee abuse. As the case study highlights, untimely and inconsistent reporting hinders expeditious decision-making and creates unnecessary obstacles to solving the problem.

Appendix S. Secretary of Defense Memorandum, April 16, 2003

~~SECRET//NOFORN~~

THE SECRETARY OF DEFENSE
1000 DEFENSE PENTAGON
WASHINGTON, DC 20301-1000

UNCLASSIFIED

APR 16 2003

MEMORANDUM FOR THE COMMANDER, US SOUTHERN COMMAND

SUBJECT: Counter-Resistance Techniques in the War on Terrorism (S)

U ~~(S//NF)~~ I have considered the report of the Working Group that I directed be established on January 15, 2003.

U ~~(S//NF)~~ I approve the use of specified counter-resistance techniques, subject to the following:

(U) a. The techniques I authorize are those lettered A-X, set out at Tab A.

(U) b. These techniques must be used with all the safeguards described at Tab B.

U ~~(S)~~ c. Use of these techniques is limited to interrogations of unlawful combatants held at Guantanamo Bay, Cuba.

U ~~(S)~~ d. Prior to the use of these techniques, the Chairman of the Working Group on Detainee Interrogations in the Global War on Terrorism must brief you and your staff.

U ~~(S//NF)~~ I reiterate that US Armed Forces shall continue to treat detainees humanely and, to the extent appropriate and consistent with military necessity, in a manner consistent with the principles of the Geneva Conventions. In addition, if you intend to use techniques B, I, O, or X, you must specifically determine that military necessity requires its use and notify me in advance.

U ~~(S//NF)~~ If, in your view, you require additional interrogation techniques for a particular detainee, you should provide me, via the Chairman of the Joint Chiefs of Staff, a written request describing the proposed technique, recommended safeguards, and the rationale for applying it with an identified detainee.

U ~~(S)~~ Nothing in this memorandum in any way restricts your existing authority to maintain good order and discipline among detainees.

Attachments:
As stated

NOT RELEASABLE TO FOREIGN NATIONALS

Classified By: Secretary of Defense
Reason: 1.5(a)
Declassify On: 2 April 2013

~~SECRET//NOFORN~~

X01310 /03

UNCLASSIFIED

~~UNCLASSIFIED~~

TAB A

INTERROGATION TECHNIQUES

U (S/~~NF~~) The use of techniques A - X is subject to the general safeguards as provided below as well as specific implementation guidelines to be provided by the appropriate authority. Specific implementation guidance with respect to techniques A - Q is provided in Army Field Manual 34-52. Further implementation guidance with respect to techniques R - X will need to be developed by the appropriate authority.

U (S/~~NF~~) Of the techniques set forth below, the policy aspects of certain techniques should be considered to the extent those policy aspects reflect the views of other major U.S. partner nations. Where applicable, the description of the technique is annotated to include a summary of the policy issues that should be considered before application of the technique.

A. U (S/~~NF~~) Direct: Asking straightforward questions.

B. U (S/~~NF~~) Incentive/Removal of Incentive: Providing a reward or removing a privilege, above and beyond those that are required by the Geneva Convention, from detainees. [Caution: Other nations that believe that detainees are entitled to POW protections may consider that provision and retention of religious items (e.g., the Koran) are protected under international law (see. Geneva III, Article 34). Although the provisions of the Geneva Convention are not applicable to the interrogation of unlawful combatants, consideration should be given to these views prior to application of the technique.]

C. U (S/~~NF~~) Emotional Love: Playing on the love a detainee has for an individual or group.

D. U (S/~~NF~~) Emotional Hate: Playing on the hatred a detainee has for an individual or group.

E. U (S/~~NF~~) Fear Up Harsh: Significantly increasing the fear level in a detainee.

F. U (S/~~NF~~) Fear Up Mild: Moderately increasing the fear level in a detainee.

G. U (S/~~NF~~) Reduced Fear: Reducing the fear level in a detainee.

H. U (S/~~NF~~) Pride and Ego Up: Boosting the ego of a detainee.

Classified By:	Secretary of Defense
Reason:	1.5(a)
Declassify On:	2 April 2013

NOT RELEASABLE TO FOREIGN NATIONALS

~~UNCLASSIFIED~~

Tab A

~~UNCLASSIFIED~~

I. (U) Pride and Ego Down: Attacking or insulting the ego of a detainee, not beyond the limits that would apply to a POW. [Caution: Article 17 of Geneva III provides, "Prisoners of war who refuse to answer may not be threatened, insulted, or exposed to any unpleasant or disadvantageous treatment of any kind." Other nations that believe that detainees are entitled to POW protections may consider this technique inconsistent with the provisions of Geneva. Although the provisions of Geneva are not applicable to the interrogation of unlawful combatants, consideration should be given to these views prior to application of the technique.]

J. (U) Futility: Invoking the feeling of futility of a detainee.

K. (U) We Know All: Convincing the detainee that the interrogator knows the answer to questions he asks the detainee.

L. (U) Establish Your Identity: Convincing the detainee that the interrogator has mistaken the detainee for someone else.

M. (U) Repetition Approach: Continuously repeating the same question to the detainee within interrogation periods of normal duration.

N. (U) File and Dossier: Convincing detainee that the interrogator has a damning and inaccurate file, which must be fixed.

O. (U) Mutt and Jeff: A team consisting of a friendly and harsh interrogator. The harsh interrogator might employ the Pride and Ego Down technique. [Caution: Other nations that believe that POW protections apply to detainees may view this technique as inconsistent with Geneva III, Article 13 which provides that POWs must be protected against acts of intimidation. Although the provisions of Geneva are not applicable to the interrogation of unlawful combatants, consideration should be given to these views prior to application of the technique.]

P. (U) Rapid Fire: Questioning in rapid succession without allowing detainee to answer.

Q. (U) Silence: Staring at the detainee to encourage discomfort.

R. (U) Change of Scenery Up: Removing the detainee from the standard interrogation setting (generally to a location more pleasant, but no worse).

S. (U) Change of Scenery Down: Removing the detainee from the standard interrogation setting and placing him in a setting that may be less comfortable; would not constitute a substantial change in environmental quality.

T. (U) Dietary Manipulation: Changing the diet of a detainee; no intended deprivation of food or water; no adverse medical or cultural effect and without intent to deprive subject of food or water, e.g., hot rations to MREs.

~~UNCLASSIFIED~~

Tab A

UNCLASSIFIED

U. (S/NF) Environmental Manipulation: Altering the environment to create moderate discomfort (e.g., adjusting temperature or introducing an unpleasant smell). Conditions would not be such that they would injure the detainee. Detainee would be accompanied by interrogator at all times. [Caution: Based on court cases in other countries, some nations may view application of this technique in certain circumstances to be inhumane. Consideration of these views should be given prior to use of this technique.]

V. (S/NF) Sleep Adjustment: Adjusting the sleeping times of the detainee (e.g., reversing sleep cycles from night to day.) This technique is NOT sleep deprivation.

W. (S/NF) False Flag: Convincing the detainee that individuals from a country other than the United States are interrogating him.

X. (S/NF) Isolation: Isolating the detainee from other detainees while still complying with basic standards of treatment. [Caution: The use of isolation as an interrogation technique requires detailed implementation instructions, including specific guidelines regarding the length of isolation, medical and psychological review, and approval for extensions of the length of isolation by the appropriate level in the chain of command. This technique is not known to have been generally used for interrogation purposes for longer than 30 days. Those nations that believe detainees are subject to POW protections may view use of this technique as inconsistent with the requirements of Geneva III, Article 13 which provides that POWs must be protected against acts of intimidation; Article 14 which provides that POWs are entitled to respect for their person; Article 34 which prohibits coercion and Article 126 which ensures access and basic standards of treatment. Although the provisions of Geneva are not applicable to the interrogation of unlawful combatants, consideration should be given to these views prior to application of the technique.]

UNCLASSIFIED

Tab A

UNCLASSIFIED

TAB B

GENERAL SAFEGUARDS

(S~~//NF~~) Application of these interrogation techniques is subject to the following general safeguards: (i) limited to use only at strategic interrogation facilities; (ii) there is a good basis to believe that the detainee possesses critical intelligence; (iii) the detainee is medically and operationally evaluated as suitable (considering all techniques to be used in combination); (iv) interrogators are specifically trained for the technique(s); (v) a specific interrogation plan (including reasonable safeguards, limits on duration, intervals between applications, termination criteria and the presence or availability of qualified medical personnel) has been developed; (vi) there is appropriate supervision; and, (vii) there is appropriate specified senior approval for use with any specific detainee (after considering the foregoing and receiving legal advice).

(U) The purpose of all interviews and interrogations is to get the most information from a detainee with the least intrusive method, always applied in a humane and lawful manner with sufficient oversight by trained investigators or interrogators. Operating instructions must be developed based on command policies to insure uniform, careful, and safe application of any interrogations of detainees.

(S~~//NF~~) Interrogations must always be planned, deliberate actions that take into account numerous, often interlocking factors such as a detainee's current and past performance in both detention and interrogation, a detainee's emotional and physical strengths and weaknesses, an assessment of possible approaches that may work on a certain detainee in an effort to gain the trust of the detainee, strengths and weaknesses of interrogators, and augmentation by other personnel for a certain detainee based on other factors.

(S~~//NF~~) Interrogation approaches are designed to manipulate the detainee's emotions and weaknesses to gain his willing cooperation. Interrogation operations are never conducted in a vacuum; they are conducted in close cooperation with the units detaining the individuals. The policies established by the detaining units that pertain to searching, silencing, and segregating also play a role in the interrogation of a detainee. Detainee interrogation involves developing a plan tailored to an individual and approved by senior interrogators. Strict adherence to policies/standard operating procedures governing the administration of interrogation techniques and oversight is essential.

Classified By: Secretary of Defense
Reason: 1.5(a)
Declassify On: 2 April 2013

NOT RELEASABLE TO FOREIGN NATIONALS

UNCLASSIFIED

Tab B

~~UNCLASSIFIED~~

~~(S//NF)~~ It is important that interrogators be provided reasonable latitude to vary techniques depending on the detainee's culture, strengths, weaknesses, environment, extent of training in resistance techniques as well as the urgency of obtaining information that the detainee is known to have.

~~(S//NF)~~ While techniques are considered individually within this analysis, it must be understood that in practice, techniques are usually used in combination; the cumulative effect of all techniques to be employed must be considered before any decisions are made regarding approval for particular situations. The title of a particular technique is not always fully descriptive of a particular technique. With respect to the employment of any techniques involving physical contact, stress or that could produce physical pain or harm, a detailed explanation of that technique must be provided to the decision authority prior to any decision.

~~UNCLASSIFIED~~

Tab B

Appendix T. Deputy Secretary of Defense, Memorandum, December 30, 2005 (U)

DEPUTY SECRETARY OF DEFENSE
1010 DEFENSE PENTAGON
WASHINGTON, DC 20301-1010

DEC 30 2005

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS
CHAIRMAN OF THE JOINT CHIEFS OF STAFF
UNDER SECRETARIES OF DEFENSE
COMMANDERS OF THE COMBATANT COMMANDS
DIRECTORS OF THE DEFENSE AGENCIES
DIRECTORS OF THE DOD FIELD ACTIVITIES

SUBJECT: Interrogation and Treatment of Detainees by the Department of Defense

The following provision appears in the Defense Appropriations Act, 2006 (§ 1402):

> No person in the custody or under the effective control of the Department of Defense or under detention in a Department of Defense facility shall be subject to any treatment or technique of interrogation not authorized by and listed in the United States Army Field Manual on Intelligence Interrogation.

Pursuant to the above, effective immediately, and until further notice, no person in the custody or under the effective control of the Department of Defense or under detention in a Department of Defense facility shall be subject to any treatment or interrogation approach or technique that is not authorized by and listed in United States Army Field Manual 34-52, "Intelligence Interrogation," September 28, 1992. Department of Defense Directive 3115.09, "DoD Intelligence Interrogations, Detainee Debriefings and Tactical Questioning," November 3, 2005, remains in effect.

This guidance does not apply to any person in the custody or under the effective control of the Department of Defense pursuant to a criminal law or immigration law of the United States.

The President's February 7, 2002 direction that all persons detained by the U.S. Armed Forces in the War on Terrorism shall be treated humanely remains in effect. Consistent with the President's guidance, DoD shall continue to ensure that no person in the custody or under the control of the Department of Defense, regardless of nationality or physical location, shall be subject to cruel, inhuman, or degrading treatment or punishment.

Gordon England
ACTING

Appendix U. Counter-Resistance Techniques December 2, 2002 (U)

UNCLASSIFIED

GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE
1600 DEFENSE PENTAGON
WASHINGTON, D.C. 20301-1600

2002 DEC -2 AM 11:03

OFFICE OF THE SECRETARY OF DEFENSE

ACTION MEMO

November 27, 2002 (1:00 PM)

DEPSEC_____

FOR: SECRETARY OF DEFENSE

FROM: William J. Haynes II, General Counsel

SUBJECT: Counter-Resistance Techniques

- The Commander of USSOUTHCOM has forwarded a request by the Commander of Joint Task Force 170 (now JTF GTMO) for approval of counter-resistance techniques to aid in the interrogation of detainees at Guantanamo Bay (Tab A).
- The request contains three categories of counter-resistance techniques, with the first category the least aggressive and the third category the most aggressive (Tab B).
- I have discussed this with the Deputy, Doug Feith and General Myers. I believe that all join in my recommendation that, as a matter of policy, you authorize the Commander of USSOUTHCOM to employ, in his discretion, only Categories I and II and the fourth technique listed in Category III ("Use of mild, non-injurious physical contact such as grabbing, poking in the chest with the finger, and light pushing").
- While all Category III techniques may be legally available, we believe that, as a matter of policy, a blanket approval of Category III techniques is not warranted at this time. Our Armed Forces are trained to a standard of interrogation that reflects a tradition of restraint.

RECOMMENDATION: That SECDEF approve the USSOUTHCOM Commander's use of these counter-resistance techniques listed in Categories I and II and the fourth technique listed in Category III during the interrogation of detainees at Guantanamo Bay.

SECDEF DECISION

Approved DR Disapproved _____ Other _____

However, I spread for 8-10 hours A day. Why is standard limited to 4 hours?

D.R. DEC 0 2 2002

Attachments
As stated

cc: CJCS, USD(P)

UNCLASSIFIED

OCT. 11. 2002 SJA UNCLASSIFIED NO. 225 P. 3 NO. 075 P. 4

DEPARTMENT OF DEFENSE
JOINT TASK FORCE 170
GUANTANAMO BAY, CUBA
APO AE 09360

JTF-J2

11 October 2002

MEMORANDUM FOR Commander, Joint Task Force 170

SUBJECT: Request for Approval of Counter-Resistance Strategies

1. (~~S//NF~~) PROBLEM: The current guidelines for interrogation procedures at GTMO limit the ability of interrogators to counter advanced resistance.

2. (~~S//NF~~) Request approval for use of the following interrogation plan.

a. Category I techniques. During the initial category of interrogation the detainee should be provided a chair and the environment should be generally comfortable. The format of the interrogation is the direct approach. The use of rewards like cookies or cigarettes may be helpful. If the detainee is determined by the interrogator to be uncooperative, the interrogator may use the following techniques.

(1) Yelling at the detainee (not directly in his ear or to the level that it would cause physical pain or hearing problems)

(2) Techniques of deception:

(a) Multiple interrogator techniques.

(b) Interrogator identity. The interviewer may identify himself as a citizen of a foreign nation or as an interrogator from a country with a reputation for harsh treatment of detainees.

b. Category II techniques. With the permission of the OIC, Interrogation Section, the interrogator may use the following techniques.

(1) The use of stress positions (like standing), for a maximum of four hours.

(2) The use of falsified documents or reports.

(3) Use of the isolation facility for up to 30 days. Request must be made to through the OIC, Interrogation Section, to the Director, Joint Interrogation Group (JIG). Extensions beyond the initial 30 days must be approved by the Commanding General. For selected

UNCLASSIFIED

OCT. 16 2002 9:49AM SJA UNCLASSIFIED NO. 225 P. 4
NO. 675 P. 5

[redacted]

JTF 170-D
SUBJECT: Request for Approval of Counter-Resistance Strategies

detainees, the OIC, Interrogation Section, will approve all contacts with the detainee, to include medical visits of a non-emergent nature.

(4) Interrogating the detainee in an environment other than the standard interrogation booth.

(5) Deprivation of light and military clothing.

(6) The detainee may also have a hood placed over his head during transportation and questioning. The hood should not restrict breathing in any way and the detainee should be under direct observation when hooded.

(7) The use of 20-hour interrogations.

(8) Removal of all comfort items (including religious items).

(9) Switching the detainee from hot cells to MRIs.

(10) Removal of clothing.

(11) Forced grooming (shaving of facial hair etc...)

(12) Using detainee individual phobias (such as fear of dogs) to induce stress.

c. Category III techniques. Techniques in this category may be used only by submitting a request through the Director, JIG, for approval by the Commanding General with appropriate legal review and information to Commander, USSOUTHCOM. These techniques are reserved for a very small percentage of the most uncooperative detainees (less than 3%). The following techniques and other sensitive techniques, such as those used in U.S. military interrogation resistance training or by other U.S. government agencies, may be utilized in a carefully coordinated manner to help interrogate exceptionally resistant detainees. Any or these techniques that require more than light pushing, poking, or grabbing, will be administered only by individuals specifically trained in their safe application.

(1) The use of sensitive designed to overcome the detainee that death or extremely painful consequences are imminent for him and/or his family.

(2) Exposure to cold weather or water (with appropriate medical monitoring).

(3) Use of a mock burial and dripping water to induce the misperception of suffocation.

UNCLASSIFIED

UNCLASSIFIED

JTF 170-II
SUBJECT: Request for Approval of Counter-Resistance Strategies

(4) Use of mild, non-injurious physical contact such as grabbing, poking in the chest with the finger, and light pushing.

[redacted]

b(6)

UNCLASSIFIED

~~UNCLASSIFIED~~
~~SECRET//NOFORN~~

SECRETARY OF DEFENSE
1000 DEFENSE PENTAGON
WASHINGTON, DC 20301-1000

MEMORANDUM FOR COMMANDER USSOUTHCOM JAN 15 2003

SUBJECT: Counter-Resistance Techniques (U)

(U) My December 2, 2002, approval of the use of all Category II techniques and one Category III technique during interrogations at Guantanamo is hereby rescinded. Should you determine that particular techniques in either of these categories are warranted in an individual case, you should forward that request to me. Such a request should include a thorough justification for the employment of those techniques and a detailed plan for the use of such techniques.

(U) In all interrogations, you should continue the humane treatment of detainees, regardless of the type of interrogation technique employed.

(U) Attached is a memo to the General Counsel setting in motion a study to be completed within 15 days. After my review, I will provide further guidance.

Classified by: Secretary Rumsfeld
Reason: 1.5(c)
Declassify on: 10 years

UNCLASSIFIED

Declassify Under the Authority of Executive Order 13526
By Executive Secretary, Office of the Secretary of Defense
By William P. Marriott, CAPT, USN
June 21, 2006

~~SECRET CONTROL~~ X00176 /03

15Jan03

Appendix V. Commander, Joint Task Force-7 Interrogation and Counter-Resistance Policy, September 14, 2003 (U)

The following is an exact copy of the text contained in a memorandum signed by Lieutenant General Sanchez and dated September 14, 2003. Attempts to scan a copy of an original signature copy failed to produce a legible copy.

DEPARTMENT OF THE ARMY
HEADQUARTERS COMMAND, JOINT TASK FORCE SEVEN
CAMP VICTORY, BAGHDAD, IRAQ
APO AE 09335

CJTF7-CG 14 SEP 2003

MEMORANDUM FOR Commander, U.S. Central Command, 7115 South Boundary Boulevard
MacDill Air Force Base, Florida 33621

SUBJECT: CJTF-7 Interrogation and Counter-Resistance Policy

Enclosed is the CJTF-7 Interrogation and Counter-Resistance Policy, modeled on the one implemented for interrogations conducted at Guantanamo Bay, but modified for applicability to a theatre of war in which the Geneva Conventions apply. Unless otherwise directed, my intent is to implement this policy immediately.

Encl
As

RICHARD S. SANCHEZ
Lieutenant General, U.S. Army
Commanding

The following is an exact copy of the text contained in a memorandum signed by Lieutenant General Sanchez and dated September 14, 2003. Attempts to scan a copy of an original signature copy failed to produce a legible copy.

UNCLASSIFIED

CJTF7-CG 14 SEP 2003

MEMORANDUM FOR

C2, Combined Joint Task Force Seven Baghdad, Iraq 09335
C3, Combined Joint Task Force Seven, Baghdad, Iraq 09335
Commander, 205th Military Intelligence Brigade, Baghdad, Iraq 09335

SUBJECT: CJTF-7 Interrogation and Counter-Resistance Policy

1. (~~S/NF~~) This memorandum establishes the interrogation and counter-resistance policy for CJTF-7.

2. (~~S/NF~~) I approve the use of specified interrogation and counter-resistance techniques A-DD, as described in enclosure 1, subject to the following:

a. (~~S/NF~~) These techniques must be used within safeguards described in enclosure 2.

b. (~~S/NF~~) Use of these techniques is limited to interrogations of detainees, security internees and enemy prisoners of war under the control of CJTF-7.

c. (~~S/NF~~) Use of techniques B,I, O and X on enemy prisoners of war must be approved by me personally prior to use. Submit written requests for use of these techniques, with supporting rational, to me through the CJTF-7 C2. A legal review from the CJTF-7 SJA must accompany each request.

3. (~~S/NF~~) CJTF-7 is operating in a theater of war in which the Geneva conventions are applicable. Coalition forces will continue to treat all persons under their control humanely.

4. (~~S/NF~~) Requests for use of techniques not listed in enclosure 1 will be submitted to me through the CJTF-7 C2, and include a description of the proposed technique and recommended safeguards. A legal review from the CJTF-7 SJA must accompany each request.

5. (~~S/NF~~) Nothing in this policy limits existing authority for maintenance of good order and discipline among detainees.

6. (~~S/NF~~) POC is xxxxxxxxxxxxxDNVT558-0709, DSN 318 822-1115/1116/1117.

2 Encls
1. Interrogation Techniques
2. General Safeguards

RICHARDO S. SANCHEZ
Lieutenant General, USA
Commanding

CF: Commander, US Central Command

UNCLASSIFIED

UNCLASSIFIED

Enclosure 1

INTERROGATION TECHNIQUES

(~~S//NF~~) The use of techniques A-DD are subject to the general safeguards as provided below as well as specific implementation guidelines to be provided by 205th MI BDE Commander. Specific implementation guidance with respect to techniques A-DD is provided in U.S. Army Field Manual 34-52. Further implementation guidance will be developed by 205th MI BDE Commander.

(~~S//NF~~) Of the techniques set forth below, the policy aspects of certain techniques should be considered to the extent those policy aspects reflect the views of other Coalition contributing nations. When applicable, the description of the technique is annotated to include a summary of the policy issues that should considered before application of the technique.

A. (~~S//NF~~) Direct: Asking straightforward questions.

B. (~~S//NF~~) Incentive/Removal of Incentive: Providing a reward or removing a privilege, above and beyond those that are required by the Geneva Convention, from detainees. [Caution: Other nations that believe detainees are entitled to EPW protections may consider that provision and retention of religious items (e.g. the Koran) are protected under international law (see, Geneva III, Article 34). Although the provisions of the Geneva convention are not applicable to the interrogation of unlawful combatants, consideration should be given to these views prior to application of the technique.]

C. (~~S//NF~~) Emotional Love: Playing on the love a detainee has for an individual or group.

D. (~~S//NF~~) Emotional Hate: Playing on the hatred a detainee has for an individual or group.

E. (~~S//NF~~) Fear Up Harsh: Significantly increasing the fear level in a detainee.

F. (~~S//NF~~) Fear Up Mild: Moderately increasing the fear level in a detainee.

G. (~~S//NF~~) Reduced Fear: Reducing the fear level in a detainee.

H. (~~S//NF~~) Pride and Ego Up: boosting the ego of a detainee.

I. (~~S//NF~~) Pride and Ego Down: Attacking or insulting the ego of a detainee, not beyond the limits that would apply to an EPW. [Caution: Article 17 of Geneva III provides, "Prisoners of war who refuse to answer may not be threatened, insulted, or exposed to any unpleasant or disadvantageous treatment of any kind." Other nations that believe detainees are entitled to EPW protections may consider this technique inconsistent with the provisions of Geneva. Although the provisions of Geneva are not applicable to the interrogation of unlawful combatants, consideration should be given to these views prior to application of the technique.]

J. (~~S//NF~~) Futility: Invoking the feeling of futility of a detainee.

K. (~~S//NF~~) We Know All: Convincing the detainee that the interrogator already knows the answers to questions he asks the detainee.

L. (~~S//NF~~) Establish Your Identity: convincing the detainee that the interrogator has mistaken the detainee for someone else.

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M. (U) Repetition: continuously repeating the same question to the detainee within interrogation periods of normal duration.

N. (U) File and Dossier: Convincing detainee that the interrogator has a damning and inaccurate file, which must be fixed.

O. (U) Mutt and Jeff: A team consisting of a friendly and harsh interrogator. The harsh interrogator might employ the Pride and Ego Down technique. [Caution: Other nations that believe that EPW protections apply to detainees may view this technique as inconsistent with Geneva III, Article 13 which provides that EPWs must be protected against acts of intimidation. Although the provisions of Geneva are not applicable to the interrogation of unlawful combatants, consideration should be given to these views prior to application of the technique.]

P. (U) Rapid Fire: Questioning in rapid succession without allowing detainee to answer.

Q. (U) Silence: Staring at the detainee to encourage discomfort.

R. (U) Change of Scenery Up: Removing the detainee from the standard interrogation setting (generally to a location more pleasant, but no worse).

S. (U) Change of Scenery Down: Removing the detainee from the standard interrogation setting and placing him in a setting that may be less comfortable; would not constitute a substantial change in environmental quality.

T. (U) Dietary Manipulation: Changing the diet of a detainee; no intended deprivation of food or water; no adverse medical or cultural effect and without intent to deprive subject of food or water, e.g., hot rations to MREs.

U. (U) Environmental Manipulation: Altering the environment to create moderate discomfort (e.g. adjusting temperature or introducing an unpleasant smell). Conditions may not be such that they injure the detainee. Detainee is accompanied by interrogator at all times. [Caution: Based on court cases in other countries, some nations may view application of this technique in certain circumstances to be inhumane. Consideration of these views should be given prior to use of this technique.]

V. (U) Sleep Adjustment: Adjusting the sleeping times of the detainee (e.g. reversing sleep cycles from night to day). This technique is not sleep deprivation.

W. (U) False Flag: Convincing the detainee that individuals from a country other than the United States are interrogating him.

X. (U) Isolation: Isolating the detainee from other detainees while still complying with basic standards of treatment. [Caution: the use of isolation as an interrogation technique requires detailed implementation instructions, including specific guidelines regarding the length of isolation, medical and psychological review, and approval for extensions of the length of isolation by the 205th MI BDE Commander. This technique will not be used for interrogation purposes for longer than 30 days continuously. Use of this technique for more than 30 continuous days must be briefed to 205th MI BDE Commander prior to implementation. Those nations that believe detainees are subject to EPW protections may view use of this technique as inconsistent with the requirements of Geneva III; Article 13 which provides that EPWs must be protected against acts of intimidation; Article 14 which provides that EPWs are entitled to respect for their persons; Article 34 which prohibits coercion and Article 126 which ensures access and basic standards of treatment. Although these provisions are not applicable to the interrogation of unlawful combatants, consideration should be given to these views prior to application of the technique.]

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Y. (~~S//NF~~) Presence of Military Working Dog: Exploits Arab fear of dogs while maintaining security during interrogations. Dogs will be muzzled and under control of MWD handler at all times to prevent contact with detainee.

Z. (~~S//NF~~) Sleep Management: Detainee provided minimum 4 hours of sleep per 24 hour period, not to exceed 72 continuous hours.

AA. (~~S//NF~~) Yelling, Loud Music, and Light Control: Used to create fear, disorient detainee and prolong capture shock. Volume controlled to prevent injury.

BB. (~~S//NF~~) Deception: Use of falsified representations including documents and reports.

CC. (~~S//NF~~) Stress Positions; Use of physical postures (sitting, standing, kneeling, prone etc) for no more than 1 hour per use. Use of technique(s) will not exceed 4 hours and adequate rest between use of each position will be provided.

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Enclosure 2

(~~S//NF~~) Application of these interrogation techniques is subject to the following general safeguards: (i) limited to use at interrogation facilities only; (ii) there is reasonable basis to believe that the detainee possesses critical intelligence; (iii) the detainee is medically and operationally evaluated as suitable (considering all techniques to be used in combination); (iv) interrogators are specifically trained for the techniques(s); (v) a specific interrogation plan (including reasonable safeguards, limits on duration, intervals between applications, termination criteria and the presence or availability of qualified medical personnel) has been developed; (vi) there is appropriate supervision; and, (vii) there is appropriate specified senior approval as identified by 205th MI BDE Commander for use with any specific detainee (after considering the foregoing and receiving legal advice).

(U) The purpose of all interviews and interrogations is to get the most information from a detainee with the least intrusive method, always applied in a humane and lawful manner with sufficient oversight by trained investigators or interrogators. Operating instructions must be developed based on command policies to insure uniform, careful, and safe application of interrogations of detainees.

(~~S//NF~~) Interrogations must always be planned, deliberate actions that take into account factors such as a detainee's current and past performance in both detention and interrogation; a detainee's emotional and physical strengths and weaknesses; assessment of possible approaches that may work on a certain detainee in an effort to gain the trust of the detainee; strengths and weaknesses of interrogators; and augmentation by other personnel for a certain detainee based on other factors.

(~~S//NF~~) Interrogation approaches are designed to manipulate the detainee's emotions and weaknesses to gain his willing cooperation. Interrogation operations are never conducted in a vacuum; they are conducted in close cooperation with the units detaining the individuals. The policies established by the detaining units that pertain to searching, silencing and segregating also play a role in the interrogation of the detainee. Detainee interrogation involves developing a plan tailored to an individual and approved by senior interrogators. Strict adherence to polices/standard operating procedures governing the administration or interrogation techniques and oversight is essential.

(~~S//NF~~) It is important that interrogators be provided reasonable latitude to vary techniques depending on the detainee's culture, strengths, weaknesses, environment, extent of training in resistance techniques as well as the urgency of obtaining information that the detainee is believed to have.

(~~S//NF~~) While techniques are considered individually within this analysis, it must be understood that in practice, techniques are usually used in combination. The cumulative effect of all techniques to be employed must be considered befo9re any decisions are made regarding approval for particular situations. The title of a particular technique is not always fully descriptive of a particular technique. 205th MI BDE Commander is responsible for oversight of all techniques involving physical contact.

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Appendix W. Other Matters of Interest (U)

Other Matters of Interest (U)

(U) The following items did not fall within the scope of this evaluation. However, they are noteworthy for their impact on Strategic Interrogation.

HUMINT Strategic Interrogation Program (U)

(U) Consider establishing a position of Executive Agent for Strategic and Operational Interrogation to be responsible for Tactics, Techniques, and Procedures; ethics; training standards for interrogators and interpreters; cultural and language programs; and oversight of operations across the spectrum of the Global War on Terrorism. This office would collect, collate, consolidate, and integrate information from Combatant Commands and DIA into an overall assessment of interrogation operations. As an Executive Agent, the office for Strategic Interrogation would review and update interrogation policy.

(U) Also consider instituting a sustainable strategic and operational interrogation career program within the Services and appropriate Intelligence agencies. The program would be able to institutionalize and maintain the highest degree of professionalism and mission capability at a Strategic Interrogation Center of Excellence.

(U) ~~(S//NF)~~ A DoD official noted that "all commanders believe that we lack seasoned U.S. interrogators with appropriate language skills and cultural awareness to maximize the intelligence gained from detainees." The root cause of the perceived lack of "actionable intelligence" may be linked to unfamiliarity with Arab language and culture, rather than inadequate interrogation techniques. Numerous first-hand accounts reveal that inexperienced task force personnel grew impatient with detainees who would not respond to their questions.

(U) Language training and cultural expertise have not had the historical, institutional support afforded other warfighting skills. Consequently, DoD and the Services were unable to cultivate foreign area specialists and linguists. Specific planning guidance is essential so that language and regional expertise requirements are prioritized in Intelligence Campaign Plans that support the operations plans for the Global War on Terrorism. The Services, in turn, must comply with the Deputy Secretary of Defense, February 2005 memorandum, "Defense Language Transformation Roadmap," and the Defense Intelligence Planning Guidance for FY 2007-2011 which identify these skills as core competencies.

Management Actions (U)

(U) ~~(S//NF)~~ In response to the discussion draft, DIA officials indicated that they had made significant headway establishing an interrogator specialist cadre and instituting a "train all" policy to ensure that all Defense Human Intelligence personnel scheduled to deploy receive adequate training on Law of Land Warfare and authorized interrogation techniques, as well as on the requirement and procedures to report prisoner abuse.

Appendix X. Report Distribution (U)

(U) Office of the Secretary of Defense

Secretary of Defense
Under Secretary of Defense for Policy
  Deputy Assistant Secretary of Defense for Detainee Affairs
Under Secretary of Defense for Intelligence
  Deputy Under Secretary of Defense for Intelligence (Intelligence and Warfighter Support)

(U) Joint Staff

Director, Joint Staff

(U) Department of the Army

Secretary of the Army
Assistant Secretary of the Army (Financial Management and Comptroller)
Deputy Chief of Staff, G-2
Auditor General, Department of the Army
Inspector General, Department of the Army

(U) Department of the Navy

Assistant Secretary of the Navy (Manpower and Reserve Affairs)
Auditor General, Department of the Navy
Naval Inspector General

(U) Department of the Air Force

Assistant Secretary of the Air Force (Financial Management and Comptroller)
Auditor General, Department of the Air Force

(U) Combatant Commands

Commander, U.S. Northern Command
Commander, U.S. Southern Command
Commander, U.S. Joint Forces Command
Commander, U.S. Pacific Command
Commander, U.S. European Command
Commander, U.S. Central Command
Commander, U.S. Transportation Command
Commander, U.S. Special Operations Command
Commander, U.S. Strategic Command

(U) Other Defense Organizations

Director, Defense Intelligence Agency
  Inspector General, Defense Intelligence Agency
Director, National Security Agency
  Inspector General, National Security Agency

(U) Congressional Committees and Subcommittees, Chairman and Ranking Minority Member

Senate Subcommittee on Defense, Committee on Appropriations
Senate Committee on Armed Services
Senate Committee on Governmental Affairs
Senate Select Committee on Intelligence
House Subcommittee on Defense, Committee on Appropriations
House Committee on Armed Services
House Subcommittee on Government Efficiency and Financial Management, Committee on Government Reform
House Subcommittee on National Security, Emerging Threats, and International Relations, Committee on Government Reform
House Subcommittee on Technology, Information Policy, Intergovernmental Relations, and the Census, Committee on Government Reform
House Permanent Select Committee on Intelligence

Under Secretary of Defense for Policy(U)

Final Report Reference

OFFICE OF THE UNDER SECRETARY OF DEFENSE
2000 DEFENSE PENTAGON
WASHINGTON, DC 20301-2000

JUL 19 2006

MEMORANDUM FOR DEPUTY ASSISTANT INSPECTOR GENERAL FOR INTELLIGENCE EVALUATION

CC DIRECTOR, DDWOT-J-5 JOINT STAFF
OFFICE OF LEGAL COUNSEL TO THE CHAIRMAN OF THE JOINT CHIEFS OF STAFF
OFFICE OF THE GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE

SUBJECT: Report on Review of DoD-Directed Investigations of Detainee Abuses (Project No. D2004-DINT01-0174)

The Office of Detainee Affairs thanks you for providing your preliminary report on Review of DoD-Directed Investigations of Detainee Abuses to us for comments. My comments address three aspects of the report: recommendations that would pertain to the office of the Under Secretary of Defense for Policy, the Report's conclusions, and the Appendixes that summarize various DoD-lead reviews investigations.

With respect to the recommendations made in your report:

- I concur in recommendation "B1," subject to the understanding that such policies at the moment are being discussed within the senior levels of the Executive and Legislative branches of the USG: DoD 2310.01E will be issued once all national-policy issues are resolved.

- I non-concur in recommendation "B2." The development of Tactics, Techniques, and Procedures (TTP) is a responsibility of the Joint Staff and the US Army as the executive agent for detention operations. Under current DoD Directives, we would submit that this would be a responsibility of the Secretary of the Army, to the extent he would agree such changes are required, as the Army is the executive agent with responsibility over this requirement.

With respect to the conclusions and analysis pertaining to Search Evasion and Rescue (SERE) in section "C," I would reiterate my objections of March 24.

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Final Report Reference

[redacted]

2008, to the report. While it is clear that the Inspector General has incorporated some of the last comments made in the March 24 comments, the report continues to fail to acknowledge the substantive objection raised with respect to the premise that SERE training was a determinative variable in the development of [illegible] interrogation techniques, as well as other statements made in the report with respect to the development of detainee policy and the accountability for lack thereof of senior DoD officials.

I believe that the historical record supports the opposite conclusion – that SERE did not play a determinative role in the development of counter-resistance interrogation tactics. I would refer you to page 106 of the Church report which lays out a timeline for how policy was developed, and pages 103-144 of the Church report which describes in detail how the counter-resistance techniques were developed.

In light of the Church and other detainee reports, I also non-concur with the following conclusion on page 28:

> **We also believe that as senior leaders from the Pentagon and the Iraqi theatre of Operations were discussing and reviewing a myriad of techniques, the ability to contain what may have been intended simply as an exercise in "brainstorming" interrogation ideas proved difficult to contain and had unintended consequences.**
>
> **The push for more "aggressive interrogations," when coupled with a lack of united of command and unity of effort, created an atmosphere in which the pressure to produce actionable intelligence overwhelmed the primacy of the Geneva Conventions. ...**

Deleted

The above leads the reader to the erroneous conclusion that the Secretary and senior DoD officials have direct responsibility, or in the alternative that the policies developed by DoD detainee operations were responsible, for the abuses that occurred in Iraq, Afghanistan, and by implication, Guantanamo. I do not believe the evidence presented in this report supports such a conclusion.

I would direct your attention to the conclusions of the Church Report, the Schlesinger Report, the Fay Jones Kern report, and the Department of the Army Inspector General report. All four concluded that neither policy nor senior officials

[redacted]

[redacted]

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~~[redacted]~~

were responsible for detainee abuse. Absent additional compelling information, I must non-concur with the main conclusion of this report and state that I believe its release would cause irreparable harm to the Department.

I also non-concur with the OIG assessments regarding the various DoD investigations as they tend to mischaracterize the mandates of individual reports by suggesting a "failing" to investigate a subject that was not part of the investigative charter. For example, the OIG's criticism of the Church Report that it "did not explain if, how, or to what extent, detainee abuse practices infiltrated, and from what source, throughout the U.S. Central Command's detention and interrogation operations." The Charter of the Church report did not include such a mandate, thus, it is inappropriate to criticize VADM Church's investigation for failing to examine a subject not within its mandate. Similarly, I non-concur with the OIG assessments of Ryder, Schlesinger, Formica, Jacoby, Kiley, and Schmidt-Furlow.

My POC for this action is [redacted] 703-697-[redacted]

Sincerely,

Charles "Cully" Stimson
Deputy Assistant Secretary of Defense
For Detainee Affairs

~~[redacted]~~

[redacted]

b(6)

Director, Joint Staff (U)

Final Report Reference

~~SECRET//NOFORN~~

THE JOINT STAFF
WASHINGTON, DC

Reply ZIP Code:
20318-0300

DJSM-0588-06
06 Jun 2006

MEMORANDUM FOR THE INSPECTOR GENERAL OF THE DEPARTMENT OF DEFENSE

Subject: IG, DOD, Draft Report, Review of DOD-Directed Investigations of Detainee Abuse (Project No. D2004-DINT01-0174)

1. In response to your request,[1] the Joint Staff offers the enclosed comments. We nonconcur with findings and recommendations assigning responsibilities to the Chairman of the Joint Chiefs of Staff that are beyond his statutory authority as well as with generalized findings that are overly broad.

2. The Joint Staff point of contact is [redacted] USA; J-5/DAD; 703-693-[redacted]

3. Without enclosure, this memorandum is UNCLASSIFIED.

WALTER L. SHARP
Lieutenant General, USA
Director, Joint Staff

Enclosure

Reference:
1. DAIG-IE memorandum, 25 April 2006, "Review of DoD-Directed Investigations of Detainee Abuse (Project No. D2004-DINT01-0174) (U)"

b(6)

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Final Report Reference

~~SECRET//NOFORN~~

ENCLOSURE

COORDINATION OF OSD/IG DRAFT REPORT, REVIEW OF DOD-DIRECTED INVESTIGATIONS OF DETAINEE ABUSE (U)

1. (U) General Comment: Number the paragraphs and subparagraphs to facilitate editing and post-completion referencing.

Revised

2. (U) Page i, paragraph 1, "Executive Summary (U)." Delete: "determining policy on ~~detention and~~ detainee operations and training personnel..."

REASON: Eliminate redundant phrase.

Revised

3. (U) Page i, paragraph 2, "Executive Summary (U)." Delete: "...abusing ~~enemy prisoners of war and other~~ detainees..."

REASON: Eliminate redundant phrase. The definition of detainee under DODD 3115.09 includes enemy prisoners of war.

Revised

4. (U) Page i, paragraph 4, "Executive Summary (U)." Add: "...military and security forces since military operations began in Afghanistan on 7 October 2001."

REASON: Clarity and completeness.

Revised

5. (U) Page ii, paragraph 9, "Executive Summary (U)." Comment: Change the responsibilities assigned to the Chairman of the Joint Chiefs of Staff and to the Army G-2. The Chairman does not issue formal interrogation policy guidance; that is the responsibility of the US Army.

REASON: Accuracy and legality.

6. (U) Page ii, paragraph 10, "Executive Summary (U)." Comment: The Joint Staff nonconcurs in the sentence stating, "In addition, policy for and oversight of interrogation procedures were ineffective."

REASON: Accuracy and clarity. As stated, sentence implies policy and oversight were completely ineffective across all aspects of interrogation. Recommend a more precise and limiting statement.

Modified Page 4

7. ~~(S//NF)~~ Page 5, paragraph 4, "~~(S//NF)~~ Approved Counterresistance Interrogation Techniques for Guantanamo Bay." Change to read: "~~While~~ The Secretary of Defense ~~reiterated that U.S. Armed Forces must continue to treat~~

Classified By: RADM W. D. Sullivan, USN; VDJ-5
Reason: ~~1.4 (a, b, c, g)~~
Declassify On: ~~1 June 2016~~

~~NOT RELEASABLE TO FOREIGN NATIONALS~~

~~SECRET//NOFORN~~

Enclosure

b(1)

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~~detainees humanely, he~~ approved "Counter-Resistance Techniques..."

REASON: Clarity. Removes any connection between SecDef's reiteration that detainees be treated humanely with issuance of counter-resistance techniques and the implication that SecDef did something improper or illegal.

8. (U) Page 9, paragraph 1, "Inconsistent Reporting of Incidents (U)." Comment: Doctors, Chaplains, and Staff Judge Advocates may not decide that there is insufficient evidence to take action, initiate an internal investigation, or refer cases for outside review. Recommend revision of paragraph accordingly. Revised Page 8

REASON: Clarity.

9. (U) Page 15, paragraph 1, "Interrogation Policy Was Not Uniform and Consistent (U)." Comment: The Joint Staff nonconcurs in finding that, "...the Chairman, Joint Chiefs of Staff did not promulgate one definitive interrogation policy to reinforce the existing FM 34-52." Revised

REASON: Accuracy and legality. Promulgation of interrogation policy is not within the Chairman's statutory authority.

10. (U) Page 19, paragraph 3, "Management Actions." Comment: The Joint Staff nonconcurs in the statement that the DepSecDef 30 September 2005 memorandum on "Interrogation and Treatment of Detainees by the Department of Defense" was management action that resulted from the 13 senior-level reports. This memorandum was simply to notify combatant commands, Services, etc., that the Detainee Treatment Act had become law.

REASON: Accuracy.

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~~SECRET//NOFORN~~ Enclosure b(1)

Director, Defense Intelligence Agency (U)

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DEFENSE INTELLIGENCE AGENCY

WASHINGTON, D.C. 20340-5100

JUN 0 2 2006

U-06-6158 DHO-1

To: Department of Defense Inspector General
5000 Defense Pentagon
Washington, DC 20301-6000

Subject: (U//[redacted]) Review of Department of Defense Directed Investigations of Detainee Abuse

1. (U//[redacted]) The Defense Intelligence Agency (DIA) has reviewed the documents pertaining to the Department of Defense (DoD) directed investigations into allegations of detainee abuse. In general, DIA believes it is imperative to make a clear distinction between detention and interrogation operations. This is NOT clearly distinguished in this review.

2. (U//[redacted]) Interrogations, questioning, and debriefings are often incorrectly discussed as a matter of detention operations. DIA clearly recognizes interrogation and detention operations are integral to one another; however, they are clearly different functions and require separate discussion on policy, responsibilities, and relationships.

3. (U//[redacted]) DIA recognizes interrogation operations must be coordinated with detention operations personnel. We recommend an annex be included in detention and interrogation Standard Operating Procedures (SOPs), at all levels, defining the roles, responsibilities, and actions to be carried out by respective Interrogation Control Elements (ICE). The SOP should detail comprehensive procedures for interrogators to gain access to a detainee for questioning.

4. (U//[redacted]) DIA recommends a breakout of the 833 investigations adjudicated to date and found to be unsubstantiated or unfounded. As written, the report assumes that all 833 investigations were with merit; however, many of the allegations were without merit and should be mentioned.

5. (U//[redacted]) Regarding the reporting of incidents of alleged detainee abuse, DIA concurs with the recommendation to assign a Deputy Commanding General for Detention Operations. Further, DIA recommends the office be staffed with military police personnel qualified in detention operations, a medical officer, and a senior qualified interrogator.

a. (U//[redacted]) DIA concurs with the recommendation to formulate policy for reporting allegations of abuse at all levels.

b. (U//[redacted]) While tracking the resolution of abuse is critical, DIA does NOT concur with the recommendation that tracking and resolution policies be included in interrogation SOPs. This is a command issue to be resolved outside of the interrogation operation elements.

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6. (U/[redacted]) DIA concurs with recommendation B.1. on detainee policy. However, the recommendation to implement formal guidance, policy and oversight for interrogation operations, including interrogation in intelligence campaign planning, should be removed from this portion and introduced as a separate recommendation. It is important to separate detention policy from interrogation policy.

7. (U/[redacted]) DIA concurs with the recommendation to create the HUMINT Strategic Interrogation Program. An executive agent, who is an expert in interrogation, will give a senior voice to interrogators who have expressed concern over their profession for several years.

8. (U) My point of contact for this action is [redacted] (703) 614-[redacted]

Louis E. Andre
Chief of Staff

b(6)

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Department of the Army

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~~SECRET//NOFORN~~

DEPARTMENT OF THE ARMY
OFFICE OF THE DEPUTY CHIEF OF STAFF, G-2
WASHINGTON DC 20310-1001

REPLY TO
ATTENTION OF

DAMI-CDI

SUBJECT: (U) Army G-2 comments on DoD IG report "Review of DoD-Directed Investigations of Detainee Abuse"

1. (U) Army G-2 concurs with the reference report, with comments.

2. ~~(S)~~ General Comments:

a. ~~(S)~~ The objective of the *Review of DoD-Directed Investigations of Detainee Abuse* is to "evaluate the reports [13 senior-level inspections, assessments, reviews, and investigations of detention and interrogation operations that were initiated as a result of allegations of detainee abuse] to determine whether any overarching systematic issues should be addressed."

b. ~~(S)~~ The report as written focuses almost entirely on interrogation operations. However, to the best of our knowledge and research, only 12-15% of recognized detainee abuse cases are associated with interrogation. To achieve better balance and perspective, increased emphasis needs to be placed on non-interrogation related detainee abuse.

3. (U) Specific Comments can be found at enclosure.

4. (U) HQDA G-2 point of contact is [redacted] 703-695-[redacted] NIPRNET [redacted]@hq.army.mil, SIPRNET [redacted]@dami.army.smil.mil.

Thomas A. Gandy
Director, Counterintelligence, Human Intelligence, Disclosure and Security

Enclosure

~~SECRET//NOFORN~~

Derived from: Multiple Sources / 4 (g)
Declassify on: 7 April 2013

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Army G-2 comments on DoD IG report "Review of DoD-Directed Investigations of Detainee Abuse"

SPECIFIC Comments:

a. ~~(S)~~ Page 4, Para 1, last sentence. The number of personnel detained by U.S. military and security forces only refers to those detained in Afghanistan. The number of personnel detained in Iraq should also be identified in this paragraph. — Revised Page 3

b. ~~(S)~~ Page 4, Para 2. It should be noted in this section that while the Army was and is the DoD Executive Agent for Detainee Operations, it is not the DoD Executive Agent for Interrogation operations.

c. ~~(S)~~ Page 7, Para 5. It should be noted that DoDD 3115.09 was not approved until 3 Nov 2005. — Deleted

d. ~~(S)~~ Page 9, Para 3. The report gives the impression that allegations were not taken seriously nor investigated. While there were multiple paths for conducting investigations, there is little evidence to indicate that leaders did not investigate abuse when information of abuse reached the command level. For example, the Appendix R case study identifies that the CJTF-7 chain of command, when provided with information related to detainee abuse in organizations outside their control, immediately identified the need for an investigation to USCENTCOM. — Page 8

e. ~~(S)~~ Page 10, last para; page 13, 4th para. Recommend re-confirming the arrival date of MG Miller into theater.

f. ~~(S)~~ Page 13-14. Recommending providing more detail on the chains of command/reporting channels for all organizations described on pages 13-14.

g. ~~(S)~~ Page 14, third para. Recommend modifying the report to read: "The lack of specific DOD guidance may have led to the development of local agreements and could have contributed to the concerns expressed about what interrogation techniques were appropriate." There was no prior precedence for interagency agreements involving interrogation. If there was such a need, it should have been accomplished at the OGA-DOD level. — Revised

h. ~~(S)~~ Page17, fourth para. Recommend including 'the shortage and expertise of HUMINT managers (e.g. C2X/S2X)' in the discussion of reasons why detention and interrogation operations were overwhelmed. — Revised Page 18

i. ~~(S)~~ Page 17, fourth para. Contrary to the report, there was no reluctance to release detainees by - except initially at the CENTCOM level and above. First, there was no prior Detainee Parole and Release Policy available that could serve as a — Page 18

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Derived from: Multiple Sources
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precedent to manage the release process. One was eventually produced by CJTF-7. Initially, almost all releases could only be approved above the CJTF-7 level, and it was difficult get approval at that level to release detainees, including POW's. Once release boards were started, there was a 72% detainee release rate. There was, however, also an inability for the detainee release boards to keep pace with the large numbers of individuals being detained, despite many mechanisms put into place to expedite the process. Much of this was due to a shortage of personnel to screen files, lawyers, intelligence screeners, etc. An additional factor was that there was no Iraqi judicial system in place.

Revised Page 23

j. ~~(S)~~ Page 21, first para. The statement that argues that DoD organizations and personal introduced expanded counter resistance interrogation techniques in Iraq because operations personnel believed traditional interrogation techniques were no longer effective" is an over generalization. Traditional interrogation techniques were may have no longer been effective for some selected detainees, but certainly not the case for the majority of detainees. The introduction of expanded, unauthorized techniques certainly wasn't policy or command sanctioned.

Page 27

k. ~~(S)~~ Page 25, fifth para. Most interrogators were well aware of the interrogation policies. In fact, at Abu Ghraib, the interrogation policy was clearly posted in a common area. There are numerous statements in several reports which describe the efforts the units took to promulgate interrogation guidelines

Deleted

l. ~~(S)~~ Page 28, first para. Abu Ghraib revelations occurred in Jan 04, not May 04. Also note that CG, CJTF-7 ordered an investigation within 24 hours of seeing evidence. No delay.

Deleted Page 33

m. ~~(S)~~ Page 32, last para. Iraq was not just a forward-deployed tactical battlefield environment. Iraq was a tactical through operational level battlefield with strategic issues as relates to terrorists and their connections (IZ to UBL/AF, etc). The report understates this. Therefore, interrogations also had to be done at the tactical and operational levels. That was one of the stated reasons why JCS/OSD sent MG Miller to Iraq.

Page 53

n. ~~(S)~~ Page 52, last para. The intent of the CJTF-7 C2 in requesting the retired Army Colonel's visit was to get advice and assistance in conducting counterinsurgency intelligence operations and to better understand the adversary CJTF-7 was facing. The Colonel's AAR did not include detainee abuse allegations – these were only provided verbally to the CJTF-7 C2, along with passage of a letter. The CJTF-7 took immediate action to consult that night with CJTF-7 JAG, recommending investigation by CENTCOM as neither command where the alleged abuse took place fell under the command and control of CJTF-7. CDR, CJTF-7 concurred, and directed that JAG forward all relevant information to CENTCOM for an investigation, which JAG did. This information was passed to multiple follow-on investigation teams to include the Kern-Jones-Fay investigation.

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o. [redacted] Page 52, last para. The last statement in the paragraph is incorrect. The whole reason for the Kern-Jones investigation was to look at the senior level and leadership responsibility. It was requested by Commander, CJTF-7 based on allegations and comments in the Fay report. This inaccurate sentence sends the wrong message.

Revised Page 53

p. [redacted] Page 80 -81. The intent of the CJTF-7 C2 in requesting the retired Army Colonel's visit was to get advice and assistance in conducting counterinsurgency intelligence operations and to better understand the adversary CJTF-7 was facing. The Colonel's AAR did not include detainee abuse allegations – these were only provided verbally to the CJTF-7 C2, along with passage of a letter. The CJTF-7 took immediate action to consult that night with CJTF-7 JAG, recommending investigation by CENTCOM as neither command where the alleged abuse took place fell under the command and control of CJTF-7. CDR, CJTF-7 concurred, and directed that JAG forward all relevant information to CENTCOM for an investigation, which JAG did. This information was passed to multiple investigation teams to include the Kern-Jones-Fay Investigation.

Pages 81-83

3

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Derived from: Multiple Sources 1-4(g)
Declassify on: [redacted]

Encl

Final Report Reference

DEPARTMENT OF THE ARMY
OFFICE OF THE INSPECTOR GENERAL
1700 ARMY PENTAGON
WASHINGTON DC 20310-1700

JUN 1 2 2006

MEMORANDUM FOR THE ACTING INSPECTOR GENERAL (IG), DEPARTMENT OF DEFENSE (DOD), 400 ARMY NAVY DRIVE, ARLINGTON, VA 22202-4704

SUBJECT: Draft Report of Review of DOD-Directed Investigations of Detainee Abuse

1. Reference: Draft of a Proposed Report - Review of DOD-Directed Investigations of Detainee Abuse, dated 25 April 2006.

2. DAIG appreciates the opportunity to participate in the review of the draft report and to assist in the accurate representation of events pertaining to detainee operations.

3. Concur with draft report as written with the following exceptions:

a. On page 77, a matrix of detainee investigations and evaluations titled "Monthly Status of Open and Closed Investigations of Detainee Abuse" appears to intend to reflect the total of all investigative activities pertaining to detainee abuse conducted by the Services. It is unclear what events are represented by the Army numbers.

Revised Page 78

(1) For example, the chart reflects that the Army had zero ongoing preliminary inquiries (PIs) and two closed PIs as of 27 February 2006. It is unclear what these numbers represent. In fact, as of 27 February 2006, the Army Detainee Operations Task Force correctly reported to DOD that the Department of the Army Inspector General Agency (DAIG) had initiated and completed 11 PIs or investigations into allegations regarding senior official accountability relative to detainee operations. DAIG referred one senior official allegation to IG, DOD. Of the 11 closed PIs/investigations, one addressed allegations against BG Karpinski.

(2) DAIG non-concurs with the title of the chart. None of the DAIG PIs/investigations addressed allegations of detainee abuse against a senior official. Instead, DAIG addressed allegations of senior official accountability relative to detainee operations. The chart should be more accurately titled "Monthly Status of Open and Closed Investigations Regarding Detainee Operations."

(3) Additionally, the chart should be modified to clearly indicate what investigative activities are represented by the data, and the Army data for this chart should be coordinated with the Army.

Page 82

b. On page 81, paragraph 2, the report reads: "In January 2004, the III Corps Commander appointed an officer from the III Corps G-2 to conduct an Army Regulation (AR) 15-6 investigation."

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Final Report Reference

SAIG-IN
Subject: Draft Review of DOD-Directed Investigations of Detainee Abuse

(1) Although the Commander, III Corps, subsequently approved the final AR 15-6 report of investigation, the appointing officer for the investigation was Major General Walter Wojdakowski, Deputy Commanding General (DCG), Combined Joint Task Force-7 (CJTF-7).

(2) The report should be corrected to read: "In January 2004, the DCG, CJTF-7, appointed an officer from the III Corps G-2 to conduct an AR 15-6 investigation."

Revised Page 82

4. The points of contact for this action are [redacted] or [redacted] (703) 601-[redacted]

Paul T. Green
Lieutenant General, US Army
The Inspector General

Note: Army G2 submitted comments separately.

-2-

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b(6)

(U)

Team Members

The Office of the Deputy Inspector General for Intelligence prepared this report. Personnel of the Office of the Inspector General of the Department of Defense who contributed to the report are listed below.

[redacted]

b(6)

EXECUTIVE SUMMARY

Investigation of Intelligence Activities At Abu Ghraib

Background

This investigation was ordered initially by LTG Ricardo S. Sanchez, Commander, Combined Joint Task Force Seven (CJTF-7). LTG Sanchez appointed MG George R. Fay as investigating officer under the provisions of Army Regulation 381-10, Procedure 15. MG Fay was appointed to investigate allegations that members of the 205th Military Intelligence Brigade (205 MI BDE) were involved in detainee abuse at the Abu Ghraib Detention Facility. Specifically, MG Fay was to determine whether 205 MI BDE personnel requested, encouraged, condoned, or solicited Military Police (MP) personnel to abuse detainees and whether MI personnel comported with established interrogation procedures and applicable laws and regulations.

On 16 June 2004, Acting Secretary of the Army R. L. Brownlee appointed General Paul J. Kern, Commander, US Army Materiel Command (AMC), as the new Procedure 15 appointing authority. On 25 June 2004, GEN Kern appointed LTG Anthony R. Jones, Deputy Commanding General, US Army Training and Doctrine Command, as an additional Procedure 15 investigating officer. MG Fay was retained as an investigating officer.

Without reinvestigating areas reviewed by MG Fay, LTG Jones was specifically directed to focus on whether organizations or personnel higher than the 205th MI BDE chain of command, or events and circumstances outside of the 205th MI Brigade, were involved, directly or indirectly, in the questionable activities regarding alleged detainee abuse at Abu Ghraib prison.

The investigative teams conducted a comprehensive review of all available background documents and statements pertaining to Abu Ghraib from a wide variety of sources. These sources included the reports written by MG Geoffrey Miller, MG Donald Ryder, MG Antonio Taguba and the Department of Army Inspector General. LTG Jones interviewed LTG Sanchez and MG Barbara Fast, the CJTF-7 Senior Intelligence Staff Officer. MG Fay's team conducted over 170 interviews concerning the interviewees' knowledge of interrogation and detention operations at Abu Ghraib and/or their knowledge of and involvement in detainee abuse. MG Fay's interviews included interviews with MG Fast, MG Walter Wojdakowski, MG Geoffrey Miller, MG Thomas Miller, and BG Janis Karpinski.

Operational Environment

The events at Abu Ghraib cannot be understood in a vacuum. Three interrelated aspects of the operational environment played important roles in the abuses that occurred at Abu Ghraib. First, from the time V Corps transitioned to become CJTF-7, and throughout the period under investigation, it was not resourced adequately to accomplish the missions of the CJTF: stability and support operations (SASO) and support to the Coalition Provisional Authority (CPA). The CJTF-7 headquarters lacked adequate personnel and equipment. In addition, the military police and military intelligence units at Abu Ghraib were severely under-resourced. Second, providing support to the Coalition Provisional Authority (CPA) required greater resources than envisioned in operational plans. Third, operational plans envisioned that CJTF-7 would execute SASO and provide support to the CPA in a relatively non-hostile environment. In fact, opposition was robust and hostilities continued throughout the period under investigation. Therefore, CJTF-7 had to conduct tactical counter-insurgency operations, while also executing its planned missions.

These three circumstances delayed establishment of an intelligence architecture and degraded the ability of the CJTF-7 staff to execute its assigned tasks, including oversight of interrogation and detention operations at Abu Ghraib.

When hostilities were declared over, US forces had control of only 600 Enemy Prisoners of War (EPW) and Iraqi criminals. In the fall of 2003, the number of detainees rose exponentially due to tactical operations to capture counter-insurgents dangerous to U.S. forces and Iraqi civilians. At that time, the CJTF-7 commander believed he had no choice but to use Abu Ghraib as the central detention facility.

Command and staff actions and inaction must be understood in the context of the operational environment discussed above. In light of the operational environment, and CJTF-7 staff and subordinate unit's under-resourcing and increased missions, the CJTF-7 Commander had to prioritize efforts. CJTF-7 devoted its resources to fighting the counter-insurgency and supporting the CPA, thereby saving Coalition and civilian Iraqi lives and assisting in the transition to Iraqi self-rule. In the over-all scheme of OIF, the CJTF-7 Commander and staff performed above expectations.

Abuse

Clearly abuses occurred at the prison at Abu Ghraib. There is no single, simple explanation for why this abuse at Abu Ghraib happened. The primary causes are misconduct (ranging from inhumane to sadistic) by a small group of morally corrupt soldiers and civilians, a lack of discipline on the part of the leaders and Soldiers of the 205th MI BDE and a failure or lack of leadership by multiple echelons within CJTF-7. Contributing factors can be traced to issues affecting Command and Control, Doctrine, Training, and the experience of the Soldiers we asked to perform this vital mission.

For purposes of this report, abuse is defined as treatment of detainees that violated U.S. criminal law or international law or treatment that was inhumane or coercive without lawful justification. Whether the Soldier or contractor knew, at the time of the acts, that the conduct violated any law or standard, is not an element of the definition.

The abuses at Abu Ghraib primarily fall into two categories: a) intentional violent or sexual abuse and, b) abusive actions taken based on misinterpretations or confusion regarding law or policy.

LTG Jones found that while senior level officers did not commit the abuse at Abu Ghraib they did bear responsibility for lack of oversight of the facility, failing to respond in a timely manner to the reports from the International Committee of the Red Cross and for issuing policy memos that failed to provide clear, consistent guidance for execution at the tactical level.

MG Fay has found that from 25 July 2003 to 6 February 2004, twenty-seven 205 MI BDE Personnel allegedly requested, encouraged, condoned or solicited Military Police (MP) personnel to abuse detainees and/or participated in detainee abuse and/or violated established interrogation procedures and applicable laws and regulations during interrogation operations at Abu Ghraib.

Most, though not all, of the violent or sexual abuses occurred separately from scheduled interrogations and did not focus on persons held for intelligence purposes. No policy, directive or doctrine directly or indirectly caused violent or sexual abuse. In these cases, Soldiers knew they were violating the approved techniques and procedures.

Confusion about what interrogation techniques were authorized resulted from the proliferation of guidance and information from other theaters of operation; individual interrogator experiences in other theaters; and, the failure to distinguish between interrogation operations in other theaters and Iraq. This confusion contributed to the occurrence of some of the non-violent and non-sexual abuses.

MG Taguba and MG Fay reviewed the same photographs as supplied by the US Army Criminal Investigation Command (CID). MG Fay identified one additional photograph depicting abuse by MI personnel that had not been previously identified by MG Taguba. MG Fay also identified other abuse that had not been photographed.

Alleged incidents of abuse by military personnel have been referred to the CID for criminal investigation and the chain of command for disciplinary action. Alleged incidents of abuse by civilian contractors have been referred through the Department of Defense to the Department of Justice.

Discipline and Leadership

Military Intelligence and Military Police units had missions throughout the Iraqi Theater of Operations (ITO), however, 205th MI Brigade and 800th Military Police Brigade leaders at Abu Ghraib failed to execute their assigned responsibilities. The leaders from units located at Abu Ghraib or with supervision over Soldiers and units at Abu Ghraib, failed to supervise subordinates or provide direct oversight of this important mission. These leaders failed to properly discipline their Soldiers. These leaders failed to learn from prior mistakes and failed to provide continued mission-specific training. The 205th MI Brigade Commander did not assign a specific subordinate unit to be responsible for interrogations at Abu Ghraib and did not ensure that a Military Intelligence chain of command at Abu Ghraib was established. The absence of effective leadership was a factor in not sooner discovering and taking actions to prevent both the violent/sexual abuse incidents and the misinterpretation/confusion incidents.

Neither Department of Defense nor Army doctrine caused any abuses. Abuses would not have occurred had doctrine been followed and mission training conducted. Nonetheless, certain facets of interrogation and detention operations doctrine need to be updated, refined or expanded, including, the concept, organization, and operations of a Joint Interrogation and Debriefing Center (JIDC); guidance for interrogation techniques at both tactical and strategic levels; the roles, responsibilities and relationships between Military Police and Military Intelligence personnel at detention facilities; and, the establishment and organization of a Joint Task Force structure and, in particular, its intelligence architecture.

Other Contributing Factors

Demands on the Human Intelligence (HUMINT) capabilities in a counter-insurgency and in the future joint operational environment will continue to tax tactical and strategic assets. The Army needs trained and experienced tactical HUMINT personnel.

Working alongside non-DOD organizations/agencies in detention facilities proved complex and demanding. The perception that non-DOD agencies had different rules regarding interrogation and detention operations was evident. Interrogation and detention policies and limits of authority should apply equally to all agencies in the Iraqi Theater of Operations.

"Ghost Detainees"

The appointing authority and investigating officers made a specific finding regarding the issue of "ghost detainees" within Abu Ghraib. It is clear that the interrogation practices of other government agencies led to a loss of accountability at Abu Ghraib. DoD must document and enforce adherence by other government agencies with established DoD practices and procedures while conducting detainee interrogation operations at DoD facilities. This matter requires further investigation and, in accordance

with the provisions of AR 381-10, Part 15, is being referred to the DoD Inspector General, as the DoD liaison with other government agencies for appropriate investigation and evaluation. Soldiers/Sailors/Airmen/Marines should never be put in a position that potentially puts them at risk for non-compliance with the Geneva Convention or Laws of Land Warfare.

Conclusion

Leaders and Soldiers throughout Operation Iraqi Freedom were confronted with a complex and dangerous operational environment. Although a clear breakdown in discipline and leadership, the events at Abu Ghraib should not blind us from the noble conduct of the vast
majority of our Soldiers. We are a values based profession in which the clear majority of our Soldiers and leaders take great pride.

A clear vote of confidence should be extended by the senior leadership to the leaders and Soldiers who continue to perform extraordinarily in supporting our Nation's wartime mission. Many of our Soldiers have paid the ultimate sacrifice to preserve the freedoms and liberties that America and our Army represent throughout the world.

23 August 2004

~~SECRET//NOFORN//X1~~

AR 15-6 INVESTIGATION OF THE ABU GHRAIB DETENTION FACILITY AND 205th MILITARY INTELLIGENCE BRIGADE (U)

MG GEORGE R. FAY
INVESTIGATING OFFICER

~~SECRET//NOFORN//X1~~

~~CLASSIFIED BY: AR 380-6~~
~~DECLASSIFY ON: OADR~~

SUBJECT: (U) AR 15-6 Investigation of the Abu Ghraib Detention Facility and 205th MI Brigade

TABLE OF CONTENTS

SUBJECT: (U) AR 15-6 Investigation of the Abu Ghraib Detention Facility and 205th MI Brigade

TABLE OF CONTENTS (cont)

SUBJECT: (U) AR 15-6 Investigation of the Abu Ghraib Detention Facility and 205th MI Brigade

1. (U) Appointing Officials' Instructions and Investigative Methodology

a. (U) Appointing Officials' Instruction.

(1) (U) On 31 March 2004, LTG Ricardo S. Sanchez, Commander, Combined Joint Task Force 7 (CJTF-7), appointed MG George R. Fay as an Army Regulation (AR) 381-10 Procedure 15 Investigating Officer. LTG Sanchez determined, based upon MG Antonio Taguba's out brief of the results of an Article 15-6 investigation of the Abu Ghraib Detention Facility in Iraq, that another investigation was warranted. MG Fay was to investigate allegations that members of the 205th Military Intelligence Brigade were involved in detainee abuse at the Abu Ghraib Detention Facility.

(a) (U) MG Fay was instructed as follows: Pursuant to AR 381-10, Procedure 15, you are hereby appointed as an investigating officer to conduct an investigation in accordance with (IAW) Army Regulation (AR) 15-6 into all the relevant facts and circumstances surrounding the alleged misconduct on the part of personnel assigned and/or attached to the 205th Military Intelligence (MI) Brigade, to include civilian interrogators and/or interpreters, from 15 August 2003 to 1 February 2004 at the Abu Ghraib (AG) Detention Facility.

(b) (U) Specifically, you will investigate the following areas:

[1] (U) Whether 205th MI Brigade personnel requested, encouraged, condoned, or solicited Military Police (MP) personnel to abuse detainees at AG as preparation for interrogation operations.

[2] (U) Whether 205th MI Brigade personnel comported with established interrogation procedures and applicable laws and regulations when questioning Iraqi security internees at the Joint Interrogation and Debriefing Center.

(2) (U) The Commander, United States Central Command (CENTCOM) requested a new appointing authority and investigating officer be assigned to the investigation. On 14 June 2004, Secretary of Defense (SECDEF) Donald Rumsfeld requested the Acting Secretary of the Army (SECARMY) R.L.Brownlee assign an "officer senior to LTG Sanchez" to assume his duties as appointing authority, and a new or additional investigating officer should one be required. SECDEF provided the following additional guidance to the Acting SECARMY:

(U) The new appointing authority shall refer recommendations concerning issues at the Department of the Army level to the Department of the Army and recommendations concerning issues at the Department of Defense (DoD) level to the Department of Defense for appropriate action. The appointing authority shall refer the completed report to the Commander,

United States Central Command for further action as appropriate, including forwarding to the ATSD(IO) [Assistant to the Secretary of Defense for Intelligence Oversight] in accordance with DoD Directive 5240.1-R and CJCS-I 5901.01. Matters concerning accountability, if any, should be referred by the appointing authority, without recommendation, to the appropriate level of the chain of command for disposition.

(3) (U) On 16 June 2004, Acting SECARMY Brownlee designated GEN Paul J. Kern, Commander of the US Army Materiel Command, as the new Procedure 15 appointing authority. Acting SECARMY Brownlee's instructions included the following:

(a) (U) I am designating you as the appointing authority. Major General Fay remains available to perform duties as the investigating officer. If you determine, however, after reviewing the status of the investigation, that a new or additional investigating officer is necessary, please present that request to me.

(b) (U) Upon receipt of the investigation, you will refer all recommendations concerning issues at the Department of the Army level to me and all recommendations concerning issues at the Department of Defense level to the Secretary of Defense for appropriate action. You will refer the completed report to the Commander, United States Central Command, for further action as appropriate, including forwarding to ATSD(IO) IAW DoD Directive 5240.1-R and CJCS-I 5901.01. Finally, you should refer matters concerning accountability, if any, without recommendation, to the appropriate level of the chain of command for disposition. If you determine that you need further legal resources to accomplish this mission, you should contact the Judge Advocate General.

(4) (U) On 25 June 2004, GEN Kern appointed LTG Anthony R. Jones, Deputy Commanding General, US Army Training and Doctrine Command (TRADOC), as an additional Procedure 15 investigating officer. GEN Kern's instructions to LTG Jones included the following:

(a) (U) Pursuant to AR 381-10, Procedure 15, and AR 15-6, you are hereby appointed as an investigating officer to conduct an investigation of alleged misconduct involving personnel assigned or attached to the 205th Military Intelligence Brigade at the Abu Ghraib Detention Facility. Your appointment is as an additional investigating officer. MG Fay and his investigative team are available to assist you.

(b) (U) Specifically, the purpose of the investigation is to determine the facts and to determine whether the questionable activity at Abu Ghraib is legal and is consistent with applicable policy. In LTG Sanchez's 31 March 2004 appointment letter to MG Fay, which I have adopted, he specified three areas into which the investigation was to look: whether the 205th

Military Intelligence Brigade had been involved in Military Police detainee abuse at Abu Ghraib; whether 205th Military Intelligence Brigade personnel complied with established procedures, regulations, and laws when questioning internees at the Joint Interrogation and Debriefing Center; and the facts behind several identified sworn statements. In addition, your investigation should determine whether organizations or personnel higher in the chain of command of the 205th Military Intelligence Brigade were involved directly or indirectly in any questionable activities regarding alleged detainee abuse at Abu Ghraib.

b. (U) Investigative Methodology.

(1) (U) The investigative team conducted a comprehensive and exhaustive review of available background documents and statements pertaining to the operations of the 205th Military Intelligence (MI) Brigade (205 MI BDE) at Abu Ghraib from a wide variety of sources, to include all previous investigations. Where possible, coordination was established with other ongoing investigations of the same nature.

(2) (U) Over 170 personnel were interviewed (some multiple times) during the course of the investigation (Reference Annex B, Appendix 1). These interviews included personnel assigned or attached to the 205 MI BDE, the 800th Military Police (MP) Brigade (800 MP BDE), CJTF-7, Joint Task Force Guantanamo (JTF-GTMO), 28th Combat Support Hospital (CSH), the United States Army Intelligence Center (USAIC), the United States Navy, Titan Corporation, CACI International, Inc., and three detainees at Abu Ghraib. Written sworn statements were prepared as a result of these interviews. Several personnel invoked their rights under Article 31, Uniform Code of Military Justice (UCMJ) and the 5th Amendment of the US Constitution. In these cases and in cases where no sworn statements were collected, Memoranda for Record (MFR) were prepared to describe the nature of and information addressed in the interview.

(3) (U) Over 9,000 documents were collected, catalogued and archived into a database. Advanced analytic tools were used to organize, collate, and analyze this data as well as all collected interview data. Other analytical tools were used to prepare graphic representations of the data.

(4) (U) The investigative team consisted of 26 personnel to include investigators, analysts, subject matter experts and legal advisors.

SUBJECT: (U) AR 15-6 Investigation of the Abu Ghraib Detention Facility and 205th MI Brigade

2. (U) Executive Summary

a. (U) Background.

(1) (U) This investigation was ordered initially by LTG Ricardo S. Sanchez, Commander, CJTF-7. LTG Sanchez appointed MG George R. Fay as investigating officer under the provisions of AR 381-10. MG Fay was appointed to investigate allegations that members of the 205 MI BDE were involved in detainee abuse at the Abu Ghraib Detention Facility. Specifically, he was to determine whether 205 MI BDE personnel requested, encouraged, condoned, or solicited MP personnel to abuse detainees and whether MI personnel comported with established interrogation procedures and applicable laws and regulations. The investigative team conducted a comprehensive review of all available background documents and statements pertaining to Abu Ghraib from a wide variety of sources. Over 170 persons were interviewed concerning their knowledge of interrogation and detention operations at Abu Ghraib and/or their knowledge of and involvement in detainee abuse. On 16 June 2004, GEN Paul J. Kern, Commander, US Army Materiel Command (AMC), was appointed as the new Procedure 15 appointing authority. On 25 June 2004, GEN Kern appointed LTG Jones, Deputy Commanding General, TRADOC, as an additional Procedure 15 investigating officer. MG Fay was retained as an investigating officer.

(2) (U) This investigation identified forty-four (44) alleged instances or events of detainee abuse committed by MP and MI Soldiers, as well as civilian contractors. On sixteen (16) of these occasions, abuse by the MP Soldiers was, or was alleged to have been, requested, encouraged, condoned, or solicited by MI personnel. The abuse, however, was directed on an individual basis and never officially sanctioned or approved. MI solicitation of MP abuse included the use of isolation with sensory deprivation, removal of clothing and humiliation, the use of dogs as an interrogation tool to induce fear, and physical abuse. In eleven (11) instances, MI personnel were found to be directly involved in the abuse. MI personnel were also found not to have fully comported with established interrogation procedures and applicable laws and regulations. Theater Interrogation and Counter-Resistance Policies (ICRP) were found to be poorly defined, and changed several times. As a result, interrogation activities sometimes crossed into abusive activity.

(3) (U) This investigation found that certain individuals committed offenses in violation of international and US law to include the Geneva Conventions and the UCMJ and violated Army Values. Leaders in key positions failed properly to supervise the interrogation operations at Abu Ghraib and failed to understand the dynamics created at Abu Ghraib. Leaders also failed to react appropriately to those instances where detainee abuse was reported, either by other service members, contractors, or by the International Committee of the Red Cross (ICRC). Fifty-four (54) MI, MP, and Medical Soldiers, and civilian contractors were found to have some degree of

responsibility or complicity in the abuses that occurred at Abu Ghraib. Twenty-seven (27) were cited in this report for some degree of culpability and seventeen (17) were cited for misunderstanding of policy, regulation or law. Three (3) MI Soldiers, who had previously received punishment under UCMJ, were recommended for additional investigation. Seven (7) MP Soldier identified in the MG Taguba Report and currently under criminal investigation and/or charges are also central figures in this investigation and are included in the above numbers. One (1) person cited in the MG Taguba Report was exonerated.

(4) (U) Looking beyond personal responsibility, leader responsibility and command responsibility, systemic problems and issues also contributed to the volatile environment in which the abuse occurred. These systemic problems included: inadequate interrogation doctrine and training, an acute shortage of MP and MI Soldiers, the lack of clear lines of responsibility between the MP and MI chains of command, the lack of a clear interrogation policy for the Iraq Campaign, and intense pressure felt by the personnel on the ground to produce actionable intelligence from detainees. Twenty-four (24) additional findings and two (2) observations regarding systemic failures are included in the final investigative report. These findings ranged from doctrine and policy concerns, to leadership and command and control issues, to resource and training issues.

b. (U) Problems: Doctrine, Policy, Training, Organization, and Other Government Agencies.

(1) (U) Inadequacy of doctrine for detention operations and interrogation operations was a contributing factor to the situations that occurred at Abu Ghraib. The Army's capstone doctrine for the conduct of interrogation operations is Field Manual (FM) 34-52, Intelligence Interrogation, dated September 1992. Non-doctrinal approaches, techniques, and practices were developed and approved for use in Afghanistan and GTMO as part of the Global War on Terrorism (GWOT). These techniques, approaches, and practices became confused at Abu Ghraib and were implemented without proper authorities or safeguards. Soldiers were not trained on non-doctrinal interrogation techniques such as sleep adjustment, isolation, and the use of dogs. Many interrogators and personnel overseeing interrogation operations at Abu Ghraib had prior exposure to or experience in GTMO or Afghanistan. Concepts for the non-doctrinal, non field-manual approaches and practices came from documents and personnel in GTMO and Afghanistan. By October 2003, interrogation policy in Iraq had changed three times in less than thirty days and it became very confusing as to what techniques could be employed and at what level non-doctrinal approaches had to be approved.

(2) (U) MP personnel and MI personnel operated under different and often incompatible rules for treatment of detainees. The military police referenced DoD-wide regulatory and procedural guidance that clashed with the theater interrogation and counter-resistance policies that the military intelligence interrogators followed. Further, it appeared that neither group knew

or understood the limits imposed by the other's regulatory or procedural guidance concerning the treatment of detainees, resulting in predictable tension and confusion. This confusion contributed to abusive interrogation practices at Abu Ghraib. Safeguards to ensure compliance and to protect against abuse also failed due to confusion about the policies and the leadership's failure to monitor operations adequately.

(3) (U) By December 2003, the JIDC at Abu Ghraib had a total of approximately 160 personnel with 45 interrogators and 18 linguists/translators assigned to conduct interrogation operations. These personnel were from six different MI battalions and groups – the 519 MI BN, 323 MI BN, 325 MI BN, 470 MI GP, the 66th MI GP, the 500 MI GP. To complicate matters, interrogators from a US Army Intelligence Center and School, Mobile Training Team (MTT) consisting of analysts and interrogators, and three interrogation teams consisting of six personnel from GTMO, came to Abu Ghraib to assist in improving interrogation operations. Additionally, contract interrogators from CACI and contract linguists from Titan were hired in an attempt to address shortfalls. The JIDC was created in a very short time period with parts and pieces of various units. It lacked unit integrity, and this lack was a fatal flaw.

(4) (U) The term Other Government Agencies (OGA) most commonly referred to the Central Intelligence Agency (CIA). The CIA conducted unilateral and joint interrogation operations at Abu Ghraib. The CIA's detention and interrogation practices contributed to a loss of accountability and abuse at Abu Ghraib. No memorandum of understanding existed on the subject interrogation operations between the CIA and CJTF-7, and local CIA officers convinced military leaders that they should be allowed to operate outside the established local rules and procedures. CIA detainees in Abu Ghraib, known locally as "Ghost Detainees," were not accounted for in the detention system. With these detainees unidentified or unaccounted for, detention operations at large were impacted because personnel at the operations level were uncertain how to report or classify detainees.

c. (U) Detainee Abuse at Abu Ghraib.

(1) (U) Physical and sexual abuses of detainees at Abu Ghraib were by far the most serious. The abuses spanned from direct physical assault, such as delivering head blows rendering detainees unconscious, to sexual posing and forced participation in group masturbation. At the extremes were the death of a detainee in OGA custody, an alleged rape committed by a US translator and observed by a female Soldier, and the alleged sexual assault of a female detainee. These abuses are, without question, criminal. They were perpetrated or witnessed by individuals or small groups. Such abuse can not be directly tied to a systemic US approach to torture or approved treatment of detainees. The MPs being prosecuted claim their actions came at the direction of MI. Although self-serving, these claims do have some basis in fact. The environment created at Abu Ghraib contributed to the occurrence of such abuse and the fact that

it remained undiscovered by higher authority for a long period of time. What started as nakedness and humiliation, stress and physical training (exercise), carried over into sexual and physical assaults by a small group of morally corrupt and unsupervised Soldiers and civilians.

(2) (U) Abusing detainees with dogs started almost immediately after the dogs arrived at Abu Ghraib on 20 November 2003. By that date, abuses of detainees was already occurring and the addition of dogs was just one more device. Dog Teams were brought to Abu Ghraib as a result of recommendations from MG G. Miller's assessment team from GTMO. MG G. Miller recommended dogs as beneficial for detainee custody and control issues. Interrogations at Abu Ghraib, however, were influenced by several documents that spoke of exploiting the Arab fear of dogs. The use of dogs in interrogations to "fear up" detainees was utilized without proper authorization.

(3) (U) The use of nudity as an interrogation technique or incentive to maintain the cooperation of detainees was not a technique developed at Abu Ghraib, but rather a technique which was imported and can be traced through Afghanistan and GTMO. As interrogation operations in Iraq began to take form, it was often the same personnel who had operated and deployed in other theaters and in support of GWOT, who were called upon to establish and conduct interrogation operations in Abu Ghraib. The lines of authority and the prior legal opinions blurred. They simply carried forward the use of nudity into the Iraqi theater of operations. The use of clothing as an incentive (nudity) is significant in that it likely contributed to an escalating "de-humanization" of the detainees and set the stage for additional and more severe abuses to occur.

(4) (U) There was significant confusion by both MI and MPs between the definitions of "isolation" and "segregation." LTG Sanchez approved the extended use of isolation on several occasions, intending for the detainee to be kept apart, without communication with their fellow detainees. His intent appeared to be the segregation of specific detainees. The technique employed in several instances was not, however, segregation but rather isolation - the complete removal from outside contact other than required care and feeding by MP guards and interrogation by MI. Use of isolation rooms in the Abu Ghraib Hard Site was not closely controlled or monitored. Lacking proper training, clear guidance, or experience in this technique, both MP and MI stretched the bounds into further abuse; sensory deprivation and un-safe or unhealthy living conditions. Detainees were sometimes placed in excessively cold or hot cells with limited or poor ventilation and no light.

3. (U) Background and Environment.

a. (U) Operational Environment.

(1) (U) The Global War on Terrorism began in earnest on 11 September 2001 (9/11). Soon after the 9/11 attacks, American forces entered Afghanistan to destroy the primary operating and training base of Al Qaida. Prisoners collected in these and other global counter-terrorist operations were transferred to Guantanamo Naval Base, Cuba. Two Task Forces were formed at JTF-GTMO to manage intelligence collection operations with the newly captured prisoners. Military and civilian interrogators, counterintelligence agents, analysts, and other intelligence personnel from a variety of services and agencies manned the task forces and exploited the captured personnel for information.

(2) (U) US and coalition partners attacked Iraq on 20 March 2003 and soon after toppled Saddam Hussein's regime. The Iraq conflict transitioned quickly and unexpectedly to an insurgency environment. Coalition forces began capturing and interrogating alleged insurgents. Abu Ghraib prison, opened after the fall of Saddam to house criminals, was soon used for collecting and interrogating insurgents and other persons of intelligence interest. The unit responsible for managing Abu Ghraib interrogations was the 205 MI BDE.

b. (U) Law, Policy, Doctrine and Training.

(1) (U) Applicable Law.

(a) (U) Military Order of November 13th 2001 – Detention, Treatment and Trial of Certain Non-Citizens in the War Against Terrorism (Reference Annex J, Appendix 1).

(b) (U) Geneva Convention (IV) Relative to the Protection of Civilian Persons in Time of War, 12 August 1949 (Reference Annex J, Appendix 5).

(c) (U) AR 190-8 / OPNAVINST 3461.6 / AFJI 31-302/MCO 3461.1, Enemy Prisoners of War, Retained Personnel, Civilian Internees and other Detainees, 1 October 1997 (Reference Annex M, Appendix 2).

(d) (U) FM 34-52, Intelligence Interrogation, 28 September 1992 (Reference Annex M, Appendix 3).

(e) (U) Classification of Detainees. The overwhelming evidence in this investigation shows that most "detainees" at Abu Ghraib were "civilian internees." Therefore, this discussion will focus on "civilian internees."

[1] (U) Detainee. AR 190-8 defines a detainee as any person captured or otherwise detained by an armed force. By this definition, a detainee could be an Enemy Prisoner of War (EPW), a Retained Person, such as a doctor or chaplain, or a Civilian Internee. The term

"detainee" is a generic one with no specific implied rights or protections being afforded to the individual; however, it is almost exclusively used by the Soldiers and other individuals interviewed in this investigation to refer to the individuals interned at Abu Ghraib. In order to understand the rights and protections that need to be provided to a "detainee," further classification is necessary.

[2] (U) Civilian Internee. Using Geneva Convention IV (GC IV), Article 78, as further defined by AR 190-8, a "Civilian Internee" is someone who is interned during armed conflict or occupation for security reasons or for protection or because he has committed an offense against the detaining power. (Reference Annex H, Appendix 1, FRAGO 749 to CJTF-7 OPORD 03-036). The overwhelming evidence in this investigation shows that all "detainees" at Abu Ghraib were civilian internees. Within the confinement facility, however, there were further sub-classifications that were used, to include criminal detainee, security internee, and MI Hold.

[a] (U) Criminal Detainee. A person detained because he/she is reasonably suspected of having committed a crime against Iraqi Nationals or Iraqi property or a crime not related to the coalition force mission (Reference Annex H, Appendix 1, FRAGO 749 to CJTF-7 OPORD 03-036).

[b] (U) Security Internee. Civilians interned during conflict or occupation for their own protection or because they pose a threat to the security of coalition forces, or its mission, or are of intelligence value. This includes persons detained for committing offenses (including attempts) against coalition forces (or previous coalition forces), members of the Provisional Government, Non-Government Organizations, state infrastructure, or any person accused of committing war crimes or crimes against humanity. Security internees are a subset of civilian internees (Reference Annex H, Appendix 1, FRAGO 749 to CJTF-7 OPORD 03-036).

[c] (U) MI Hold. A directive to hold and not release a detainee/internee in the custody of the Coalition Forces, issued by a member or agent of a US Military Intelligence Organization (Reference Annex H, Appendix 1, FRAGO 749 to CJTF-7 OPORD 03-036).

[d] (U) Most detainees located within Abu Ghraib, to include those in Tier 1A and 1B (Reference Annex F, Appendix 1, Abu Ghraib Overhead with Organizational Layout), were Civilian Internees and therefore, entitled to protections under GC IV. In addition to applicable international laws, ARs, and the FMs on Intelligence Interrogations further clarify US Policy regarding the protections afforded Civilian Internees.

(f) (U) Geneva Convention Relative to the Protection of Civilians in Time of War. GC IV provides protections for civilians in time of war. The US is bound by the Geneva Conventions; therefore, any individual acting on behalf of the US during an armed conflict is

also bound by Geneva Conventions. This includes not only members of the armed forces, but also civilians who accompany or work with the US Armed Forces. The following are some relevant articles to the discussion on detainee abuse:

[1] (U) Article 5. Where in the territory of a Party to the conflict, the latter is satisfied that an individual protected person is definitely suspected of or engaged in activities hostile to the security of the State, such individual person shall not be entitled to claim such rights and privileges under the present Conventions as would, if exercised in the favor of such individual person, be prejudicial to the security of such State. Where in occupied territory an individual protected person is detained as a spy or saboteur, or as a person under definite suspicion of activity hostile to the security of the Occupying Power, such person shall, in those cases where absolute military security so requires, be regarded as having forfeited rights of communication under the present Conventions. In each case, such persons shall nevertheless be treated with humanity and, in case of trial, shall not be deprived of the rights of fair and regular trial prescribed by the present [convention].

[2] (U) Article 27. Protected persons are entitled, in all circumstances, to respect for their persons, their honor, their family rights, their religious convictions and practices, and their manner and customs. They shall at all times be humanely treated, and shall be protected against all acts of violence or threats thereof and against insults and public curiosity.

[3] (U) Article 31. No physical or moral coercion shall be exercised against protected persons, in particular to obtain information from them or from third parties.

[4] (U) Article 32. The [Parties to the Convention] agree that each of them is prohibited from taking any measure of such a character as to cause the physical suffering or extermination of protected persons in their hands. This prohibition applies not only to murder, torture, corporal punishments, mutilation and medical and scientific experiments not necessitated by the medical treatment of a protected person, but also to any other measures of brutality whether applied by civilian or military agents.

[5] (U) Article 37. Protected persons who are confined pending proceedings or serving a sentence involving loss of liberty, shall during their confinement be humanely treated.

[6] (U) Article 100. The disciplinary regime in places of internment shall be consistent with humanitarian principles, and shall in no circumstances include regulation imposing on internees any physical exertion dangerous to their health or involving physical or moral victimization. Identification by tattooing or imprinting signs on the body is prohibited. In particular, prolonged standing and roll-calls, punishment drills, military drill and maneuver, or the reduction of food rations, are prohibited.

[7] (U) Article 143. Representatives or delegates of the Protecting Powers shall have permission to go to all places where protected persons are, particularly to places of internment, detention and work. They shall have access to all premises occupied by protected persons and shall be able to interview the latter without witnesses, personally or through an interpreter. Such visits may not be prohibited except for reasons of military imperative, and then only as an exceptional and temporary measure. Their duration and frequency shall not be restricted. Such representatives and delegates shall have full liberty to select the places they wish to visit. The Detaining or Occupying Power, the Protecting Power, and when occasion arises the Power of origin of the persons to be visited, may agree that compatriots of the internees shall be permitted to participate in the visits. The delegates of the International Committee of the Red Cross shall also enjoy the above prerogatives. The appointment of such delegates shall be submitted for the approval of the Power governing the territories where they will carry out their duties.

(2) (U) AR 190-8, Enemy Prisoners of War, Retained Personnel, Civilian Internees and other Detainees is a joint publication between all services of the Armed Forces (Reference Annex M, Appendix 2).

(a) (U) US Policy Overview. The regulation (Reference Annex M, Appendix 2, AR 190-8, Paragraph 1-5) sets out US Policy stating that "US policy, relative to the treatment of EPW, Civilian Internees and RP in the custody of the US Armed Forces, is as follows: All persons captured, detained, interned, or otherwise held in US Armed Forces custody during the course of conflict will be given humanitarian care and treatment from the moment they fall into the hands of the US forces until final release and repatriation." The regulation further defines this policy.

(b) (U) Inhumane Treatment. Specifically, inhumane treatment of detainees is prohibited and is considered a serious and punishable offense under international law and the UCMJ. The following acts are prohibited: murder, torture, corporal punishment, mutilation, the taking of hostages, sensory deprivation, collective punishment, execution without trial, and all cruel and degrading treatment. (Reference Annex M, Appendix 2, AR 190-8, Paragraph 1-5(b)).

(c) (U) Protection from Certain Acts. All detainees will be protected against all acts of violence to include rape, forced prostitution, assault and theft, insults, public curiosity, bodily injury, and reprisals of any kind. (Reference Annex M, Appendix 2, AR 190-8, Paragraph 1-5(c)). This is further reinforced in FM 34-52 (Reference Annex M, Appendix 3), which states that the Geneva Conventions and US policy expressly prohibit acts of violence or intimidation, including physical or mental torture, threats, insults, or exposure to inhumane treatment as a means of or aid to interrogation.

(d) (U) Photographs. Photographs of detainees are strictly prohibited except for internal administrative purposes of the confinement facility. (Reference Annex M, Appendix 2, AR 190-8, Paragraph 1-5(d)).

(e) (U) Physical torture or moral coercion. No form of physical or moral coercion will be exercised against the Civilian Internee. (Reference Annex M, Appendix 2, AR 190-8, Paragraph 1-5(a)(1)).

(f) (U) At all times, the Civilian Internee will be humanely treated and protected against all acts of violence or threats and insults and public curiosity. The Civilian Internee will be especially protected against all acts of violence, insults, public curiosity, bodily injury, reprisals of any kind, sexual attacks such as rape, forced prostitution, or any form of indecent assault. (Reference Annex M, Appendix 2, AR 190-8, Paragraph 1-5(a)(2) & (3)).

(3) (U) Military Intelligence Doctrine and Training.

(a) (U) Doctrine.

[1] (U) The Army's capstone doctrine for the conduct of interrogation operations is FM 34-52, Intelligence Interrogation, dated September, 1992. This doctrine provides an adequate basis for the training of interrogators at the Soldier level (e.g., in the art of tactical interrogation and the Geneva Conventions); however, it is out of date with respect to the management and conduct of detainee operations. Joint Doctrine on the conduct of detainee operations is sparse even though the Army has operated JIDCs since 1989 in Operation JUST CAUSE, and because the Army is normally tasked by the Joint Force Commander to establish and manage EPW/Detainee operations for the deployed force (Reference Annex M, Appendix 1, APPENDIX G-3, Joint Publication 2-01, Joint Intelligence Support to Military Operations). National level doctrine, in the form of a Defense Intelligence Agency Manual (DIAM), also contains very little doctrinal basis for the conduct and management of joint interrogation operations. A critical doctrinal gap at the joint and service level is the role of national level agencies (e.g., other governmental agencies [OGA]) in detainee operations to include appropriate protocols for sharing valuable intelligence assets. The Center for Army Lessons Learned (CALL) reported the following in a recent assessment of Operation Iraqi Freedom detainee and interrogation operations (Reference Annex C, Appendix 5):

> MP and MI doctrine at division and below must be modified for stability operations and support operations to reflect the need for long-term detention facilities and interrogation of captives at the tactical level.

[2] (U) It is possible that some of the unauthorized interrogation techniques employed in Iraq may have been introduced through the use of an outdated training manual (FM 34-52 dated 1987 vice FM 34-52 dated 1992). The superseded version (FM 34-52, dated 1987) has been used at various locations in OIF. In a prior AR 15-6 investigation of Camp Cropper (Reference Annex C, Appendix 2), the 1987 version was again used as the reference (Reference Annex M, Appendix 3). On 9 June 2004, CJTF-7 published an email (Reference Annex L, Appendix 4, email) that indicated the May 1987 version was used as CJTF-7's primary reference. The section encapsulated below from the 1987 version has been removed from the 1992 version of FM 34-52. To the untrained, the reference in the outdated version could appear as a license for the interrogator to go beyond the current doctrine as established in the current FM 34-52. The 1987 version suggests the interrogator controls lighting, heating, and configuration of the interrogation room, as well as the food, shelter, and clothing given to the source. The section from the 1987 version that could be misunderstood is from Chapter 3 and reads as follows:

> FM 34-52 (1987) Chapter 3, Establish and Maintain Control. The interrogator should appear to be the one who controls all aspects of the interrogation to include the lighting, heating, and configuration of the interrogation room, as well as the food, shelter, and clothing given to the source. The interrogator must always be in control, he must act quickly and firmly. However, everything that he says and does must be within the limits of the Geneva and Hague Conventions, as well as the standards of conduct outlined in the UCMJ.

[3] (U) Doctrine provides the foundation for Army operations. A lack of doctrine in the conduct of non-conventional interrogation and detainee operations was a contributing factor to the abuses at Abu Ghraib.

(b) (U) Training

[1] (U) Formal US Army interrogation training is conducted at the Soldier level, primarily as part of a Soldier's Initial Entry Training (IET). There is no formal advanced interrogation training in the US Army. Little, if any, formal training is provided to MI leaders and supervisors (Commissioned Officers, Warrant Officers, and Non-Commissioned Officers) in the management of interrogation and detainee operations. These skills can only be developed in the unit environment through assignments to an interrogation unit, involvement in interrogation training exercises, or on deployments. Unfortunately, unit training and exercises have become increasingly difficult to conduct due to the high pace of deployments of interrogation personnel

and units. With very few exceptions, combined MI and MP training on the conduct of detainee operations is non-existent.

[2] (U) The IET course at the USAIC, Fort Huachuca, AZ, provides a 16.5 week course of instruction. The course consists of 758.2 hours of academic training time that includes collection prioritization, screening, planning and preparation, approaches, questioning, termination of interrogations, and report writing in the classroom and practical exercise environments. The course focuses on the conduct of tactical interrogations in conventional war. Each student receives eight hours of classroom training on AR 381-10, Army Intelligence Activities (Reference Annex M, Appendix 2) and FM 27-10, Law of Land Warfare (Reference Annex M, Appendix 3) and 184 hours of practical exercise. The student's understanding of the Geneva Conventions and Law of Land Warfare is continually evaluated as a critical component. If at any time during an exercise, the student violates the Geneva Conventions, they will fail the exercise. A failure does not eliminate the student from the course. Students are generally given the chance to recycle to the next class; however, egregious violations could result in dismissal from the course.

[3] (U) The reserve components use the same interrogator program of instruction as does the active component. They are exposed to the same classes and levels of instruction. Like the active component, the reserve components' training opportunities prior to deployment in recent years have been minimal, if any. Those slated for deployment to the JTF-GTMO attend the Intelligence Support to Counter Terrorism (ISCT) Course.

[4] (U) Army Regulations require interrogators to undergo refresher training on the Geneva Conventions annually. Units are also expected to conduct follow-up training for Soldiers to maintain and improve their interrogation skills. This becomes difficult given that Soldiers fresh from the basic interrogation course are deployed almost as soon as they arrive to their unit of assignment. This leaves little, if any, time to conduct that follow-on training with their unit to hone the skills they have learned in school. In addition to the unit deployments, the individual interrogators find themselves deployed to a wide variety of global engagements in a temporary duty status–not with their units of assignments. It is not uncommon for an individual to be deployed two or three times in the course of a year (e.g., the Balkans, Cuba [JTF-GTMO], Afghanistan, Iraq, or in support of Special Operations Forces [SOF]).

[5] (U) There is no formal advanced interrogation training in the US Army. The DoD manages a Strategic Debriefing Course for all services. While some of the skills are similar, the Strategic Debriefing Course is not an advanced interrogation course. Further, only interrogators being assigned to strategic debriefing assignments are authorized to attend this course. This prevents the tactical interrogator, the operator at Abu Ghraib, from further developing skills. Junior NCOs receive only limited interrogation-related training during his or

her advanced NCO courses--the Basic Non-Commissioned Officers Course (BNCOC) and the Advanced Non-commissioned Officer's Course (ANCOC). This limited training is restricted to the management of interrogation operations. The amount of time spent on the Geneva Conventions training during either of these courses is minimal. Officers receive limited training in interrogation or interrogation management in their entry level and advanced level courses. Like BNCOC and ANCOC, this training is focused on management and not the intricacies of interrogation operations or the legal restrictions applicable to interrogation operations.

[6] (U) Very little training is available or conducted to train command and staff elements on the conduct, direction, and oversight of interrogation operations. To address a portion of this shortfall, USAIC is standing up a course to teach the management of Human Intelligence to MI officers. A pilot course is scheduled and is designed to prepare the intelligence staffs (G2, S2) of a deploying Army Division with the capability to synchronize, coordinate, manage and de-conflict Counterintelligence and Human Intelligence (HUMINT) operations within the division's area of responsibility.

[7] (U) Most interrogator training that occurred at Abu Ghraib was on-the-job-training. The JIDC at Abu Ghraib conducted Interrogation Rules of Engagement (IROE) and interrogation operations training. The fast paced and austere environment limited the effectiveness of any training. After mid-September 2003, all Soldiers assigned to Abu Ghraib had to read a memorandum titled IROE, acknowledging they understood the ICRP, and sign a confirmation sheet indicating they had read and understood the ICRP. Most Soldiers have confirmed they received training on the IROE. See attached CJTF-7 IROE standard signature sheet (Reference Annex J, Appendix 4) to view an example.

[8] (U) MG G. Miller led an assessment team to Abu Ghraib in early September 2003. This was followed by a training team from 2 October - 2 December 2003. There is no indication that the training provided by the JTF-GTMO Team led to any new violations of the Geneva Conventions and the law of land warfare. Training focused on screening, the use of pocket litter during interrogations, prioritization of detainees, planning and preparation, approaches, questioning, interpreter control, deception detection, reporting, automation, and interrogation booths. The training provided at Abu Ghraib did not identify the abuses that were ongoing as violations of regulations or law, nor did it clarify issues involving detainee abuse reporting.

[9] (U) Interrogators learn as part of their training that the MPs provide the security for and run detention operations at the Collection Points (CPs), Corps Holding Areas (CHAs), and Internment/Resettlement (IR) facilities. The interrogator's mission is only to collect intelligence from prisoners or detainees. Interaction with the MPs is encouraged to take advantage of any observations the MPs/guards might have concerning a particular prisoner or

detainee. While the USAIC includes this in the interrogator's training, very little time is spent training MI/MP detention operations. In the past, the Army conducted large EPW/Detainee exercises (the Gold Sword and Silver Sword series) that provided much of the training critical to MPs' and Interrogators' understanding of their respective roles and responsibilities. These exercises were discontinued in the mid 1990s due to frequent deployments and force structure reductions, eliminating an excellent source of interoperability training. The increase in op-tempo since 9/11 has further exacerbated the unit training and exercise problem.

[10] (U) Contract Training.

[a] (U) The US Army employs contract linguists/translators and contract interrogators in military operations. Some IET is provided to familiarize military interrogators in the conduct of interrogations using translators. No training is conducted at any level (enlisted, NCO, Warrant Officer, or Officer) on the employment of contract interrogators in military operations. The use of contract interrogators and linguists at Abu Ghraib was problematic (See paragraph 4.g.) from a variety of perspectives. JIDC interrogators, analysts, and leaders were unprepared for the arrival of contract interrogators and had no training to fall back on in the management, control, and discipline of these personnel.

[b] (U) No doctrine exists to guide interrogators and their intelligence leaders (NCO, Warrant Officer, and Officer) in the contract management or command and control of contractors in a wartime environment. These interrogators and leaders faced numerous issues involving contract management: roles and responsibilities of JIDC personnel with respect to contractors; roles, relationships, and responsibilities of contract linguists and contract interrogators with military personnel; and the methods of disciplining contractor personnel. All of these need to be addressed in future interrogation and interrogation management training.

[11] (U) Soldier interrogation training is adequate with respect to interrogation techniques and procedures for conventional warfare. It is far less suited to the realities of the GWOT and Stability and Support Operations (SASO) and contract management. Despite the emphasis on the Geneva Conventions, it is clear from the results at Abu Ghraib (and elsewhere in operations in support of the GWOT) that Soldiers on the ground are confused about how they apply the Geneva Conventions and whether they have a duty to report violations of the conventions. Most Abu Ghraib interrogators performed their duties in a satisfactory manner without incident or violation of training standards. Some interrogators (See paragraph 5.e.- 5.h., below), however, violated training standards in the performance of selected interrogations. Army training at USAIC never included training on interrogation techniques using sleep adjustment, isolation, segregation, environmental adjustment, dietary manipulation, the use of military working dogs, or the removal of clothing. These techniques were introduced to selected interrogators who worked at Abu Ghraib from sources other than official Army training.

(4) (U) Military Police Doctrine and Training

(a) (U) DoD Directives 2310.1, DoD Program for Enemy Prisoners of War and Other Detainees, and 5100.77, DoD Law of War Program, require that the US military services comply with the principles, spirit, and intent of international laws of war, that the DoD observes and enforces the US obligations under the laws of war, that personnel know the laws of war obligations, and that personnel promptly report incidents violating the laws of war and that the incidents be thoroughly investigated.

(b) (U) AR 190-8, "Enemy Prisoner of War, Retained Personnel Civilian Internees and other Detainees," is a multi-service policy that incorporates the directives from the DoD publications above. The regulation addresses the military police treatment of civilian internees, and directs that:

-No physical or moral coercion be used
-Internees be treated with respect for their person, honor, manner, and customs
-Internees be protected against violence, insults, public curiosity, bodily injury, or any form of indecent assault

It specifically prohibits:

-Measures causing physical suffering, to include corporal punishment, and other measures of brutality

It specifies that disciplinary measures NOT:

-Be inhumane, brutal, or dangerous to health
-Include imprisonment in a place without daylight

The authorized disciplinary punishments include:

-Discontinuance of privileges granted over and above the treatment provided for by regulation
-Confinement, not to exceed 30 consecutive days

(Reference Annex M, Appendix 2, AR 190-8)

(c) (U) AR 190-12, Military Working Dog Program, notes that military police may potentially use dogs for EPW control, but limits their use against people to instances when the

responsible commander determines it absolutely necessary and there have been reasonable efforts to use all lesser means of force. (Reference Annex M, Appendix 2, AR 190-12)

(d) (U) Procedural guidance, found in FM 3-19.40 and the MP Standard Operating Procedure (SOP) for Abu Ghraib (400th MP BN SOP for Camp Vigilant Detention Center), consistently follow directly from the DoD directives and the applicable ARs. The procedural guidance provides military police clear-cut guidance for permissible and impermissible practices during Internment Operations. (Reference Annex M, Appendix 3, FM 3-19.40; Annex J, Appendix 4, 400 MP BN SOP Camp Vigilant Detention Center)

(5) (U) Intelligence and Interrogation Policy Development.

(a) (U) National Policy.

(1) (U) US forces and intelligence officials deployed to Afghanistan and elsewhere to conduct military operations pursuant to GWOT. Specific regulatory or procedural guidance concerning either "humane" treatment or "abuse" was not available in the context of GWOT and the recently promulgated national policies. Military and civilian intelligence agencies, to include the 519th MI Battalion (519 MI BN) in late 2002, conducted interrogations in Afghanistan in support of GWOT. As a result, deployed military interrogation units and intelligence agencies in Afghanistan developed certain practices. Later, some of these same techniques surfaced as interrogation techniques in Iraq. Prior to these deployments, US Army interrogators used the doctrine found in FM 34-52. The 1992 FM was what military interrogators at Abu Ghraib were trained on, and it contained the techniques and the restrictions they had been taught. (Reference Annex M, Appendix 3; FM 34-52, Interrogation Operations, [1987 and 1992 versions])

(2) ~~(S//NF)~~

(3) ~~(S//NF)~~

(4) ~~(S//NF)~~

(5) (U) On 16 April 2003, SECDEF approved approaches for use on the Guantanamo "unlawful" combatants, as defined by the President's Military Order of 13 November 2001 and reiterated in the 7 February 2002 memorandum to DoD. Once this document was signed, it became policy at JTF-GTMO, and later became the bedrock on which the CJTF-7 policies were based. The first 18 approaches listed in the 16 April 2003 memo from the SECDEF all appear in the current, 1992, FM 34-52, except the Mutt-and-Jeff approach, which was derived from the superseded 1987 FM 34-52. The remaining approaches, similar to the ones identified in the OGC working group's memorandum derived from the CJTF-180 memorandum and the JTF-GTMO request, included:

Change of Scenery Down
Dietary Manipulation
Environmental Manipulation
Sleep Adjustment
False Flag
Isolation

Although approving all approaches for use, the SECDEF required that he be notified prior to implementing the following approaches:

Incentive/Removal of Incentive	Mutt and Jeff
Pride and Ego Down	Isolation

(Reference Annex J, Appendix 2, Counter-Resistance Techniques)

(6) (U) No regulatory guidance exists for interrogators aside from DoD Directives 2310.1, DoD Program for Enemy Prisoners of War and Other Detainees and 5100.77, DoD Law of War Program. The most current interrogation procedural guidance is in the 1992 FM 34-52. (Reference Annex M, Appendix 1, DoD Directive 2310.1; Annex M, Appendix 1, DoD Directive 5100.77).

(b) (U) Development of Intelligence and Interrogation Policy in Iraq and Abu Ghraib.

(1) (U) In July 2003, the 519 MI BN, veterans of Afghanistan already at the BIAP facility, simultaneously conducted interrogations of the detainees with possible information of intelligence value and began to develop IROE for interrogators to meet the newly-focused mission. No known documentation exists concerning specific approaches and techniques used before September 2003.

(2) ~~(S//NF)~~

(3) (U) Meanwhile, at Headquarters, CJTF-7, as the need for actionable intelligence rose, the realization dawned that pre-war planning had not included planning for detainee operations. Believing that FM 34-52 was not sufficiently or doctrinally clear for the situation in Iraq, CJTF-7 staff sought to synchronize detainee operations, which ultimately resulted in a methodology and structure derived from the JTF-GTMO system as presented by MG G. Miller. At the same time, LTG Sanchez directed that an interrogation policy be established that would address "permissible techniques and safeguards for interrogators" for use in Iraq. The CJTF-7

staff relied heavily on the series of SOPs which MG G. Miller provided to develop not only the structure, but also the interrogation policies for detainee operations (Reference Annex B, Appendix 1, SANCHEZ).

(4) (U) On 10 September 2003, CPT Fitch, assigned to the 205 MI BDE as the Command Judge Advocate, was tasked by COL Marc Warren, the Staff Judge Advocate (SJA) for CJTF-7, to work with MAJ Daniel Kazmier and MAJ Franklin D. Raab from the CJTF-7 Office of the Staff Judge Advocate (OSJA) to produce a set of interrogation rules. The OSJA identified interrogation policies from the SECDEF 16 April 2003 memo for JTF-GTMO operations. OSJA provided CPT Fitch the 16 April 2003 SECDEF memorandum, which he copied almost verbatim onto a document entitled CJTF-7 Interrogation and Counter-Resistance Policy (ICRP). This document was developed without reference to the 519 MI BN's July 2003 and August 2003 memos. CPT Fitch sent the policy memo to the 519 MI BN for coordination, and the 519 MI BN added the use of dogs, stress positions, sleep management, sensory deprivation, and yelling, loud music and light control from its 27 August 2003 memo. The use of all the techniques was to apply to interrogations of detainees, security internees, and EPWs. CPT Fitch finalized the combined memo and sent it back to the CJTF-7 SJA. It also went to the CJ-2, CJ-3, and the Commander, 205 MI BDE, who until that point had apparently not been involved in drafting or approving the policy. (Reference Annex B, Appendix 1, FITCH, KAZMIER; Annex J, Appendix 3, CJTF-7 Interrogation and Counter-Resistance Policy, [1st Draft], Annex J, Appendix 3, CJTF-7 Interrogation and Counter-Resistance Policy, [2nd Draft])

(5) (U) Between 10 and 14 September 2003, the OSJA at CJTF-7 changed the 10 September 2003 memo to reflect the addition of the techniques that were not included in the JTF-GTMO policy; i.e., the use of dogs, stress positions, and yelling, loud music, and light control. Upon the guidance and recommendation of the SJA staff, it was decided that LTG Sanchez would approve the use of those additional methods on a case-by-case basis.

(6) ~~(S/NF)~~

(7) ~~(S//NF)~~

(8) ~~(S//NF)~~

(9) ~~(S//NF)~~

(10) (U) The 12 October 2003 policy significantly changed the tone and substance of the previous policy. It removed any approach not listed in the 1987 FM 34-52. While acknowledging the applicability of the Geneva Conventions and the duty to treat all detainees humanely, it also cited Articles 5 and 78 noting specifically that those "detainees engaged in activities hostile to security of coalition forces had forfeited their Geneva Convention rights of communication." It also included provisions found in the superseded 1987 FM 34-52 that authorized interrogators to control all aspects of the interrogation, "to include lighting, and heating, as well as food, clothing and shelter given to detainees." This phrase was specifically left out of the 1992 version (See section 3a(2), above). The 12 October 2003 policy also deleted references to EPWs and specified the policy was for use on civilian security internees.

(11) ~~(S//NF)~~

(12) ~~(S//NF)~~

(13) ~~(S//NF)~~

(14) ~~(S//NF)~~

(15) (U) On 16 October 2003, the JIDC Interrogation Operations Officer, CPT Carolyn A. Wood, produced an "Interrogation Rules of Engagement" chart as an aid for interrogators, graphically portraying the 12 October 2003 policy. It listed the approved approaches, and identified the approaches which had been removed as authorized interrogation approaches, which nonetheless could be used with LTG Sanchez's approval. The chart was confusing, however. It was not completely accurate and could be subject to various interpretations. For example, the approved approaches list left off two techniques which previously had been included in the list (the Pride and Ego Down approach and the Mutt and Jeff approach). The right side of the chart listed approaches that required LTG Sanchez's prior approval. What was particularly confusing was that nowhere on the chart did it mention a number of techniques that were in use at the time: removal of clothing, forced grooming, hooding, and yelling, loud music and light control. Given the detail otherwise noted on the aid, the failure to list some techniques left a question of whether they were authorized for use without approval. (Reference Annex J, Appendix 4, CJTF-7 IROE training card)

(16) (U) By mid-October, interrogation policy in Iraq had changed three times in less than 30 days. Various versions of each draft and policy were circulated among Abu Ghraib, 205 MI BDE, CJTF-7 C2, and CJTF-7 SJA. Anecdotal evidence suggests that personnel were confused about the approved policy from as early as 14 September 2003. The SJA believed that the 14 September 2003 policy was not to be implemented until CENTCOM approved it. Meanwhile, interrogators in Abu Ghraib began operating under it immediately. It was not always clear to JIDC officers what approaches required LTG Sanchez's approval, nor was the level of

approval consistent with requirements in other commands. The JIDC October 2003 SOP, likewise created by CPT Wood, was remarkably similar to the Bagram (Afghanistan) Collection Point SOP. Prior to deployment to Iraq, CPT Wood's unit (A/519 MI BN) allegedly conducted the abusive interrogation practices in Bagram resulting in a Criminal Investigation Command (CID) homicide investigation. The October 2003 JIDC SOP addressed requirements for monitoring interrogations, developing detailed interrogation plans, delegating interrogation plan approval authority to the Interrogation Officer in Charge (OIC), and report writing. It failed to mention details concerning ICRP, approval requirements or procedures. Interrogators, with their section leaders' knowledge, routinely utilized approaches/techniques without obtaining the required authority, indicating confusion at a minimum of two levels of supervision. (Reference Annex J, Appendix 4, JIDC Interrogation SOP; Annex J, Appendix 4, CJTF-180 Bagram Collection Point SOP)

(17) (U) Concepts for the non-doctrinal, non-field manual approaches and practices clearly came from documents and personnel in Afghanistan and Guantanamo. The techniques employed in JTF-GTMO included the use of stress positions, isolation for up to thirty days, removal of clothing, and the use of detainees' phobias (such as the use of dogs) as the 2 December 2002 Counter-Resistance memo, and subsequent statements demonstrate. As the CID investigation mentioned above shows, from December 2002, interrogators in Afghanistan were removing clothing, isolating people for long periods of time, using stress positions, exploiting fear of dogs and implementing sleep and light deprivation. Interrogators in Iraq, already familiar with the practice of some of these new ideas, implemented them even prior to any policy guidance from CJTF-7. These practices were accepted as SOP by newly-arrived interrogators. Some of the CJTF-7 ICRPs neither effectively addressed these practices, nor curtailed their use. (Annex J, Appendix 2, Tab A, Counter-Resistance Techniques; Annex J, Appendix 2, Interrogation Techniques; Annex E, Appendix 4, CID Report)

(18) ~~(S//REL TO USA and MCFI)~~

(6) (U) Other Regulatory Procedural Guidance

(a) (U) On 13 November 2001, the President issued a military order entitled the Detention, Treatment and Trial of Certain Non-Citizens in the War Against Terrorism. The

order authorized US military forces to detain non-US citizens suspected of terrorism, and try them for violations of the law of war and other applicable laws. The order also authorized the SECDEF to detain individuals under such conditions he may prescribe and to issue related orders and regulations as necessary. (Reference Annex J, Appendix 1, Presidential Military Order)

(b) ~~(S//NF)~~

(c) (U) The MP personnel and the MI personnel operated under different and often incompatible rules for treatment of detainees. The MPs referenced DoD-wide regulatory and procedural guidance that clashed with the theater interrogation and counter-resistance policies that the MI interrogators followed. Further, it appears that neither group knew or understood the limits imposed by the other's regulatory or procedural guidance concerning the treatment of detainees, resulting in predictable tension and confusion.

(d) (U) For instance, a MI order to strip a detainee as an interrogation process conflicted with the AR 190-8 directive to treat detainees with respect for their person and honor (Reference Annex M, Appendix 2, AR 190-8, paragraph 5-1a(2)); or to protect detainees against violence, insults, public curiosity, or any form of indecent assault (Reference Annex M, Appendix 2, AR 190-8, paragraph 5-1a(3)); and FM 3-19.40 (Reference Annex M, Appendix 3) (which specifically directs that internees will retain their clothing). A MI order to place a detainee in isolation violated the AR 190-8 directive to not imprison a detainee in a place without daylight (Reference Annex M, Appendix 2, AR 190-8, paragraph 6-11a(5)); to not confine for more than 30 consecutive days, (Reference Annex M, Appendix 2, AR 190-8, paragraph 6-12d(1)); and FM 3-19.40 which specifically directs that the facility commander must authorize any form of punishment. Finally, when interrogators ordered the use of dogs as an interrogation technique, the order violated the policy and intent of AR 190-12. (Reference Annex M, Appendix 2)

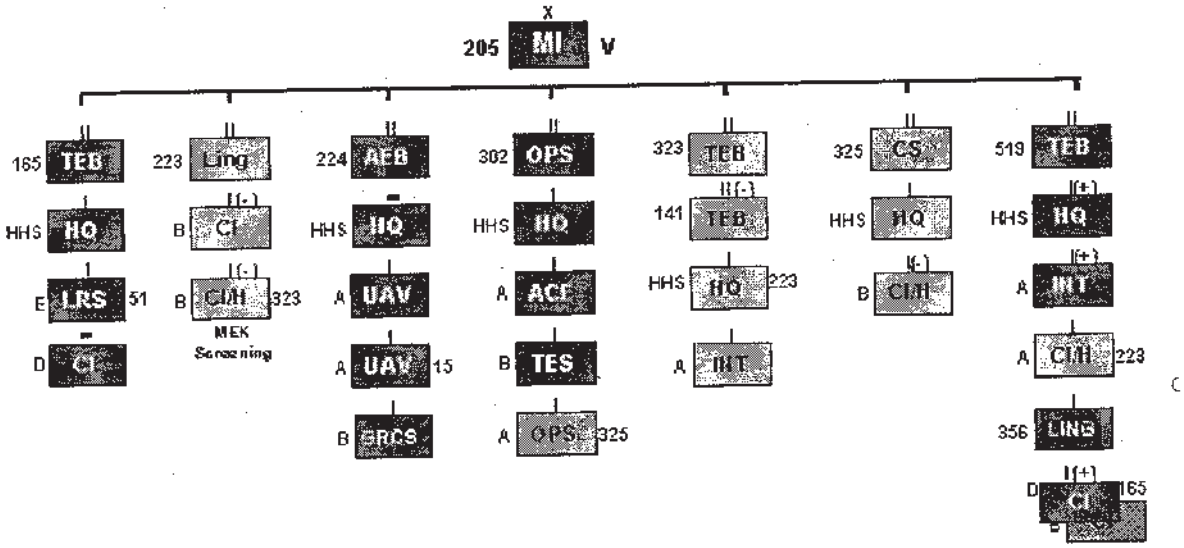
4. (U) Summary of Events at Abu Ghraib.

SUBJECT: (U) AR 15-6 Investigation of the Abu Ghraib Detention Facility and 205th MI Brigade

a. (U) Military Intelligence Organization and Resources.

(1) (U) Task Organization.

(a) (U) The 205 MI BDE was organizationally, and geographically, the size of two MI Brigades. It was composed of four Active and three Reserve Battalions. The 205 MI BDE possessed no organic interrogation elements or personnel. All HUMINT assets (units and personnel) assigned to the 205 MI BDE were from other organizations. Major subordinate elements of the 205 MI BDE included three Tactical Exploitation Battalions (HUMINT and Counterintelligence), one Aerial Exploitation Battalion (Signal Intelligence [SIGINT]) and Imagery Intelligence (IMINT), an Operations Battalion (ANALYSIS), a Linguist Battalion (HUMINT Support) and a Corps Support Battalion (HUMINT). Elements of the Brigade were located throughout Iraq supporting a wide variety of combat operations. (Reference Annex H, Appendix 6, Tab C, 205 MI BDE Command Brief).



205th MI Brigade Task Organization (August 2003)

(b) (U) The 205 MI BDE Commander, COL Thomas Pappas, had a reputation for being an excellent MI officer with a great background and experience before being selected for command. He took command of the 205 MI BDE on 1 July 2003 while the unit was already deployed in Iraq. His performance as Brigade Commander prior to the Abu Ghraib incidents was "outstanding" according to his rater, MG Wojdakowski, DCG, V Corps/CJTF-7 (Reference Annex B, Appendix 1, WOJDAKOWSKI). LTG Sanchez also believed COL Pappas was an

excellent and dedicated officer (Reference Annex B, Appendix 1, SANCHEZ). Other key members of COL Pappas's staff included MAJ Potter, Deputy Commander; MAJ M. Williams, Brigade Operations Officer (S-3); and CPT Fitch, Command Judge Advocate.

(2) (U) Resources.

(a) (U) As hostilities began to shift from a tactical fight to an insurgency, so did intelligence priorities. Iraq quickly became a HUMINT-focused environment in support of SASO with interrogation operations representing the intelligence 'Center of Gravity' (Reference Annex B, Appendix 1, SANCHEZ). Beginning in July 2003, demands placed upon interrogation operations were growing rapidly from both the tactical commanders as well as from the CJTF-7. The 205 MI BDE had the missions of providing Tactical HUMINT Teams (THT - small elements consisting of an interrogator, a linguist, and several combat arms Soldiers attached to maneuver elements to conduct tactical interrogations at "the point of the spear") to forward-deployed combat forces as well as operating a Joint Interrogation and Debriefing Center (JIDC).

(b) (U) As previously mentioned, the 205 MI BDE had no organic interrogation capability. Those assets were eliminated from the active force structure during the down-sizing of the Army in the 1990's. The interrogation assets available to COL Pappas when he first took Command were A/519 MI BN and interrogation sections from the 325th MI Battalion (325 MI BN), US Army Reserve (USAR), and 323rd MI Battalion (323 MI BN), USAR. Because both of the USAR units were significantly under strength before being deployed to Iraq, they received many Soldiers from other USAR units country-wide to fill up their ranks. This process is known as "cross-leveling." Although it has the benefit of filling the ranks, it has the disadvantage of inserting Soldiers into units shortly before deployment who had never trained with those units. The Soldiers did not know the unit. The unit and the unit leadership did not know the Soldiers. The Army has always stressed "you train as you fight." As COL Pappas began to focus his efforts on interrogation operations, all he had were disparate elements of units and individuals, including civilians, that had never trained together, but now were going to have to fight together.

(c) (U) Interestingly, and as a matter of comparison, Iraqi Survey Group (ISG) interrogation operations of high-level detainees at BIAP suffered no such shortages of interrogators. Roughly the same level of personnel supported the ISG interrogation operations at BIAP, even though the ISG facility had an order of magnitude less of detainees of intelligence interest to exploit than did the 205 MI BDE (100 at BIAP vs. over a 1000 at Abu Ghraib). Unfortunately, these much needed resources were unavailable for support to critical CJTF-7 mission needs (Reference Annex B, Appendix 1, SANCHEZ).

(d) (U) The number of interrogators initially assigned to the 205 MI BDE was sufficient for a small detainee population of only several hundred. In late July 2003, only 14 interrogation

personnel were present in the 205 MI BDE to support interrogation operations at Abu Ghraib. All of these personnel were from one unit – A/519 MI BN. By December 2003, Abu Ghraib (the JIDC) had approximately 160 205 MI BDE personnel with 45 interrogators and 18 linguists/translators assigned to conduct interrogation operations. These personnel were from six different MI battalions and groups – the 519 MI BN, the 323 MI BN (USAR), the 325 MI BN (USAR), the 470th MI Group (470 MI GP), the 66th MI Group (66 MI GP), the 500th MI Group (500 MI GP). Additional resources in the form of interrogators from one MTT consisting of analysts and interrogators, and at just about the same time, three "Tiger Teams" consisting of six personnel from JTF-GTMO, came to Abu Ghraib to assist in improving interrogation operations (See paragraph 4.j.(2)). Still short of resources, the Army hired contract interrogators from CACI International, and contract linguists from Titan Corporation in an attempt to address shortfalls (See paragraph 4.g.). Some units, such as the A/519 MI BN, had personnel who had been deployed to combat operations in theater in excess of 400 days so they also faced a rotation of selected personnel home with the resulting personnel turmoil.

b. (U) Establishment of the Prison at Abu Ghraib.

(1) (U) The Coalition Provisional Authority (CPA) made the initial decision to use Abu Ghraib Prison as a criminal detention facility in May 2003 (Reference Annex B, Appendix 1, SANCHEZ). Abu Ghraib began receiving criminal prisoners in June 2003. There were no MI Holds or security detainees in the beginning. All such categories of detainees were sent to Camp Cropper (located at BIAP) or to the other existing facilities throughout the country such as Camp Bucca (Reference Annex F, Appendix 1, AG Overhead Photo).

(2) ~~(S//NF)~~

(3) (U) The Hard Site permanent building facilities at Abu Ghraib were not open for occupancy until 25 August 2003. The opening of the Hard Site was important because it marked the beginning of the serious abuses that occurred. CPT Wood, A/519 MI BN, believed that, based on her experience, the availability of an isolation area to house detainees determined to be of MI value would enhance results. She initiated the request through the 205 MI BDE to CPA for use of part of the Hard Site building for that purpose. Her request received strong support from the 205 MI BDE, specifically from its Operations Officer, MAJ Williams. The 519 MI BN was then granted use of Tier 1A (Reference Annex F, Appendix 1, AG Overview Briefing for diagram) to house detainees.

c. (U) Detention Operations and Release Procedures

(1) ~~(S//NF)~~

(2) ~~(S//NF)~~

(3) ~~(S//NF)~~

(4) ~~(S//NF)~~

(5) ~~(S//NF)~~

(6) (U) The problems cited above contributed significantly to the overcrowding at Abu Ghraib. Overcrowding was even further exacerbated with the transfer of detainees from Camp Bucca to Abu Ghraib. The physical plant was totally inadequate in size and the construction and renovations that were underway were incomplete. Scarcity of resources – both personnel and equipment – to conduct effective confinement or interrogation operations made the situation worse.

(7) (U) There was general consensus (Reference Annex B, Appendix 1, FAST, CIVILIAN-12, LYONS, WOOD, SOLDIER14, SANCHEZ) that as the pace of operations picked up in late November – early December 2003, it became a common practice for maneuver elements to round up large quantities of Iraqi personnel in the general vicinity of a specified target as a cordon and capture technique. Some operations were conducted at night resulting in some detainees being delivered to collection points only wearing night clothes or under clothes. SGT Jose Garcia, assigned to the Abu Ghraib Detainee Assessment Board, estimated that 85% - 90% of the detainees were of no intelligence value based upon board interviews and debriefings of detainees. The Deputy C2X, CJTF-7, CIVILIAN-12, confirmed these numbers. (Reference Annex B, Appendix 1, GARCIA, CIVILIAN-12). Large quantities of detainees with little or no intelligence value swelled Abu Ghraib's population and led to a variety of overcrowding difficulties. Already scarce interrogator and analyst resources were pulled from interrogation operations to identify and screen increasing numbers of personnel whose capture documentation was incomplete or missing. Complicated and unresponsive release procedures ensured that these detainees stayed at Abu Ghraib – even though most had no value.

(8) (U) To make matters worse, Abu Ghraib increasingly became the target of mortar attacks (Reference Annex F, Appendix 3 shows an image of mortar round strikes at Abu Ghraib prior to February 2004 and the times of mortar strikes from January-April 2004) which placed detainees – innocent and guilty alike – in harms way. Force protection was a major issue at Abu Ghraib. The prison is located in a hostile portion of Iraq, adjacent to several roads and highways, and near population centers. BG Karpinski recognized Abu Ghraib's vulnerabilities and raised these concerns frequently to both MG Wojdakowski and LTG Sanchez (Reference Annex B, Appendix 1, KARPINSKI). LTG Sanchez was equally concerned with both the inherent vulnerability of Abu Ghraib and frustrated with the lack of progress in establishing even rudimentary force protection measures and plans (Reference Annex B, Appendix 1, SANCHEZ). LTG Sanchez directed that measures be taken to improve the force protection situation even to the point of having the 82nd Airborne Division Commander meet with Abu Ghraib officers concerning the issue. But, little progress was made and the mortar attacks continued. In an effort to improve force protection at Abu Ghraib, LTG Sanchez directed COL Pappas assume Tactical Control (TACON) of the Abu Ghraib Forward Operating Base (FOB) (Reference Annex H, Appendix 1, FRAGO 1108) on 19 November 2003. COL Pappas devoted considerable energy to improving security, even to the point of bringing a subordinate battalion commander to Abu

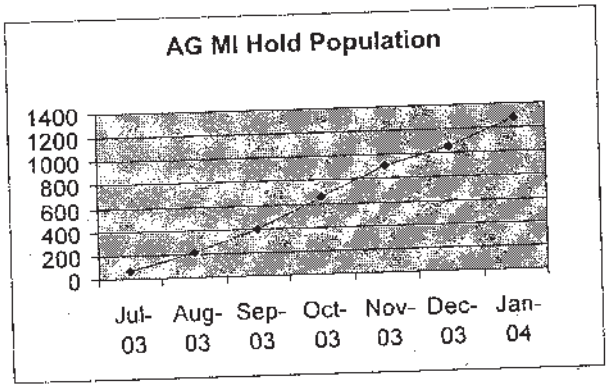
Ghraib to coordinate force protection plans and operations. In spite of these efforts, the mortar attacks continued and culminated in an attack in April 2004 killing 22 detainees and wounding approximately 80 others, some seriously. This highlights the critical need for adequate force protection for a detainee center.

(9) (U) The Security Internee Review and Appeal Board was established on 15 August 2003. It served as the release authority for security internees and/or those on MI Hold who were deemed to be of no security threat or (further) intelligence value. It consisted of three voting members - the C2, CJTF-7 (MG Fast), the Commander 800 MP BDE (BG Karpinski), and the CJTF-7 SJA (COL Warren), and two non-voting members (a SJA recorder and a MI assistant recorder). When first instituted, it was to meet on an "as required" basis; however, it appeared to be difficult to balance the schedules of three senior officers and the necessary support staff on a recurring, regular basis. Due to poor record keeping, accurate detainee release statistics are not available. We do know that by 2 October 2003, only 220 files had been reviewed by the board (Reference Annex H, Appendix 9, 031002 Oct CJTF7 JA Memo for CG). A preliminary screening board (Appellate Review Panel) at a level of authority below the General Officers on the Security Internee Review and Appeal Board was established to speed up the review of files by the General Officers. In the October – November 2003 timeframe, only approximately 100 detainee files a week were considered for release (Reference Annex B, Appendix 1, SUMMERS). As the detainee population increased, it became necessary to have the meetings on a much more frequent basis – initially twice a week. In the January 2004 timeframe, the board was meeting six times a week (Reference Annex B, Appendix 1, FAST). By February 2004, a standing board was established to deal with the ever increasing backlog. Even with more frequent meetings, the release of detainees from Abu Ghraib did not keep pace with the inflow. BG Karpinski believed that MG Fast was unreasonably denying detainees' release. By 11 January 2004, 57 review boards had been held and 1152 detained personnel had been released out of a total of 2113 considered. From February 2004 on, the release flow increased. (Reference Annex C, Appendix 1, Tab B, Annex 104)

(10) (U) As of late May 2004, over 8500 detainees had been reviewed for release, with 5300 plus being released and 3200 plus being recommended for continued internment. (Reference Annex H, Appendix 9, CJTF-7 C2X email). Even those that were initially deemed of no intelligence value and those that had been drained of intelligence information were not released on a timely basis – not as the result of any specific policy, but simply because the system that supported the release board (screening, interviews, availability of accurate records, and coordination) and the release board itself could not keep up with the flow of detainees into Abu Ghraib. Even with these long release delays (often 6 months and longer), there were concerns between the intelligence and tactical sides of the house. Combat Commanders desired that no security detainee be released for fear that any and all detainees could be threats to coalition forces. On occasion, Division Commanders overturned the recommendations of

Division Staffs to release some detainees at the point of capture (Reference Annex B, Appendix 1, PHILLABAUM). The G2, 4 ID informed MG Fast that the Division Commander did not concur with the release of any detainees for fear that a bad one may be released along with the good ones. MG Fast described the 4ID's response to efforts to coordinate the release of selected detainees, "...we wouldn't have detained them if we wanted them released." (Reference Annex B, Appendix 1, FAST, CIVILIAN-12). MG Fast responded that the board would ultimately release detainees if there was no evidence provided by capturing units to justify keeping them in custody.

(11) (U) The chart below depicts the rise in detainee 'MI Hold' population (those identified by the "system" to be deemed of intelligence interest) (Reference Annex H, Appendix 5). SOLDIER-14, the officer at Abu Ghraib primarily responsible for managing collection requirements and intelligence reporting, estimated that only 10-15% of the detainees on MI Hold were of actual intelligence interest. (Reference Annex B, Appendix 1, SOLDIER-14)



(12) (U) Interrogation operations in Abu Ghraib suffered from the effects of a broken detention operations system. In spite of clear guidance and directives, capturing units failed to perform the proper procedures at the point-of-capture and beyond with respect to handling captured enemy prisoners of war and detainees (screening, tactical interrogation, capture cards, sworn statements, transportation, etc.). Failure of capturing units to follow these procedures contributed to facility overcrowding, an increased drain on scarce interrogator and linguist resources to sort out the valuable detainees from innocents who should have been released soon after capture, and ultimately, to less actionable intelligence.

d. (U) Establishment of MP Presence at Abu Ghraib. The first Army unit to arrive was the 72nd MP Company (72 MP CO), Nevada Army National Guard. When first assigned to Abu Ghraib, the 72 MP CO was a subordinate unit of the 400th MP Battalion (400 MP BN)

headquartered at BIAP. The 320th MP Battalion (320 MP BN) advance party was the next to arrive at Abu Ghraib on 24 July 2003. The rest of the 320 MP BN Headquarters, commanded by LTC Phillabaum arrived on 28 July 2003. With the 320 MP BN came one of its subordinate units, the 447th MP Company (447 MP CO). The 72 MP CO was then reassigned from the 400 MP BN to the 320 MP BN. The next unit to arrive was the 229th MP Company (229 MP CO) on or about 3 August 2003. On 1 October 2003, SSG Frederick, CPL Graner and other MPs who have allegedly abused detainees, arrived as part of the 372 MP CO. The rest of the 320 MP CO arrived in late October 2003, followed by the 870th MP Company (870 MP CO) and 670 MP Company (670 MP CO) on approximately 14 November 2003.

e. (U) Establishment of MI Presence at Abu Ghraib.

(1) (U) The first MI unit to arrive at Abu Ghraib was a detachment from A/519 MI BN on 25 July 2003. The person in charge of that contingent was 1SGT McBride. Soldiers from the 519 MI BN had been sent there to prepare for OVB. CPT Wood arrived at Abu Ghraib on 4 August 2003 to assume the duties of Interrogation Operations OIC. MAJ Thompson arrived on or about 10 September 2003 along with elements of the 325 MI BN. MAJ Thompson was sent by COL Pappas to set up the JIDC at Abu Ghraib. LTC Jordan arrived at Abu Ghraib on 17 September 2003 to become the Director of the JIDC. MAJ Price and elements of the 323 MI BN arrived at the end of September 2003. MAJ Price had been the OIC of the interrogation operation at Camp Bucca. He became the Operations Officer of the JIDC, working closely with MAJ Thompson and CPT Wood. Most of the personnel from the 323 MI BN element that arrived with MAJ Price were used as the Headquarters element and did not directly participate in interrogations.

(2) (U) Civilian CACI contract interrogators began to arrive in late September 2003. There are a number of shortfalls connected to this issue (See paragraph 4.g., below). It was another complicating factor with respect to command and control. CPT Wood relied on the CACI site manager, CIVILIAN-18, to interview contractors as they arrived and to assign them based on his interviews. She knew little of their individual backgrounds or experience and relied on "higher headquarters" to screen them before arrival. Such screening was not occurring.

(3) (U) During October 2003, in addition to the elements of the already mentioned MI units and the Titan and CACI civilians, elements of the 470 MI GP, 500 MI GP, and 66 MI GP appeared. These units were from Texas, Japan, and Germany, and were part of the US Army Intelligence and Security Command (INSCOM), which tasked those subordinate units to send whatever interrogator and analyst support they had available. MAJ Thompson rotated back to the US on 15 November 2003. CPT Wood left on emergency leave on 4 December 2003 and never returned. MAJ Price, then, was the only commissioned officer remaining in the Operations Section.

(4) (U) It is important to understand that the MI units at Abu Ghraib were far from complete units. They were small elements from those units. Most of the elements that came to Abu Ghraib came without their normal command structure. The unit Commanders and Senior NCOs did not go to Abu Ghraib but stayed with the bulk of their respective units. The bringing together of so many parts of so many units, as well as civilians with very wide backgrounds and experience levels in a two month time period, was a huge challenge from a command and control perspective.

f. (U) Establishment, Organization, and Operation of the Joint Interrogation Debriefing Center (JIDC)

(1) (U) The idea for the creation of the JIDC came about after a number of briefings and meetings were held among LTG Sanchez, MG Fast, COL Pappas, and COL Steven Boltz, Assistant C2, CJTF-7. These meetings and briefings occurred about mid-August 2003 through early September 2003. They partially coincided with MG G. Miller's arrival from GTMO. He and his team provided an assessment of detainee operations in Iraq from 31 August to 9 September 2003 (See Paragraph 4.j.(1)). MG G. Miller's discussions with the CJTF personnel and the 205 MI BDE personnel influenced the decision to create a JIDC and how it would be organized, but those discussions were already underway before his arrival. The objective for the establishment of the JIDC was to enhance the interrogation process with a view toward producing better, timelier, actionable intelligence (actionable intelligence provides commanders and Soldiers a high level of situational understanding, delivered with speed, accuracy, and timeliness, in order to conduct successful operations).

(2) (U) On 6 September 2003, COL Pappas briefed LTG Sanchez on a plan to improve interrogation operations resulting from a 31 August 2003 meeting (Reference Annex H, Appendix 10). LTG Sanchez approved the concept and directed COL Pappas to accelerate all aspects of the plan. This decision established the JIDC and modified previous interrogation operations at Abu Ghraib. COL Pappas decided when standing up the JIDC not to make it a battalion operation (Reference Annex B, Appendix 1, WILLIAMS), therefore deciding not to place one of his battalion commanders in charge of the JIDC but instead rely upon staff personnel to manage the entire operation. The current operation would be transitioned to a JIDC by personnel already assigned at Abu Ghraib with additional manning provided by the consolidation of security detainee interrogation operations from other locations (e.g., Camp Cropper). LTC Jordan would become the Director of the JIDC on 17 September 2003. Other key JIDC personnel included CPT Wood (OIC ICE), MAJ Thompson (JIDC Operations Officer), MAJ Price (JIDC Operations Officer), SOLDIER-14 and SOLDIER-23 (Interrogation Technicians). CJTF-7 decided to use the JTF-GTMO Tiger Team concept which uses an interrogator, an intelligence analyst, and an interpreter on each team. A re-organization of the

JIDC took place in the late September to October 2003 timeframe which divided Tiger Teams into functional categories.

(3) (U) The reorganization introduced another layer of complexity into an already stressed Abu Ghraib interrogation operations environment. The Tiger Team worked well at GTMO. JTF-GTMO's target population and mission, however, were different from what was faced in Iraq. The Tiger Team method was designed to develop strategic level information from the GTMO detainees who were primarily captured in Afghanistan. By the time they reached GTMO any tactical value they may have had was gone. The same is true for Abu Ghraib relative to Iraq. The best place to collect tactical intelligence from interrogations is at the tactical level. Tactical intelligence is the most perishable, and the faster you harvest it the more useful it will be to help that tactical unit. JIDC personnel at Abu Ghraib believed the thirst for intelligence reporting to feed the national level systems was driving the train. There was then a focus to fill that perceived void and feed that system. LTG Sanchez did not believe significant pressure was coming from outside of CJTF-7, but does confirm that there was great pressure placed upon the intelligence system to produce actionable intelligence (Reference Annex B, Appendix 1, SANCHEZ). The Tiger Team concept should have only been used at Abu Ghraib for any high value targets identified. Those targets should receive careful planning and preparation, and be interrogated by the most experienced interrogators, analysts, and interpreters. Using a Tiger Team at Corps (the JIDC) for developing tactical intelligence did not work.

(4) (U) The JIDC is a non-doctrinal organization. Initially, there was no joint manning document for the JIDC (though one was developed by the 205 MI BDE over time and was submitted to CJTF-7). There was no approved structure for the JIDC. The manning document was being created as the JIDC was already operating (Reference Annex B, Appendix 1, WILLIAMS, Maurice). Because there is no JIDC doctrine (or training), procedures were ad hoc in nature – adapted from FM 34-52 where possible, though most processes and procedures were developed on the fly based upon the needs of the situation. The organization of the JIDC changed often (Reference Annex H, Appendix 6, Tab B) and contributed to the general state of turmoil at Abu Ghraib. Interrogators were not familiar with the new working arrangements (e.g., working with analysts) and were only slightly trained on the conduct of interrogations using translators. Note that most interrogators are only trained in conducting tactical interrogations in a conventional war environment (See paragraph 3.b.(3)). In spite of this turmoil, lack of training and doctrine, and shortages, the JIDC did mature over time and improved intelligence production derived from interrogations at Abu Ghraib.

(5) (U) Early in the formation of the JIDC, COL Pappas requested COL Boltz provide him with a Lieutenant Colonel to run the new organization because the responsibilities would require someone of that rank and commensurate experience. LTC Jordan had just arrived in Iraq four days earlier. He was originally sent to be COL Boltz's Deputy C2 but then a decision was made

to upgrade the C2 position from a COL to a MG. MG Fast was sent to CJTF-7 to be the C2, COL Boltz became the Deputy C2 and LTC Jordan became excess. Since LTC Jordan was available, COL Boltz assigned him to Abu Ghraib to run the JIDC. COL Boltz expected LTC Jordan to report to COL Pappas because COL Pappas had command responsibility for the JIDC. LTC Jordan was assigned to the JIDC verbally. He states that he never received orders (Reference Annex B, Appendix 1, JORDAN, BOLTZ).

(6) (U) There is a significant difference between what LTC Jordan claims he was told when he was sent to Abu Ghraib and what COL Pappas and COL Boltz say he was told. LTC Jordan says he was sent to be a "liaison" officer between CJTF-7 and the JIDC. COL Pappas and COL Boltz say he was sent there to be in charge of it. Reference to titles is useless as a way to sort through this because there was no actual manning document for reference; people made up their own titles as things went along. Some people thought COL Pappas was the Director; some thought LTC Jordan was the Director. A major shortcoming on the part of COL Pappas and LTC Jordan was the failure to do a formal Officer Evaluation Report (OER) support form, Department of Army (DA) Form 67-8-1, to clearly delineate LTC Jordan's roles and responsibilities. It is clear that both had their own ideas as to roles and responsibilities, and an initial goal-setting session formalized via the support form would have forced both parties to deal in specifics. Such sessions are frequently done after the fact; especially in stress-filled combat situations. The less organized the situation, however, the more such a process is needed in order to sort out the boundaries and lanes in the road. Abu Ghraib was certainly a place and a situation that required both clear boundaries and clear lanes in the road. LTC Jordan did provide a support form that he said he did some weeks after his assignment to Abu Ghraib and which he sent to COL Boltz. COL Boltz claims he never received it. LTC Jordan never received a signed copy back from COL Boltz and never followed up to get one. Even if LTC Jordan had sent the support form a few weeks later as he states, it was by then too late. The confusion/damage had been done. The early stages of the Abu Ghraib operation were the most critical to the disastrous end results (Reference Annex B, Appendix 1 BOLTZ, PAPPAS, JORDAN).

(7) (U) The preponderance of evidence supports the COLs Pappas/Boltz position that LTC Jordan was sent to run the JIDC. (Reference Annex B, Appendix 1, PAPPAS and BOLTZ). MAJ M. Williams, Operations Officer of the 205 MI BDE, and MAJ L. Potter, Deputy Commander of the 205 MI BDE, were adamant that LTC Jordan was sent for that reason. LTC Phillabaum believed LTC Jordan was in charge once he arrived at Abu Ghraib and started dealing directly with him. In all but one important aspect, interrogation operations, LTC Jordan began to act as if he were in charge.

(8) (U) As is now evident, LTC Jordan was a poor choice to run the JIDC. He was a Civil Affairs officer. He was an MI officer early in his career, but transferred to Civil Affairs in 1993. The MI experience he did have had not been in interrogation operations. LTC Jordan left the

actual management, organization, and leadership of the core of his responsibilities to MAJ Thompson and CPT Wood. The reality of the situation was that MAJ Thompson and CPT Wood were overwhelmed by the huge demands of trying to organize, staff, equip, and train the JIDC while at the same time answering incessant requests for information from both the 205 MI BDE as well as from CJTF-7. What the JIDC needed in the beginning, more than ever, was a trained, experienced MI LTC. COL Pappas was correct in his assessment of what was required. In the critical early stages of the JIDC, as it was being formed, Abu Ghraib needed a LTC to take total control. The need was for a leader to get the JIDC organized, to set standards, enforce discipline, create checks and balances, establish quality controls, communicate a zero tolerance for abuse of detainees, and enforce that policy by quickly and efficiently punishing offenders so that the rest of the organization clearly understood the message. Well-disciplined units that have active, involved leaders both at the NCO and Officer level are less likely to commit abuses or other such infractions. If such instances do occur, they are seldom repeated because those leaders act aggressively to deal with the violators and reemphasize the standards (Reference Annex B, Appendix 1, BOLTZ, PAPPAS, JORDAN).

(9) (U) LTC Jordan gravitated to what he knew, and what he was comfortable with, rather than filling the void noted above. He was actually a very hard working officer who dedicated himself to improving life for all of the Soldiers at Abu Ghraib. He is physically brave, volunteered for Iraq, and was wounded in action at Abu Ghraib during the mortar attack on 20 September 2003. He addressed shortcomings in the mess situation, lack of exercise equipment, protective gear, living conditions, and communications. He also enforced stricter adherence to the uniform policies and the wearing of protective gear by Soldiers and contractors. Many of the Soldiers that we spoke to, both MPs and MI, considered LTC Jordan the "go to guy" to get the types of things just enumerated done. BG Karpinski even remarked once to LTC Jordan during one of her visits "Do you ever sleep?" (Reference Annex B, Appendix 2, KARPINSKI). Unfortunately, all of the issues he was addressing should have been left to the staffs of the 205 MI BDE and the 320 MP BN. He was not the FOB Commander. LTC Phillabaum was the FOB Commander until the 19 November 2003 FRAGO. (Annex B, Appendix 1, JORDAN).

(10) (U) LTC Jordan became fascinated with the "Other Government Agencies," a term used mostly to mean Central Intelligence Agency (CIA), who were operating at Abu Ghraib. The OGA "Ghost Detainee" issue (housing of detainees not formally accounted for) was well known within both the MI and MP communities and created a mystique about what "they" were doing (See paragraph 4.h.). LTC Jordan allowed OGA to do interrogations without the presence of Army personnel (Reference Annex B, Appendix 1, WOOD, THOMPSON, and PRICE). Prior to that time, JIDC policy was that an Army interrogator had to accompany OGA if they were interrogating one of the detainees MI was also interrogating. As noted above, LTC Jordan was little involved in the interrogation operations, but in this aspect he did become involved and it did not help the situation. The lack of OGA adherence to the practices and procedures

established for accounting for detainees eroded the necessity in the minds of Soldiers and civilians for them to follow Army rules.

(11) (U) LTC Jordan and ten other Soldiers were wounded in the mortar attack that occurred on 20 September 2003. Two Soldiers died in that attack. LTC Jordan was extremely traumatized by that attack, especially by the two deaths and the agony suffered by one of those Soldiers before his death. He was still very emotional about that attack when interviewed for this investigation on 27 May 2004. He said he thinks about the attack and the deaths daily. That attack also had an impact on a number of other Soldiers at Abu Ghraib as did the very frequent mortar attacks that occurred at Abu Ghraib during this entire period The Soldiers' and civilians' morale at Abu Ghraib suffered as the attacks continued. Additionally, there was a general feeling by both MI and MP personnel that Abu Ghraib was the forgotten outpost receiving little support from the Army. (Reference Annex F, Appendix 3, Mortar Attacks). The frequency of these attacks and the perceived lack of aggressive action to prevent them were contributing factors to the overall poor morale that existed at Abu Ghraib.

(12) (U) COL Pappas perceived intense pressure for intelligence from interrogations. This began soon after he took Command in July 2003. In fact, as the time progressed from July 2003 through January 2004, interrogation operations at Abu Ghraib became the central focus of his efforts despite the fact that he was in command of the entire MI Brigade. That pressure for better results was passed from COL Pappas to the rest of the JIDC leadership (including MAJ Thompson, MAJ Price, CPT Wood, SOLDIER-23, and SOLDIER-14) and from them to the interrogators and analysts operating at Abu Ghraib. Pressure consisted in deviation from doctrinal reporting standards (pressure to report rapidly any and all information in non-standard formats such as Interrogator Notes in lieu of standard intelligence reports), directed guidance and prioritization from "higher," outside of doctrinal or standard operating procedures, to pursue specific lines of questioning with specific detainees, and high priority 'VFR Direct' taskings to the lowest levels in the JIDC. This pressure should have been expected in such a critical situation, but was not managed by the leadership and was a contributing factor to the environment that resulted in abuses. (Reference Annex B, Appendix 1, PAPPAS, BOLTZ, LYONS, WOOD, JORDAN,WILLIAMS, Maurice, POTTER, THOMAS, PRICE; and Annex B, Appendix 2, FAST, GEOFFREY MILLER, THOMAS MILLER).

(13) (U) The most critical period of time for Abu Ghraib was when COL Pappas committed a critical error in judgment by failing to remove LTC Jordan as soon as his shortcomings were noted, on approximately 10 October 2003. Very shortly after LTC Jordan's arrival at Abu Ghraib, on or about 17 September 2003, the 205 MI BDE Staff began to note LTC Jordan's involvement in staff issues and his lack of involvement in interrogation operations. The situation as described above would have been a daunting challenge for the most experienced, well trained, MI Officer. COL Pappas knew LTC Jordan was not who was needed to fulfill the JIDC

functions early on, but nevertheless chose to see if LTC Jordan could work out over time. COL Pappas made more frequent visits during this time period both because he was receiving increasing pressure for results but also because he could not rely on LTC Jordan to run the entire operation.

(14) (U) As pointed out clearly in the MG Taguba report, MP units and individuals at Abu Ghraib lacked sufficient training on operating a detainment/interrogation facility. MI units and individuals also lacked sufficient, appropriate, training to cope with the situation encountered at Abu Ghraib (See Paragraph 3.b.(4)). An insurgency is HUMINT intensive. The majority of that HUMINT comes from interrogations and debriefings. Yet at the JIDC, which was set up to be the focal point for interrogation operations, there was only one officer, CPT Wood, with significant interrogation operations experience. There were four MI Warrant Officers but all were used for staff functions rather than directly supervising and observing interrogations. There was a shortage of trained NCOs at the E-7/E-6 level. Each Section Leader had four or five Tiger Teams, too many to closely observe, critique, counsel, consult, and supervise. One Section Leader was an E-5. Several of the interrogators were civilians and about half of those civilians lacked sufficient background and training. Those civilians were allowed to interrogate because there were no more military assets to fill the slots. (Reference Annex B, Appendix 1, PAPPAS). Such a mixture together with constant demands for reports and documentation overwhelmed the Section Leaders. The analysts assigned to Tiger Teams were not all trained 96Bs, but were a mixture of all available intelligence Military Occupational Specialties (MOS). Many of those assigned as analysts had never been trained nor had they ever served as analysts.

(15) (U) Guard and interrogation personnel at Abu Ghraib were not adequately trained or experienced and were certainly not well versed in the cultural understanding of the detainees. MI personnel were totally ignorant of MP lanes in the road or rules of engagement. A common observation was that MI knew what MI could do and what MI couldn't do; but MI did not know what the MPs could or could not do in their activities. The same was true of MP ignorance of MI operational procedures. Having two distinct command channels (MI and MP – see Command and Control) in the same facility with little understanding of each other's doctrinal and regulatory responsibilities caused uncertainty and confusion. There was a perception among both MI and MP personnel that the other group was not doing its fair share in mutually supportive tasks of running the physical plant. CIVILIAN-12 (Assistant CJTF-7 C2X) observed that confusion seemed to be the order of the day at Abu Ghraib. There was hostility between MI and MP personnel over roles and responsibilities (Reference Annex B, Appendix 1, CIVILIAN-12). There was a distinct lack of experience in both camps. Except for some of the Reserve Component MPs who had civilian law enforcement experience, most of the MPs were never trained in prison operations. Because of the shortage of MPs, some MI personnel had to assume detainee escort duties, for which they received only the most rudimentary training.

(16) (U) Abu Ghraib rapidly evolved from a tactical interrogation operation in July 2003 to a JIDC beginning in September 2003. Doctrine, SOPs, and other tactics, techniques and procedures (TTP) for a JIDC were initially non-existent. The personnel manning the JIDC came from numerous units, backgrounds, and experiences. Equipment such as computers, software, IT infrastructure (networks, data storage), and connectivity to relevant intelligence data bases was very limited. Even file cabinets were in short supply which resulted in lost documents. One JIDC Soldier stated, "I can believe them (files for requests for exceptions to policy) getting lost because we often lost complete files. Our filing system was not the best. We did not have serviceable file cabinets and teams were given approval to place files in cardboard boxes." (Reference Annex B, Appendix 1, ADAMS) Initially there was only one computer available for every four interrogators. Ad hoc data bases were built, employed, and modified as requirements dictated. Data connectivity between interrogators and analysts was established using "thumb drives." Forms, intelligence products, and database formats came and went based upon their immediate utility – many times dictated by the changing structure of the JIDC itself as directed by leadership. Critical records regarding each detainee were located in several electronic and hardcopy locations – the operations officers maintained some files, others were maintained by section leaders, others by collection management personnel, and others by Detainee Release Board (DRB) personnel. Some interrogation related information was recorded on a whiteboard which was periodically erased. No centralized management system existed to manage interrogation operations. One result was that detainee records critical to the evaluation of prisoners for a variety of reasons (for intelligence value assessment, release, medical evaluation, etc.) were difficult to find or construct. MP records at Abu Ghraib were equally primitive. These documentation shortfalls not only hindered effective interrogation operations and information sharing, but also hindered the ability of the Security Internee Review and Appeal Board (which relied upon records reviews to make decisions to release or retain detainees). As addressed earlier, many detainees arrived at Abu Ghraib with little or no documentation from capturing units. Follow-on records maintained by the MP and MI personnel at Abu Ghraib would be sparse if the detainee had not been thoroughly interrogated. DRBs were reluctant to release a detainee if they knew little about him. MG Fast noted that one detainee file that was reviewed by the release board was completely empty. Even detainee medical records that should have been created and stored (Reference Annex H, Appendix 8) were not maintained appropriately. Medical doctors on site at Abu Ghraib claim that excellent medical records were maintained on detainees (Reference Annex B, Appendix 1, ACKERSON). Only a few detainee medical records could be found, indicating that they are not being maintained IAW AR 40-66 (Medical Records Administration and Healthcare Documentation).

g. (U) Contract Interrogators and Linguists

(1) (U) Contracting-related issues contributed to the problems at Abu Ghraib prison. Several of the alleged perpetrators of the abuse of detainees were employees of government

contractors. Two contractual arrangements were involved: one with CACI, for interrogators and several other intelligence - related occupational categories; and one with BTG, for linguists. Since 28 November 2001, BTG has been part of Titan Corporation. The contract is still in the name of BTG. Most people have referred to it as the Titan Contract. A brief description of these two contractual arrangements follows:

(a) (U) Linguist contract- Titan, Inc. - Contract DASC01-99-D-0001.

[1] (U) The need to supplement the Army's capacity for linguists was first raised to the Vice Chief of Staff of the Army in a 1997 "Foreign Language Lay down." It was proposed to establish a contract with the private sector to provide linguists, as needed, for contingencies and current intelligence operations.

[2] (U) As a result of this perceived need, INSCOM awarded Contract DASC01-99-D-0001 to Titan, in March 1999. The contract called for Titan initially to develop a plan to provide and manage linguists throughout the world, and later, implement the plan as required. The contract called for three levels of linguists- some were required to obtain security clearances and some were not. The linguist candidates were subject to some level of background investigations, based on individual requirements for security clearances. Since the award of the contract, hundreds of linguists have been provided, with generally positive results. It is noted that the contract calls for translation services only, and makes no mention of contractor employees actually conducting interrogations. Since the statement of work is limited to translation services, the linguists apparently were not required to review and sign the IROE at Abu Ghraib. A recent review of the contract indicated that the current contract ceiling is approximately $650 Million. Other agencies can order linguist services under this contract. For the most part, the ordering activity also provides the funds for these delivery orders. The contract contains a clause that allows the Contracting Officer to direct the contractor to remove linguists from the theater in which they are performing. This clause has been invoked on occasion for misconduct.

(b) Interrogator contract-CACI, Inc.

[1] (U) The second contractual arrangement is a series of Delivery Orders awarded to CACI, in August 2003, which call for the provision of numerous intelligence-related services such as "Interrogator Support," "Screening Cell Support," "Open Source Intelligence," "Special Security Office," "HUMINT Augmentee Contractors" (which includes "Interrogation Support," "Junior Interrogators," "Senior and Junior Counter-Intelligence Agents," and "Tactical/Strategic Interrogators").

[2] (U) These Delivery Orders were awarded under a Blanket Purchase Agreement (BPA) (NBCHA01-0005) with the National Business Center (NBC), a fee for service activity of the Interior Department. The BPA between CACI and NBC set out the ground rules for ordering from the General Services Administration (GSA) pursuant to GSA Schedule Contract GS-35F-5872H, which is for various Information Technology (IT) Professional Services. Approximately eleven Delivery Orders were related to services in Iraq. While CJTF-7 is the requiring and funding activity for the Delivery Orders in question, it is not clear who, if anyone, in Army contracting or legal channels approved the use of the BPA, or why it was used.

[3] (U) There is another problem with the CACI contract. A CACI employee, Thomas Howard, participated with the COR, LTC Brady, in writing the Statement of Work (SOW) prior to the award of the contract (Reference Annex B, Appendix 1, BOLTZ). This situation may violate the provisions of Federal Acquisition Regulation (FAR) 9. 505-2 (b) (1).

[4] (U) On 13 May 2004, the Deputy General Counsel (Acquisition) of the Army issued an opinion that all Delivery Orders for Interrogator Services should be cancelled immediately as they were beyond the scope of the GSA Schedule contract.

(2) (U) Although intelligence activities and related services, which encompass interrogation services, should be performed by military or government civilian personnel wherever feasible, it is recognized that contracts for such services may be required in urgent or emergency situations. The general policy of not contracting for intelligence functions and services was designed in part to avoid many of the problems that eventually developed at Abu Ghraib, i.e., lack of oversight to insure that intelligence operations continued to fall within the law and the authorized chain of command, as well as the government's ability to oversee contract operations.

(3) (U) Performing the interrogation function in-house with government employees has several tangible benefits for the Army. It enables the Army more readily to manage the function if all personnel are directly and clearly subject to the chain of command, and other administrative and/or criminal sanctions, and it allows the function to be directly accessible by the commander/supervisor without going through a Contracting Officer Representative (COR). In addition, performing the function in-house enables Army Commanders to maintain a consistent approach to training (See Paragraph 3.b.(3)) and a reliable measure of the qualifications of the people performing the function.

(4) (U) If it is necessary to contract for interrogator services, Army requiring activities must carefully develop the applicable SOW to include the technical requirements and requisite personnel qualifications, experience, and training. Any such contracts should, to the greatest extent possible, be awarded and administered by an Army contracting activity in order to provide for the necessary oversight, management, and chain of command. Use of contracting vehicles

such as GSA Federal Supply Schedule (FSS) contracts should be carefully scrutinized given the complexity and sensitivities connected to interrogation operations.

(5) (U) Some of the employees at Abu Ghraib were not DoD contractor employees. Contractor employees under non-DoD contracts may not be subject to the Military Extraterritorial Jurisdiction Act (18 US Code 3261- 3267). The Act allows DoD contractor employees who are "accompanying the Armed Forces outside the United States" to be subject to criminal prosecution if they engage in conduct that would constitute an offense punishable by imprisonment for more than one year if the conduct had occurred within the jurisdiction of the United States.

(6) (U) In the performance of such sensitive functions as interrogation, the Army needs to maintain close control over the entire operation. If a decision is made to contract for these services, the most effective way to do that and maintain a direct chain of command is to award, administer, and manage the contract with Army personnel. As learned in the current situation, it is very difficult, if not impossible, to effectively administer a contract when the COR is not on site.

(7) (U) The Army needs to improve on-site contract monitoring by government employees (using CORs) to insure that the Army's basic interests are protected. The inadequacy of the on-site contract management at Abu Ghraib is best understood by reviewing the statement of CPT Wood (Reference Annex B, Appendix 1, WOOD), the Interrogation OIC, who indicated she never received any parameters or guidance as to how the CACI personnel were to be utilized. She also indicates that her primary point of contact (POC) on matters involving the CACI Delivery Orders was the CACI on-site manager. There is no mention of a COR. Another indication of the inadequacy of the contract management is reflected in the statement of SOLDIER14 (Reference Annex B, Appendix 1, SOLDIER-14), who indicated he was never informed that the Government could reject unsatisfactory CACI employees. It would appear that no effort to familiarize the ultimate user of the contracted services of the contract's terms and procedures was ever made. In order to improve this situation, training is required to ensure that the COR is thoroughly familiar with the contract and gains some level of familiarity with the Geneva Conventions standards. It needs to be made clear that contractor employees are bound by the requirements of the Geneva Conventions.

(8) (U) If it is necessary to contract for interrogator services, more specific training requirements and personnel standards must be incorporated into the solicitation/contract to insure that the contractor hires properly trained and qualified personnel.

(9) (U) Emerging results from a DA Inspector General (DAIG) Investigation indicate that approximately 35% of the contract interrogators lacked formal military training as interrogators.

While there are specific technical requirements in the linguist contract, the technical requirements for the interrogator contract were not adequate. It appears that the only mention of qualifications in the contract stated merely that the contractor employee needs to have met the requirements of one of two MOS, 97E or 351E, or "equivalent". Any solicitation/contract for these services needs to list specific training, if possible, not just point to an MOS. If the training from the MOS is what is required, those requirements should be listed in the solicitation/contract in full, not just referenced. Perhaps the best way of insuring that contractor interrogators receive adequate training would be to utilize existing government training. For example, prospective contractor employees could be sent, at contractor expense, to the Tactical Human Intelligence Course for the 97E MOS, "Human Intelligence Collector." Such a step would likely require some adjustments to the current program of instruction. Prospective contract interrogators could be given the course tests on Interrogation and the Geneva Conventions. If they can pass the examinations, no further training would be required. After a reasonable training period, prospective contractor interrogators who are unable to pass the exam would be rejected. There are, of course other training possibilities. The key point would be agreement on some standardization of the training of contractor interrogators. The necessity for some sort of standard training and/or experience is made evident by the statements of both contractor employees and military personnel. CIVILIAN-21 (CACI) seemingly had little or no interrogator experience prior to coming to Abu Ghraib (Reference Annex B, Appendix 1,CIVILIAN-21, ADAMS), even though he was a Navy Reserve Intelligence Specialist. Likewise, numerous statements indicated that little, if any, training on Geneva Conventions was presented to contractor employees (Reference Annex B, Appendix 1, SOLDIER-25, CIVILIAN-10, CIVILIAN-21 and CIVILIAN-11). Prior to deployment, all contractor linguists or interrogators should receive training in the Geneva Conventions standards for the treatment of detainees/prisoners. This training should include a discussion of the chain of command and the establishment of some sort of "hotline" where suspected abuses can be reported in addition to reporting through the chain of command. If the solicitation/contract allows "equivalent" training and experience, the Contracting Officer, with the assistance of technical personnel, must evaluate and assess the offerors'/contractor's proposal/written rationale as to why it believes that the employee has "equivalent" training. It appears that under the CACI contract, no one was monitoring the contractor's decisions as to what was considered "equivalent."

(10) (U) In addition, if functions such as these are being contracted, MI personnel need to have at least a basic level of contract training so they can protect the Army's interests. Another indication of the apparent inadequacy of on-site contract management and lack of contract training is the apparent lack of understanding of the appropriate relationship between contractor personnel, government civilian employees, and military personnel. Several people indicated in their statements that contractor personnel were "supervising" government personnel or *vice versa*. SGT Adams indicated that CACI employees were in positions of authority, and appeared to be supervising government personnel. She indicated a CACI employee named "First Name"

was listed as being in charge of screening. CIVILIAN-08 (CACI) was in charge of "B Section" with military personnel listed as subordinates on the organization chart. SOLDIER-14 also indicated that CIVILIAN-08 was a supervisor for a time. CPT Wood stated that CACI "supervised" military personnel in her statement, but offered no specifics. Finally, a government organization chart (Reference Annex H, Appendix 6, Tab B) showed a CIVILIAN-02 (CACI) as the Head of the DAB. CIVILIAN-02 is a CACI employee. On the other side of the coin, CIVILIAN-21 indicated in his statement that the Non-Commissioned Officer in Charge (NCOIC) was his supervisor. (Reference Annex B, Appendix 1, SOLDIER-14, CIVILIAN-21, ADAMS, WOOD)

(11) (U) Given the sensitive nature of these sorts of functions, it should be required that the contractor perform some sort of background investigation on the prospective employees. A clause that would allow the government to direct the contractor to remove employees from the theater for misconduct would seem advisable. The need for a more extensive pre-performance background investigation is borne out by the allegations of abuse by contractor personnel.

(12) (U) An important step in precluding the recurrence of situations where contractor personnel may engage in abuse of prisoners is to insure that a properly trained COR is on-site. Meaningful contract administration and monitoring will not be possible if a small number of CORs are asked to monitor the performance of one or more contractors who may have 100 or more employees in the theater, and in some cases, perhaps in several locations (which seems to have been the situation at Abu Ghraib). In these cases, the CORs do well to keep up with the paper work, and simply have no time to actively monitor contractor performance. It is apparent that there was no credible exercise of appropriate oversight of contract performance at Abu Ghraib.

(13) (U) Proper oversight did not occur at Abu Ghraib due to a lack of training and inadequate contract management and monitoring. Failure to assign an adequate number of CORs to the area of contract performance puts the Army at risk of being unable to control poor performance or become aware of possible misconduct by contractor personnel. This lack of monitoring was a contributing factor to the problems that were experienced with the performance of the contractors at Abu Ghraib. The Army needs to take a much more aggressive approach to contract administration and management if interrogator services are to be contracted. Some amount of advance planning should be utilized to learn from the mistakes made at Abu Ghraib.

h. (U) Other Government Agencies and Abu Ghraib.

(1) (U) Although the FBI, JTF-121, Criminal Investigative Task Force, ISG and the Central Intelligence Agency (CIA) were all present at Abu Ghraib, the acronym "Other Government Agency" (OGA) referred almost exclusively to the CIA. CIA detention and interrogation

practices led to a loss of accountability, abuse, reduced interagency cooperation, and an unhealthy mystique that further poisoned the atmosphere at Abu Ghraib.

(2) (U) CIA detainees in Abu Ghraib, known locally as "Ghost Detainees," were not accounted for in the detention system. When the detainees were unidentified or unaccounted for, detention operations at large were impacted because personnel at the operations level were uncertain how to report them or how to classify them, or how to database them, if at all. Therefore, Abu Ghraib personnel were unable to respond to requests for information about CIA detainees from higher headquarters. This confusion arose because the CIA did not follow the established procedures for detainee in-processing, such as fully identifying detainees by name, biometric data, and Internee Serial Number (ISN) number.

(3) (U) DETAINEE-28, suspected of having been involved in an attack against the ICRC, was captured by Navy SEAL Team 7 during a joint TF-121/CIA mission. He reportedly resisted arrest, so a SEAL Team member butt-stroked DETAINEE-28 on the side of the head to subdue him. CIA representatives brought DETAINEE-28 into Abu Ghraib early in the morning of 4 November 2003, sometime around 0430 to 0530 hours. Under a supposed verbal agreement between the JIDC and the CIA, the CIA did not announce its arrival to JIDC Operations. SPC Stevanus, the MP on duty at the Hard Site at the time, observed the two CIA representatives come in with DETAINEE-28 and place him in a shower room in Tier 1B. About 30 to 45 minutes later, SPC Stevanus was summoned to the shower stall and when he arrived, DETAINEE-28 appeared to be dead. Removing the sandbag covering DETAINEE-28's head, SPC Stevanus checked DETAINEE-28's pulse. Finding none, he called for medical assistance, and notified his chain of command. LTC Jordan arrived on site at approximately 0715 hours, and found several MPs and US medical staff with DETAINEE-28 in the Tier 1B shower stall, face down, handcuffed with his hands behind his back. CIVILIAN-03, an Iraqi prison medical doctor, informed him DETAINEE-28 was dead. "OTHER AGENCY EMPLOYEE01," a CIA representative, un-cuffed DETAINEE-28 and turned his body over. Where DETAINEE-28's head had lain against the floor, LTC Jordan noted a small spot of blood. LTC Jordan notified COL Pappas (205 MI BDE Commander), and "OTHER AGENCY EMPLOYEE01" said he would notify "OTHER AGENCY EMPLOYEE02," his CIA supervisor. Once "OTHER AGENCY EMPLOYEE02" arrived, he requested that the Hard Site hold DETAINEE28's body until the following day. DETAINEE-28's body was placed in a body bag, packed in ice, and stored in the shower area. CID was notified. The next day, DETAINEE-28's body was removed from Abu Ghraib on a litter, to make it appear as if he were only ill, so as not to draw the attention of the Iraqi guards and detainees. The body was transported to the morgue at BIAP for an autopsy, which concluded that DETAINEE-28 died of a blood clot in the head, likely a result of injuries he sustained during apprehension. (Reference Annex B, Appendix 1, JORDAN, PAPPAS, PHILLABAUM, SNIDER, STEVANUS, THOMPSON; Annex I, Appendix 1, photographs C5-21, D5-11, M65-69)

(4) (U) The systemic lack of accountability for interrogator actions and detainees plagued detainee operations in Abu Ghraib. It is unclear how and under what authority the CIA could place prisoners like DETAINEE-28 in Abu Ghraib because no memorandums of understanding existed on the subject between the CIA and CJTF-7. Local CIA officers convinced COL Pappas and LTC Jordan that they should be allowed to operate outside the established local rules and procedures. When COL Pappas raised the issue of CIA use of Abu Ghraib with COL Boltz, COL Boltz encouraged COL Pappas to cooperate with the CIA because everyone was all one team. COL Boltz directed LTC Jordan to cooperate. (Reference Annex B, Appendix 1, PAPPAS, BOLTZ)

(5) (U) In many instances, failure to adhere to in-processing procedures caused confusion and acrimony between the Army and OGA, and in at least one instance, acrimony between the US and Saudi Arabian entities. (Reference Annex K, Appendix 3, emails) For example, the CIA interned three Saudi national medical personnel working for the coalition in Iraq. CIA officers placed them in Abu Ghraib under false names. The Saudi General in charge of the men asked US authorities to check the records for them. A search of all databases using their true names came back negative. Ambassador Bremer then requested a search, which produced the same results. The US Embassy in Riyadh also requested a search, which likewise produced no information. Ultimately, the Secretary of State, Colin Powell, requested a search, and as with the other requestors, had to be told that the three men were not known to be in US custody. Shortly after the search for the Secretary of State, a JIDC official recalled that CIA officers once brought three men together into the facility. A quick discussion with the detainees disclosed their true names, which matched the name search requests, and the men were eventually released. (Reference Annex B, Appendix 1, CIVILIAN-12)

(6) (U) Another instance showing lack of accountability to the procedures or rules involved a CIA officer who entered the interrogation room after a break in the interrogation, drew his weapon, chambered a round, and placed the weapon in his holster. This action violated the rule that no weapons be brought into an interrogation room, especially weapons with live rounds. Detainees who have been interrogated by CIA officers have alleged abuse. (Reference Annex B, Appendix 1,CIVILIAN-12)

(7) (U) The death of DETAINEE-28 and incidents such as the loaded weapon in the interrogation room, were widely known within the US community (MI and MP alike) at Abu Ghraib. Speculation and resentment grew over the lack of personal responsibility, of some people being above the laws and regulations. The resentment contributed to the unhealthy environment that existed at Abu Ghraib. The DETAINEE-28 death remains unresolved. CIA officers operating at Abu Ghraib used alias' and never revealed their true names. "OTHER AGENCY EMPLOYEE01" (alias) was the CIA officer with DETAINEE-28 on the morning of

his death. "OTHER AGENCY EMPLOYEE02" (alias) was not directly involved in DETAINEE-28's death, but participated in the discussions after his death. Had the CIA followed established Army procedures and in-processed DETAINEE-28 in accordance with those procedures, DETAINEE-28 would have been medically screened.

(8) (U) OGA never provided results of their abuse investigations to Commander, CJTF-7. This resulted in a total lack of visibility over OGA interaction with detainees held in CJTF-7 spaces. Additionally, the CJTF-7 charter provided no oversight or control over the ISG. LTG Sanchez could neither leverage ISG interrogation assets to assist the detainee operations in Abu Ghraib, nor could he compel ISG to share substantive intelligence reports with CJTF-7. (Reference Annex B, Appendix 1, SANCHEZ)

i. (U) The Move of the 205 MI BDE Commander to Abu Ghraib.

(1) (U) In September 2003, COL Pappas began visiting Abu Ghraib two or three times per week as opposed to once every week or two, his previous routine. He was also beginning to stay overnight occasionally. His visit schedule coincided with the increased emphasis being placed on interrogation operations and the newly formed JIDC. (Reference Annex B, Appendix 1, PAPPAS)

(2) (U) On 16 November 2003, COL Pappas took up full time residence at Abu Ghraib after once again speaking with LTG Sanchez and MG Fast and deciding that he needed to be there. He was appointed FOB Commander on 19 November 2003 in FRAGO 1108. The issuance of FRAGO 1108 has been pointed to and looked upon by many as being a significant change and one that was a major factor in allowing the abuses to occur. It was not. The abuses and the environment for them began long before FRAGO 1108 was ever issued. That FRAGO appointed the Commander, 205 MI BDE, the Commander FOB Abu Ghraib for Force Protection and Security of Detainees. COL Pappas then had TACON of the 320 MP BN. TACON has been misinterpreted by some to mean that COL Pappas then took over the running of the prison, or what has been referred to as Warden functions. COL Pappas never took over those functions, and LTC Phillabaum agrees that the running of the prison was always his responsibility. LTG Sanchez has stated that he never intended to do anything except improve the Force Protection posture of the FOB. That improved force protection posture would have thus improved the security of detainees as well. COL Pappas' rater, MG Wojdakowski, also stated that COL Pappas was never given responsibility for running the prison, but that the MPs retained that responsibility. It would appear from MG Taguba's investigation and the interview for this investigation that BG Karpinski was the only person among the Army leadership involved at the time who interpreted that FRAGO differently. (Reference Annex B, Appendix 1, KARPINSKI and Annex B, Appendix 2, KARPINSKI)

(3) (U) Upon being appointed FOB Commander, COL Pappas brought in one of his subordinate units, the 165th MI Battalion (165 MI BN) to enhance base security and to augment forces providing perimeter security as well as to conduct reconnaissance and surveillance outside the perimeter. That unit had reconnaissance and surveillance elements similar to line combat units that the MP Battalions did not possess. COL Pappas, on 8 December 2003, requested additional forces to support his force protection mission (Reference Annex H, Appendix 6, TAB – Request for Forces (RFF)). Requested forces included personnel for additional guards and a rapid reaction force.

(4) (U) The fact that COL Pappas did not have control of the MP force after the 19 November 2003 FRAGO regarding prison operations is further supported by the fact that at some point near the end of November 2003, the MPs stopped escorting detainees from the camps to the interrogation sites due to personnel shortages. This required MI to take over this function despite their protests that they were neither trained nor manned to do it. COL Pappas would have ordered the MPs to continue the escorts if he had had such authority (See paragraph 4.c.)

(5) (U) A milestone event at Abu Ghraib was the shooting incident that occurred in Tier 1A on 24 November 2003 (See paragraph 5.e.). COL Pappas was by then in residence at Abu Ghraib. LTC Jordan displayed personal bravery by his direct involvement in the shoot-out, but also extremely poor judgment. Instead of ordering the MPs present to halt their actions and isolate the tier until the 320 MP BN Commander and COL Pappas could be notified, he became directly involved. As the senior officer present, LTC Jordan became responsible for what happened. Eventually, COL Pappas was notified, and he did visit the scene. By then the shooting was over, and the MPs were searching the cells. COL Pappas did not remain long but admits to being told by SOLDIER-23 that the Iraqi Police were being interrogated by MI personnel. COL Pappas left LTC Jordan in charge of the situation after the shooting which came to be known as the IP Roundup. The IP Roundup was, by all accounts chaotic. The Iraqi Police, hence the name "IP," became detainees and were subjected to strip searching by the MPs in the hallway, with female Soldiers and at least one female interpreter present. The IP were kept in various stages of dress, including nakedness, for prolonged periods as they were interrogated. This constitutes humiliation, which is detainee abuse. Military working dogs were being used not only to search the cells, but also to intimidate the IPs during interrogation without authorization. There was a general understanding among the MI personnel present that LTG Sanchez had authorized suspending existing ICRP (known by the Abu Ghraib personnel locally as the IROE) because of the shooting (Reference Annex C, Appendix 1, Tab B, Annex 8, AR 15-6 Investigation, 24 November 2003). Nobody is sure where that information came from, but LTG Sanchez never gave such authorization (Reference Annex B, Appendix 1, SANCHEZ). LTC Jordan and the Soldiers should have known the Interrogation Rules would not and could not have been suspended. LTC Jordan should have controlled the situation and should have taken steps to reinforce proper standards at a time when emotions were likely high given the

circumstances. LTC Jordan is responsible for allowing the chaotic situation, the unauthorized nakedness and resultant humiliation, and the military working dog abuses that occurred that night. LTC Jordan should have obtained any authorizations to suspend ICRP in writing, via email, if by no other means. The tone and the environment that occurred that night, with the tacit approval of LTC Jordan, can be pointed to as the causative factor that set the stage for the abuses that followed for days afterward related to the shooting and the IP Roundup. COL Pappas is also responsible and showed poor judgment by leaving the scene before normalcy returned, as well as for leaving LTC Jordan in charge.

(6) (U) The small quantity of MI personnel had a difficult time managing the large number of MI holds which moved from the hundreds to over a thousand by December 2003 (See paragraph 4.c.(12)). In December 2003, COL Pappas, in his role as FOB Commander, requested additional forces be allocated to support the difficult and growing force protection mission. Prior to his designation as FOB Commander, COL Pappas had requested additional forces to support the JIDC mission. One of the reasons he cited in the December request was that the mixing of MI and MP functions was worsening the already difficult personnel resource situation.

j. (U) Advisory and Training Team Deployments

(1) (U) MG Geoffrey Miller Visit

(a) (U) MG G. Miller's visit was in response to a J3, JCS, request to SOUTHCOM for a team to assist CENTCOM and ISG in theater (Reference Annex L, Appendix 1, Electrical Message, DTG: 181854Z Aug 03, FM JOINT STAFF WASHINGTON DC // J3). The team was directed to assist with advice on facilities and operations specific to screening, interrogations, HUMINT collection, and interagency integration in the short and long term. MG G. Miller was tasked as the result of a May 2003 meeting he had with MG Ronald Burgess, J2, JCS. MG Burgess indicated there were some challenges in CJTF-7 with the transition from major combat operations to SASO in the areas of intelligence, interrogation, and detention (Reference Annex B, Appendix 1, MILLER). COL Boltz believed LTG Sanchez had requested the support (Reference Annex B, Appendix 1, BOLTZ).

(b) (U) From 31 August to 9 September 2003, MG G. Miller led a team to Iraq to conduct an "Assessment of DoD Counterterrorism Interrogation and Detention Operations in Iraq." Specifically, MG G. Miller's team was to conduct assistance visits to CJTF-7, TF-20, and the ISG to discuss current theater ability to exploit internees rapidly for actionable intelligence. MG G. Miller and his team of 17 experts assessed three major areas of concern: intelligence integration, synchronization, and fusion; interrogation operations; and detention operations. The team's assessment (Reference Annex L, Appendix 1, MG Miller's Report, Assessment of DoD Counterterrorism Interrogation and Detention Operations in Iraq, undated, and MG Miller's

Briefing of his findings, dated 6 September 2003) identified several areas in need of attention: the interrogators didn't have the authorities and procedures in place to effect a unified strategy to detain, interrogate, and report information from detainees in Iraq; the information needs required an in-theater analysis capability integrated in the interrogation operations to allow for access/leverage of the worldwide intelligence databases; and the detention operations function must support the interrogation process.

(c) (U) MG G. Miller's visit also introduced written GTMO documentation into the CJTF-7 environment. LTG Sanchez recalled MG G. Miller left behind a whole series of SOPs that could be used as a start point for CJTF-7 interrogation operations. It was clear that these SOPs had to be adapted to the conditions in Iraq and that they could not be implemented blindly. LTG Sanchez was confident the entire CJTF-7 staff understood that the conditions in GTMO were different than in Iraq, because the Geneva Conventions applied in the Iraqi theater.

(d) (U) The assessment team essentially conducted a systems analysis of the intelligence mission in Iraq and did not concentrate on specific interrogation techniques. While no "harsh techniques" were briefed, COL Pappas recalled a conversation with MG G. Miller regarding the use of military working dogs to support interrogations (See paragraph 5.f.). According to COL Pappas, MG G. Miller said they, GTMO, used military working dogs, and that they were effective in setting the atmosphere for interrogations (Reference Annex B, Appendix 2, PAPPAS). MG G. Miller contradicted COL Pappas in his statement (Reference Annex B, Appendix 1, MILLER), saying he only discussed using military working dogs to help the MPs with detainee custody and control issues. According to MG G. Miller, the dogs help provide a controlled atmosphere (not interrogations as recalled by COL Pappas) that helps reduce risk of detainee demonstrations or acts of violence. According to MG G. Miller, his team recommended a strategy to work the operational schedule of the dog teams so the dogs were present when the detainees were awake, not when they are sleeping.

(e) (U) Several things occurred subsequent to MG G. Miller's visit to Abu Ghraib. The JIDC was established. The use of Tiger Teams was implemented based on the JTF-GTMO model, which teamed an interrogator and an analyst together, giving each team an organic analytical capability. There was also a moderate increase in the number of interrogators reassigned to the Abu Ghraib operation. This increase was probably not connected to MG G. Miller's visit as much as to the arrival of elements of the 325 MI BN which began to arrive 10 September 2003--the same day MG G. Miller departed Iraq. Prior to their arrival, the interrogation assets consisted of one OIC (captain), one technician (chief warrant officer), 12 HUMINT collectors (MOS 97E/97B), an analyst, and a communications team. While the number of interrogators increased, the JIDC requirements for a staff and leadership also increased. Those positions were filled from within the assigned units. It is indeterminate what impact the MG G. Miller Team's concepts had on operations at Abu Ghraib. There was an

increase in intelligence reports after the visit but that appears more likely due to the assignment of trained interrogators and an increased number of MI Hold detainees to interrogate.

(2) JTF-GTMO Training Team.

(a) (U) Subsequent to MG G. Miller's visit, a team of subject matter experts was dispatched from JTF-GTMO to Abu Ghraib (approximately 4 October to 2 December 2003) to assist in the implementation of the recommendations identified by MG G. Miller. The JTF-GTMO Team included three interrogators and three analysts, organized into three teams, with one interrogator and one analyst on each, which is the GTMO "Tiger Team" concept. The JTF GTMO Team included SOLDIER28 (351E Team Chief), SOLDIER27, CIVILIAN-14 (97E), SOLDIER-03 (97E), SSG Miller (96B), and SOLDIER-11 (96B). The Team Chief understood his task was to assist CJTF-7 for a period not to exceed 90 days with the mission of building a robust and effective JIDC, and identifying solutions and providing recommendations for the JIDC (Reference Annex B, Appendix 1, SOLDIER-28). Upon arrival at Abu Ghraib, SOLDIER-28 and SOLDIER-27, both of whom had been on the original MG G. Miller assessment visit, concentrated on establishing the various JIDC elements. Particular emphasis was given to formalizing the JIDC staff and the collection, management and dissemination (CM&D) function at Abu Ghraib, to alleviate many of the information distribution issues surfaced during MG G. Miller's visit. Some interrogation policies were already in place. Consistent with its charter to assist in establishment of a GTMO-like operation, the team provided copies of the current JTF-GTMO policies, SOPs (Reference, Annex L, Appendix 2, SOP for JTF-GTMO, Joint Intelligence Group [JIG], Interrogation Control Element [ICE], Guantanamo Bay, CU, dated 21 January 2003, revised 12 June 2003), and the SECDEF Letter (Reference, Annex J, Appendix 2, MEMORANDUM FOR COMMANDER, US SOUTHERN COMMAND, Subject: Counter-Resistance Techniques in the War on Terrorism (S), dated 16 April 2003) outlining the techniques authorized for use with the GTMO detainees. The four other JTF-GTMO team members were split up and integrated into interrogation operations as members/leaders of the newly formed Tiger Teams under the ICE. SOLDIER-28 and SOLDIER-27 did not directly participate in any interrogation operations and reported that they never observed, or heard about, any detainee abuse or mistreatment. SOLDIER-28's assertion as regards knowledge of abuses is contradicted by one of his Soldiers (Reference Annex B, Appendix 1, SOLDIER-03) (See paragraphs 4.j.(2)(c) and 4.j.(2)(d), below).

(b) (U) While the JTF-GTMO team's mission was to support operations and assist in establishment of the JIDC, there was a great deal of animosity on the part of the Abu Ghraib personnel, especially some A/519 MI BN Personnel. This included an intentional disregard for the concepts and techniques the GTMO Team attempted to instill, as well as contempt for some of the team's work ethic, professional judgment, and ideas. Because of this, the GTMO Team's ability to effect change at Abu Ghraib may have been severely limited. This information was

obtained during a review of email exchanged between SOLDIER-14, CW2 Grace, CW3 Sammons, SFC McBride, with info copies to CPT Wood and SOLDIER-23. It should be noted that senior managers at Abu Ghraib thought highly of the JTF-GTMO team and believed they positively impacted the operations.

(c) (U) SOLDIER-11, a JTF-GTMO analyst assigned to the "Former Regime Loyalists" Tiger Team, stated that he witnessed and reported two incidents of abuse (Reference Annex B, Appendix 1, SOLDIER-11). In his first report, SOLDIER-11 reported that he was observing an interrogation being conducted by SOLDIER19 A/519 MI BN. As SOLDIER-11 observed from behind a glass, SOLDIER-19 directed a detainee to roll his jumpsuit down to his waist and insinuated that the detainee would be stripped further if he did not cooperate. The interrogation ended abruptly when the translator objected to the tactic and refused to continue. SOLDIER-11 reported the incident to both SOLDIER-16, his Tiger Team Leader, and to SOLDIER-28, his JTF GTMO Team Chief. SOLDIER-16 invoked her rights under UCMJ and chose not to make any statement regarding this or any other matters (Reference Annex B, Appendix 1SOLDIER16). When asked, SOLDIER-28 stated that he could not recall what SOLDIER11 reported to him regarding the rolling down of the detainee's jumpsuit, but does recall a conversation about a translator walking out of an interrogation due to a "cultural difference" (Reference Annex B, Appendix 1, SOLDIER-28). SOLDIER-11 is adamant that he reported the incident in detail (Reference Annex B, Appendix 1, SOLDIER-11) and that he never used the phrase "cultural difference."

(d) (U) In another report to SOLDIER-28, SOLDIER-11 reported a second incident. SOLDIER-11 and SOLDIER--19 were conducting an interrogation around mid-October 2003. The detainee was uncooperative and was not answering questions. SOLDIER19 became frustrated and suggested to SOLDIER11 that the detainee be placed in solitary. SOLDIER-11 did not agree with the recommendation and suggested it would be counterproductive. About 15 minutes later (two hours into the interrogation), SOLDIER-19 exercised his authority as the lead interrogator and had the detainee placed in solitary confinement. About a half an hour later, SOLDIER-11 and SOLDIER-19 went to the Hard Site to see the detainee, and found him lying on the floor, completely naked except for a hood that covered his head from his upper lip, whimpering. SOLDIER-11 andSOLDIER-19 had the MPs redress the detainee before escorting him back to the general population. SOLDIER-11 was disturbed by what he had seen and considered reporting it to several different people. Ultimately, SOLDIER-11 reported this incident to SOLDIER-28 (Reference Annex B, Appendix 1, SOLDIER-11). SOLDIER-11 added that SOLDIER-28 accepted the report and indicated he would surface the issue to COL Pappas (not due to return to Abu Ghraib for 2 - 3 days). Also according to SOLDIER-11, SOLDIER-28 was very ill and placed on 30 days quarters shortly after SOLDIER-11 made his report. When asked, SOLDIER-28 could not recall such a report being made to him (Reference Annex B, Appendix 1, SOLDIER-28).

(e) (U) SSG Miller does not recall the JTF-GTMO team ever discussing specific interrogation techniques employed, abuse, or unauthorized interrogation methods. He observed only approved interrogation techniques in line with FM 34-52, and never saw any detainee abuse, mistreatment, or nakedness (Reference Annex B, Appendix 1, MILLER).

(f) (U) CIVILIAN-14 never observed any activity or training event that was not in compliance with basic human rights and the Geneva Conventions. CIVILIAN-14 did, however, notice "a lot of detainee nakedness at Abu Ghraib," possibly, he speculated, attributable to the lack of available clothing. There was nothing he observed or heard that he considered detainee abuse. Relating to his JTF-GTMO experience/training, CIVILIAN-14 believed the removal of clothing for interrogation purposes was an option available with the appropriate approvals; however, it was rarely used at JTF-GTMO. This misunderstanding of the rules and regulations was evident in his reaction to the detainee nakedness at Abu Ghraib. Clearly CIVILIAN-14 was not aware of the fact the SECDEF had withdrawn that authority. (Reference Annex B, Appendix 1, CIVILIAN-14)

(g) (U) In reviewing his activities while at Abu Ghraib, SOLDIER-03 recalled his team submitted two requests to use techniques requiring approvals beyond the team level. In cases requiring such approvals, the request went to the Operations Officer (either MAJ Thompson or MAJ Price) (Operations Officer) and they would approve or disapprove the technique. Those requests requiring a CJTF-7 approval level went to CPT Wood who would forward them for approval. SOLDIER-03 recalled submitting the requests several days in advance of the interrogation to ensure it was approved or disapproved before the interrogation began. His first request (detainee sitting against a wall) was initiated by SOLDIER-21 (analyst) and SOLDIER-30 (interrogator). SOLDIER-03 reviewed the request and forwarded it for approval (SOLDIER-03 could not recall to whom he submitted the request or who had approved it). The request was approved and was implemented. After "observing for a couple of minutes," SOLDIER-03 ended the interrogation. In preparation for another interrogation, the same two females (SOLDIER-21 and SOLDIER-30) submitted a request to interrogate a detainee naked. The request was reviewed by SOLDIER-03 and forwarded to MAJ Price. MAJ Price denies ever approving a naked interrogation. SOLDIER-03 recalled that the technique had been approved, but could not recall by whom. As with the above interrogation, SOLDIER-03 observed the interrogation. After about 15 minutes, he determined the nudity was not a productive technique and terminated the session. SOLDIER-03 never discussed this incident with SOLDIER-28. In his opinion, he had obtained the appropriate authorities and approvals for an "acceptable technique." When asked, SOLDIER-03 recalled hearing about nakedness at GTMO, but never employed the technique. (Reference Annex B, Appendix 1, SOLDIER-03, PRICE).

(h) (U) The JTF-GTMO Team viewed itself as having the mission of setting up and organizing an effective and efficient JIDC staff, and assisting in establishing the Tiger Team

concept based on the GTMO model and experience. They did not view their mission as being for training specific interrogation techniques. This is contrary to MG G. Miller's understanding of the mission. There is no evidence that the JTF-GTMO team intentionally introduced any new/prohibited interrogation techniques. Clearly, however, they were operating without a full understanding of the current JTF-GTMO ICRP.

(i) (U) According to SOLDIER-28, no After Action Report (AAR) was prepared for this mobile training team's effort. He provided a post-mission briefing to MG G. Miller upon his return to GTMO. The team's mission was not clearly defined until they arrived at Abu Ghraib. According to MAJ Price (Reference Annex B, Appendix 1, PRICE), the JTF-GTMO Team arrived without a defined charter; however, in his opinion, the team's suggestions were very good and exactly what the Abu Ghraib operation needed. MAJ Price felt that the real changes began to show after COL Pappas arrived on or about 16 November 2003.

(3) (U) Fort Huachuca Mobile Training Team

(a) (U) From 7 to 21 October 2003, a five person ISCT MTT from the USAIC, Fort Huachuca, AZ, was dispatched to conduct an overall assessment of interrogation operations, present training, and provide advice and assistance at the Abu Ghraib JIDC. This course was developed in response to requirements surfaced during interrogation operations at JTF-GTMO, specifically to prepare reserve interrogators and order of battle analysts for deployment to JTF-GTMO. The course consists of a refresher in interrogation procedures and an introduction to strategic debriefing procedures (Reference Annex L, Appendix 4, ISCT POI; ISCT MTT AAR). The MTT consisted of a team chief, CW3 Norris (351B), three 97E interrogators, MSG Filhanessian, SFC Fierro and SFC Walters, and one analyst (96B) SOLDIER-56. The MTT spent the first few days at Abu Ghraib observing ongoing JIDC interrogation operations and establishing a training schedule based on their observations. The training phase lasted approximately five days and focused on interrogation skills and elicitation techniques, cultural awareness, collection management, and use of interpreters. The team discussed the use of Tiger Teams, but did not conduct any training in their use. The Tiger Team concept of teaming an Interrogator and an Analyst together had been previously recommended by the GTMO Assessment Team and was already being employed at Abu Ghraib when the ISCT MTT arrived. Following the training, at least two ISCT MTT Interrogators participated in approximately 19 interrogations and observed several others. The MTT prepared an After Action Report (Reference Annex L, Appendix 4, ISCT MTT AAT, Joint Detainee Interrogation Center, CJTF-7, Abu Ghurayb (sic), Iraq, dated 3 November 2003), which noted eleven issues and provided recommendations for each. The issues mainly concerned screening procedures, interrogation planning and preparation, approaches, questioning, interpreter control, deception detection, and administrative and reporting issues. SFC Filhanessian did recall they had access to the 16 April 2003 SECDEF Memorandum and devoted some time to discussing approach strategies outside

the ones mentioned in FM 34-52, Intelligence Interrogations, 28 September 1992, like the issue of military working dogs, sleep deprivation, etc., (Reference Annex B, Appendix 1, FILHANESSIAN). According to SOLDIER-25 (Reference Annex B, Appendix 1,SOLDIER25), "A team from Fort Huachuca ... gave us 3 days of classes, including rules of engagement and the use of sleep deprivation and sleep management." The ISCT MTT AAR did not note any incidents of detainee abuse or mistreatment. Three interviewed ISCT MTT members stated that they did not witness, or hear of any incidents of detainee abuse or mistreatment. Neither did they observe or know of any incidents where MI instructed or insinuated that the MP should abuse detainees. Further, MTT members stated that the 519 MI BN interrogators at Abu Ghraib demonstrated experience, "did things by the book," and used techniques that were within the limitations established by FM 34-52 (Interrogation Operations). Some team members, however, expressed some concerns about what appeared to them to be a lack of experience with some of the civilian contracted CACI Interrogators, and the fact that the MTT did not have the opportunity to train and work with some newly arriving contractors (Reference Annex B, Appendix 1, WALTERS; CIVILIAN-07; and FIERRO).

(b) (U) On 21 June 2004, SFC Walters contacted the investigative team via email and indicated he wanted to make additions to his statement (Reference Annex B, Appendix 1, WALTERS 20040621, email). SFC Walters was concerned that as a member of the ISCT MTT, he may have contributed to the abuse at Abu Ghraib. When questioned by CACI employee CIVILIAN-21 for ideas to use to get these prisoners to talk, SFC Walters related several stories about the use of dogs as an inducement, suggesting he (CIVILIAN-21) talk to the MPs about the possibilities. SFC Walters further explained that detainees are most susceptible during the first few hours after capture. "The prisoners are captured by Soldiers, taken from their familiar surroundings, blindfolded and put into a truck and brought to this place (Abu Ghraib); and then they are pushed down a hall with guards barking orders and thrown into a cell, naked; and that not knowing what was going to happen or what the guards might do caused them extreme fear." SFC Walters also suggested CIVILIAN-21 could take some pictures of what seemed to be guards being rough with prisoners...so he could use them to scare the prisoners. Lastly, SFC Walters also shared what he described as a formal, professional prisoner in-processing as he observed it in Bagram (a reference to the detainee operations that had taken place Afghanistan).

(c) (U) On 26 June 2004, during a follow-on interview (Reference Annex B, Appendix 1, WALTERS); SFC Walters confirmed the information he provided in his email. He clarified that his conversation with CIVILIAN-21 occurred before the training was conducted and that he was certain CIVILIAN-21 clearly understood the rules with regard to interrogations. SFC Walters was adamant he had stressed the need to obtain the appropriate authorities before using any of the techniques discussed. SFC Walters knew of no other "off line" conversations between the MTT members and assigned interrogators. SFC Walters said he had related stories he had heard, but did not personally observe. In addressing the ISCT MTT training objectives, SFC

Walters noted they (ISCT MTT) did not agree with the JTF-GTMO modus operandi. The (ISCT MTT) felt the use of Tiger Teams wasted limited analytical support. Analysts should support interrogation teams and not be part of the interrogation. This mirrors the opinions of the Abu Ghraib team (Reference Annex B, Appendix 1, WOOD).

(d) (U) Throughout OIF I, USAIC assisted in sending MTTs to all divisional locations within Iraq in order to provide instruction on THT operations, G2X staff functions, and tactical questioning for non-military intelligence Soldiers. Prior to this training, a separate team traveled to Afghanistan and Iraq to provide similar training at Bagram Airfield and Abu Ghraib Detention Facility. This training was the same training provided to OIF units in Iraq that also incorporated lessons learned during that MTT.

k. (U) International Committee of the Red Cross (ICRC)

(1) (U) The ICRC visits to Abu Ghraib have been the source of great concern since the abuses at Abu Ghraib became public knowledge. The ICRC are independent observers who identified abuses to the leadership of Abu Ghraib as well as to CJTF-7. Their allegations were not believed, nor were they adequately investigated.

(2) (U) During the 9-12 and 21-23 October 2003 visits to Abu Ghraib, the ICRC noted that the ill treatment of detainees during interrogation was not systemic, except with regard to persons arrested in connection with suspected security offenses or deemed to have an "intelligence value." These individuals were probably the MI holds. "In these cases, persons deprived of their liberty [and] under supervision of the Military Intelligence were at high risk of being subjected to a variety of harsh treatments. These ranged from insults, threat and humiliations, to both physical and psychological coercion (which in some cases was tantamount to torture) in order to force cooperation with their interrogators (Reference Annex G, Appendix 1, Executive Summary)." The ICRC noted that some detainees in Tier 1A were held naked in their cells, with meals ready to eat (MRE) packing being used to cover their nudity. The ICRC immediately informed the authorities, and the detainees received clothes for the remainder of the ICRC visit. Additionally, the ICRC complained about MI-imposed restrictions on visiting certain security detainees in Camp Vigilant and in Tier 1A. Red Cross delegates were informed they could visit those areas the following day and then only on the basis of a list of detainees and tasks agreed on with Abu Ghraib officials. (Reference Annex G, Appendix 1, TAB B)

(3) (U) The ICRC found a high level of depression, feelings of helplessness, stress, and frustration, especially by those detainees in isolation. Detainees made the following allegations during interviews with the ICRC: threats during interrogation; insults and verbal insults during transfer in Tier 1A; sleep deprivation; walking in the corridors handcuffed and naked, except for female underwear over the head; handcuffing either to the upper bed bars or doors of the cell for

3-4 hours. Some detainees presented physical marks and psychological symptoms which were compatible with these allegations. Also noted were brutality upon capture, physical or psychological coercion during interrogation, prolonged isolation, and excessive and disproportionate use of force. (Reference Annex G, Appendix 1, TAB B)

(4) (U) The ICRC made a number of recommendations after the October 2003 visits, including: grant ICRC full and unimpeded access to all detainees; improve the security related to the accommodation structure; clarify and improve conditions of detention and treatment; distribute hygiene items, spare clothes, blankets, etc.; inform detainees of the reason for their detention; implement regular family visits for detainees; and increase recreational and educational activities. (Reference Annex G, Appendix 1, Tab B, ICRC Working Paper, dated 6 November 2003).

(5) (U) LTC Phillabaum, regarding the 9 – 12 October 2003 visit, stated he was told of naked detainees by the ICRC and immediately contacted LTC Jordan. The two went to see the situation first hand. LTC Phillabaum claimed that LTC Jordan acknowledged that it was common practice for some of the detainees to be kept naked in their cells. In November 2003, after having received the written ICRC report, CJTF-7 sent an Australian Judge Advocate officer, MAJ George O'Kane, to Abu Ghraib to meet with LTC Jordan and other officers to craft a response to the ICRC memo. (Reference Annex B, Appendices 1 and 2, PHILLABAUM)

(6) (U) Stemming from those October 2003 visits, the ICRC also made the following request of the Coalition Forces: respect at all times the human dignity, physical integrity, and cultural sensitivity of detainees; set up a system of notification of arrest to the families of detainees; prevent all forms of ill-treatment; respect and protect the dignity of detainees; allow sufficient time for outside activity and exercise; define and apply regulations compatible with international Humanitarian Law; thoroughly investigate violation of international Humanitarian Law; ensure that capturing forces and interment facility personnel are trained to function in a proper manner without resorting to ill-treatment of detainees. (Reference ANNEX G, Appendix 1, Tab A, ICRC Report February 2004)

(7) (U) COL Warren, the CJTF-7 SJA, stated that neither he nor anyone else from CJTF-7 Headquarters was present at Abu Ghraib during the ICRC visit in October 2003. Throughout 2003, all ICRC reports were addressed to the commander or subordinate commanders of the 800 MP BDE. The OSJA received a copy of the reports. Letters on specific topics addressed to LTG Sanchez were given to COL Warren and he would prepare the response for LTG Sanchez. MAJ O'Kane prepared an analysis of the report on 25 November 2003 and the draft was sent to CJTF-7 C2 and the 800 MP BDE for review. On 4 December 2003, a meeting was held at Abu Ghraib, attended by MP, MI, and legal personnel, in order to discuss the report. In mid-December, the draft response was sent by OSJA to the 800 MP BDE for review and coordination. BG

Karpinski signed the response, dated 24 December 2003. (Reference Annex G, Appendix 3, KARPINSKI Letter)

(8) (U) During the 4-8 January 2004 visit, the ICRC expressed special concern over being informed by COL Pappas and COL Warren that they were invoking Article 143 of Geneva Convention IV, thereby denying the ICRC access to eight of the detainees in the interrogation section. Of particular interest was the status of detainee DETAINEE-14, a Syrian national and self-proclaimed Jihadist, who was in Iraq to kill coalition troops. DETAINEE-14 was detained in a totally darkened cell measuring about 2 meters long and less than a meter across, devoid of any window, latrine or water tap, or bedding. On the door the ICRC delegates noticed the inscription "the Gollum," and a picture of the said character from the film trilogy "Lord of the Rings." During the 14-18 March 2004 visit, the ICRC was once again denied access to nine detainees, including DETAINEE-14. They noted that DETAINEE-14 was no longer in the same cell as he was previously, but was still in one of the more "difficult" cells. (Reference Annex G, Appendix 1, ICRC Working Paper, dated 6 November 2003; Appendix 2, ICRC Letter dated February 2004; Appendix 2, Tab B, ICRC Letter dated 25 March 2004)

(9) (U) Article 143, Fourth Geneva Convention, reads in part "Such visits may be prohibited except for reasons of imperative military necessity, and then only for an exceptional and temporary measure." COL Warren and COL Pappas both acknowledge denying access to specified detainees by the ICRC on each of two occasions (in January and March 2004), invoking the above cited provision. The ICRC, in their memorandum of 25 March 2004, acknowledged the right of COL Warren and COL Pappas to invoke the "imperative military necessity clause." It questioned the "exceptional and temporary" nature of the denial of access to DETAINEE-14 on both occasions, however, given that DETAINEE-14 (by the time of the second visit) had been under interrogation for some four months. This was the same DETAINEE-14 that was viewed a "special project" and who was abused by the use of dogs. (See paragraph 5.f.) (Reference Annex B, Appendix 1, PAPPAS, WARREN)

(10) (U) COL Pappas acknowledges in his statement that the ICRC visited Abu Ghraib twice (January and March 2004). He received a copy of the results and noted there were allegations of maltreatment and detainees wearing women's underwear on their heads. He did not believe it. He recalled he might have related to the staff that "this stuff couldn't have been happening." He added that when the ICRC came by the second time (March 2004), he invoked Article 143, preventing the eight detainees in Tier 1A from talking to the ICRC while undergoing active interrogation. COL Pappas states: "COL Warren informed me that I had the authority to do this." (Reference Annex B, Appendices 1 and 2, PAPPAS)

(11) (U) COL Warren also stated that when he saw the ICRC report on naked detainees and detainees wearing women's underwear, he couldn't believe it. He saw the report when he

returned to CJTF-7 from leave on 30 November 2003. His office probably had received the report on 16 November 2003. He regrets not having taken the report earlier to LTG Sanchez or MG Wojdakowski. While this would not have prevented the abuse they subsequently discovered (because it had taken place in November 2003), it may have resulted in CID beginning an investigation a month earlier than they did. During the ICRC's next visit to Abu Ghraib, during the period 4-8 January 2004, COL Warren states they invoked Article 143 of the Fourth Geneva Conventions and did not allow the ICRC to have private interviews with eight detainees who were undergoing active interrogations. He did allow the ICRC delegate to see the detainees, observe the conditions of their detention, and obtain their names and Internee Serial Numbers." (Reference Annex B, Appendix 1, WARREN)

(12) (U) LTC Chew, Commander of the 115th MP Battalion (115 MP BN), has stated that although he attended the ICRC out-brief, after the 21-23 October 2003 visits, he never saw or heard of any detainees being stripped or held naked, nor did he ever see a written report from the ICRC. He stated that a doctor with the ICRC team provided information concerning a few detainees having psychological problems and stating that they should be evaluated. ICRC also related charges of handcuffing, nakedness, wearing of female underwear, and sleep deprivation. The ICRC also complained about lack of access to certain detainees, and he discussed the matter with LTC Jordan. He also discussed the allegations made by the ICRC with MAJ Potter, BG Karpinski, and MAJ Cavallero. BG Karpinski does not recall hearing about the report until early December 2003 when it was discussed at CJTF-7 Headquarters with COL Warren. (Reference Annex B, Appendix 1, CHEW, KARPINSKI)

(13) (U) LTC Jordan has stated that after the ICRC visited Abu Ghraib, COL Pappas and BG Karpinski received the final report, but that he did not see the report. When asked by COL Pappas if he had ever seen or heard any rumors of abuse, LTC Jordan told COL Pappas that he (LTC Jordan) had not. He was not aware of COL Pappas ever doing anything concerning the ICRC allegations (Reference Annex B, Appendix 1, JORDAN and Annex B, Appendix 2, JORDAN).

(14) (U) The only response to the ICRC was a letter signed by BG Karpinski, dated 24 December 2003. According to LTC Phillabaum and COL Warren (as quoted above) an Australian Judge Advocate officer, MAJ O'Kane, was the principal drafter of the letter. Attempts to interview MAJ O'Kane were unsuccessful. The Australian Government agreed to have MAJ O'Kane respond to written questions, but as of the time of this report, no response has been received. The section of the BG Karpinski letter pertaining to Abu Ghraib primarily addresses the denial of access to certain detainees by the ICRC. It tends to gloss over, close to the point of denying the inhumane treatment, humiliation, and abuse identified by the ICRC. The letter merely says: Improvement can be made for the provision of clothing, water, and personal hygiene items. (Reference Annex G, Appendix 3, KARPINSKI Letter)

SUBJECT: (U) AR 15-6 Investigation of the Abu Ghraib Detention Facility and 205th MI Brigade

5. Summary of Abuses at Abu Ghraib

a. (U) Several types of detainee abuse were identified in this investigation: physical and sexual abuse; improper use of military working dogs; humiliating and degrading treatments; and improper use of isolation.

(1) (U) Physical Abuse. Several Soldiers reported that they witnessed physical abuse of detainees. Some examples include slapping, kicking, twisting the hands of a detainee who was hand-cuffed to cause pain, throwing balls at restrained internees, placing gloved hand over the nose and mouth of an internee to restrict breathing, "poking" at an internee's injured leg, and forcing an internee to stand while handcuffed in such a way as to dislocate his shoulder. These actions are clearly in violation of applicable laws and regulations.

(2) (U) Use of Dogs. The use of military working dogs in a confinement facility can be effective and permissible under AR 190-12 as a means of controlling the internee population. When dogs are used to threaten and terrify detainees, there is a clear violation of applicable laws and regulations. One such impermissible practice was an alleged contest between the two Army dog handlers to see who could make the internees urinate or defecate in the presence of the dogs. An incident of clearly abusive use of the dogs occurred when a dog was allowed in the cell of two male juveniles and allowed to go "nuts." Both juveniles were screaming and crying with the youngest and smallest trying to hide behind the other juvenile. (Reference Annex B, Appendix 1,SOLDIER-17)

(3) (U) Humiliating and Degrading Treatments. Actions that are intended to degrade or humiliate a detainee are prohibited by GC IV, Army policy and the UCMJ. The following are examples of such behavior that occurred at Abu Ghraib, which violate applicable laws and regulations.

(4) (U) Nakedness. Numerous statements, as well as the ICRC report, discuss the seemingly common practice of keeping detainees in a state of undress. A number of statements indicate that clothing was taken away as a punishment for either not cooperating with interrogators or with MPs. In addition, male internees were naked in the presence of female Soldiers. Many of the Soldiers who witnessed the nakedness were told that this was an accepted practice. Under the circumstances, however, the nakedness was clearly degrading and humiliating.

(5) (U) Photographs. A multitude of photographs show detainees in various states of undress, often in degrading positions.

(6) (U) Simulated Sexual Positions. A number of Soldiers describe incidents where detainees were placed in simulated sexual positions with other internees. Many of these incidents were also photographed.

(7) (U) Improper Use of Isolation. There are some legitimate purposes for the segregation (or isolation) of detainees, specifically to prevent them from sharing interrogation tactics with other detainees or other sensitive information. Article 5 of Geneva Convention IV supports this position by stating that certain individuals can lose their rights of communication, but only when absolute military security requires. The use of isolation at Abu Ghraib was often done as punishment, either for a disciplinary infraction or for failure to cooperate with an interrogation. These are improper uses of isolation and depending on the circumstances amounted to violation of applicable laws and regulations. Isolation could properly be a sanction for a disciplinary infraction if applied through the proper process set out in AR 190-8 and the Geneva Conventions.

(8) (U) Failure to Safeguard Detainees. The Geneva Conventions and Army Regulations require that detainees be "protected against all acts of violence and threats thereof and against insults and public curiosity." Geneva Convention IV, Article 27 and AR 190-8, paragraph 5-1(a)(2). The duty to protect imposes an obligation on an individual who witnesses an abusive act to intervene and stop the abuse. Failure to do so may be a violation of applicable laws and regulations.

(9) (U) Failure to Report Detainee Abuse. The duty to report detainee abuse is closely tied to the duty to protect. The failure to report an abusive incident could result in additional abuse. Soldiers who witness these offenses have an obligation to report the violations under the provision of Article 92, UCMJ. Soldiers who are informed of such abuses also have a duty to report violations. Depending on their position and their assigned duties, the failure to report detainee abuse could support a charge of dereliction of duty, a violation of the UCMJ. Civilian contractors employed as interrogators and translators would also have a duty to report such offenses as they are also bound by the Geneva Conventions and are charged with protecting the internees.

(10) (U) Other traditional prison guard issues were far less clear. MPs are responsible for the clothing of detainees; however, MI interrogators started directing nakedness at Abu Ghraib as early as 16 September 2003 to humiliate and break down detainees. MPs would also sometimes discipline detainees by taking away clothing and putting detainees in cells naked. A severe shortage of clothing during the September, October, November 2003, time frame was frequently mentioned as the reason why people were naked. Removal of clothing and nakedness were being used to humiliate detainees at the same time there was a general level of confusion as to what was allowable in terms of MP disciplinary measures and MI interrogation rules, and what

clothing was available. This contributed to an environment that would appear to condone depravity and degradation rather than the humane treatment of detainees.

b. (U) The original intent by MI leadership (205 MI BDE) was for Tier 1A to be reserved for MI Holds only. In fact, CPT Wood states in an email dated 7 September 2003, during a visit from MG Miller and BG Karpinski, that BG Karpinski confirmed "we (MI) have all the iso (Isolation) cells in the wing we have been working. We only had 10 cells to begin with but that has grown to the entire wing." LTC Phillabaum also thought that MI had exclusive authority to house MI holds in Tier 1A. The fact is, however, that a number of those cells were often used by the MPs to house disciplinary problems. That fact is supported by the testimony of a large number of people who were there and further supported by the pictures and the detainee records. In fact, 11 of a total of 25 detainees identified by the CID as victims of abuse were not MI holds and were not being interrogated by MI. The MPs put the problem detainees (detainees who required separation from the general population for disciplinary reasons) in Tier 1A because there was no other place available to isolate them. Neither CPT Wood nor MAJ Williams appreciated the mixing because it did not allow for a pure MI environment, but the issue never made its way up to either LTC Phillabaum or to BG Karpinski.

c. (U) The "sleep adjustment" technique was used by MI as soon as the Tier 1A block opened. This was another source of confusion and misunderstanding between MPs and MI which contributed to an environment that allowed detainee abuse, as well as its perpetuation for as long as it continued. Sleep adjustment was brought with the 519 MI BN from Afghanistan. It is also a method used at GTMO. (See paragraph 3.b.(5)). At Abu Ghraib, however, the MPs were not trained, nor informed as to how they actually should do the sleep adjustment. The MPs were just told to keep a detainee awake for a time specified by the interrogator. The MPs used their own judgment as to how to keep them awake. Those techniques included taking the detainees out of their cells, stripping them and giving them cold showers. CPT Wood stated she did not know this was going on and thought the detainees were being kept awake by the MPs banging on the cell doors, yelling, and playing loud music. When one MI Soldier inquired about water being thrown on a naked detainee he was told that it was an MP discipline technique. Again, who was allowed to do what and how exactly they were to do it was totally unclear. Neither of the communities (MI and MP) knew what the other could and could not do. (Reference Annex B, Appendix 1, WOOD, JOYNER)

d. (U) This investigation found no evidence of confusion regarding actual physical abuse, such as hitting, kicking, slapping, punching, and foot stomping. Everyone we spoke to knew it was prohibited conduct except for one Soldier. (Reference Annex B, Appendix 1, SOLDIER-29). Physical discomfort from exposure to cold and heat or denial of food and water is not as clear-cut and can become physical or moral coercion at the extreme. Such abuse did occur at Abu Ghraib, such as detainees being left naked in their cells during severe cold weather without

blankets. In Tier 1A some of the excesses regarding physical discomfort were being done as directed by MI and some were being done by MPs for reasons not related to interrogation. (See paragraph 5.e.-h.)

e. (U) The physical and sexual abuses of detainees at Abu Ghraib are by far the most serious. The abuses spanned from direct physical assault, such as delivering head blows rendering detainees unconscious, to sexual posing and forced participation in group masturbation. At the extremes were the death of a detainee in OGA custody, an alleged rape committed by a US translator and observed by a female Soldier, and the alleged sexual assault of an unknown female. They were perpetrated or witnessed by individuals or small groups. Such abuse can not be directly tied to a systemic US approach to torture or approved treatment of detainees. The MPs being investigated claim their actions came at the direction of MI. Although self- serving, these claims do have some basis in fact. The climate created at Abu Ghraib provided the opportunity for such abuse to occur and to continue undiscovered by higher authority for a long period of time. What started as undressing and humiliation, stress and physical training (PT), carried over into sexual and physical assaults by a small group of morally corrupt and unsupervised Soldiers and civilians. Twenty-four (24) serious incidents of physical and sexual abuse occurred from 20 September through 13 December 2003. The incidents identified in this investigation include some of the same abuses identified in the MG Taguba investigation; however, this investigation adds several previously unreported events. A direct comparison cannot be made of the abuses cited in the MG Taguba report and this one.

(1) (U) **Incident #1**. On 20 September 2003, two MI Soldiers beat and kicked a passive, cuffed detainee, suspected of involvement in the 20 September 2003 mortar attack on Abu Ghraib that killed two Soldiers. Two Iraqis (male and female) were detained and brought to Abu Ghraib immediately following the attack. MI and the MP Internal Reaction Force (IRF) were notified of the apprehension and dispatched teams to the entry control point to receive the detainees. Upon arrival, the IRF observed two MI Soldiers striking and yelling at the male detainee whom they subsequently "threw" into the back of a High- Mobility Multipurpose Wheeled Vehicle (HMMWV). 1LT Sutton, 320th MP BN IRF intervened to stop the abuse and was told by the MI Soldiers "we are the professionals; we know what we are doing." They refused 1LT Sutton's lawful order to identify themselves. 1LT Sutton and his IRF team (SGT Spiker, SFC Plude) immediately reported this incident, providing sworn statements to MAJ Dinenna, 320 MP BN S3 and LTC Phillabaum, 320 MP BN Commander. 1SG McBride, A/205 MI BN interviewed and took statements from SGT Lawson, identified as striking the detainee, and each MI person present: SSG Hannifan, SSG Cole, SGT Claus, SGT Presnell. While the MP statements all describe abuse at the hands of an unidentified MI person (SGT Lawson), the MI statements all deny any abuse occurred. LTC Phillabaum subsequently reported the incident to the CID who determined the allegation lacked sufficient basis for prosecution. The detainee was interrogated and released that day (involvement in the mortar attack was unlikely); therefore, no

detainee is available to confirm either the MP or MI recollection of events. This incident was not further pursued based on limited data and the absence of additional investigative leads. (Reference Annex B, Appendix 1, DINENNA, LAWSON, MCBRIDE, PHILLABAUM, PLUDE, SPIKER, SUTTON; Annex B, Appendix 2, DINENNA, PHILLABAUM, PLUDE; Annex B, Appendix 3, PLUDE, SPIKER)

(2) (U) **Incident #2.** On 7 October 2003, three MI personnel allegedly sexually assaulted female DETAINEE-29. CIVILIAN-06 (Titan) was the assigned interpreter, but there is no indication he was present or involved. DETAINEE-29 alleges as follows: First, the group took her out of her cell and escorted her down the cellblock to an empty cell. One unidentified Soldier stayed outside the cell (SOLDIER33, A/519 MI BN); while another held her hands behind her back, and the other forcibly kissed her (SOLDIER32, A/519 MI BN). She was escorted downstairs to another cell where she was shown a naked male detainee and told the same would happen to her if she did not cooperate. She was then taken back to her cell, forced to kneel and raise her arms while one of the Soldiers (SOLDIER31, A/519 MI BN) removed her shirt. She began to cry, and her shirt was given back as the Soldier cursed at her and said they would be back each night. CID conducted an investigation and SOLDIER33, SOLDIER32, and SOLDIER31 invoked their rights and refused to provide any statements. DETAINEE-29 identified the three Soldiers as SOLDIER33, SOLDIER32, and SOLDIER31 as the Soldiers who kissed her and removed her shirt. Checks with the 519 MI BN confirmed no interrogations were scheduled for that evening. No record exists of MI ever conducting an authorized interrogation of her. The CID investigation was closed. SOLDIER33, SOLDIER32, and SOLDIER31 each received non-judicial punishment, Field Grade Article 15's, from the Commander, 205 MI BDE, for failing to get authorization to interrogate DETAINEE-29. Additionally, COL Pappas removed them from interrogation operations. (Reference Annex B, Appendix 1, PAPPAS; Annex B, Appendix 2, PAPPAS; Annex B, Appendix 3, DETAINEE-29).

(3) **Incident #3.** On 25 October 2003 detainees DETAINEE-31, DETAINEE-30, and DETAINEE-27 were stripped of their clothing, handcuffed together nude, placed on the ground, and forced to lie on each other and simulate sex while photographs were taken. Six photographs depict this abuse. Results of the CID investigation indicate on several occasions over several days, detainees were assaulted, abused and forced to strip off their clothing and perform indecent acts on each other. DETAINEE-27 provided a sworn statement outlining these abuses. Those present and/or participating in the abuse were CPL Graner, 372 MP CO, SSG Frederick, 372 MP CO, SPC England, 372 MP CO, SPC Harman, 372 MP CO, SOLDIER34, 372 MP CO, CIVILIAN-17, Titan Corp., SOLDIER-24, B/325 MI BN, SOLDIER19, 325 MI BN, and SOLDIER10, 325 MI BN. SOLDIER-24 claimed he accompanied SOLDIER10 to the Hard Site the evening of 25 October 2003 to see what was being done to the three detainees suspected of raping a young male detainee. SOLDIER-10 appeared to have foreknowledge of the abuse, possibly from his friendship with SPC Harman, a 372 MP CO MP. SOLDIER-24 did not believe

the abuse was directed by MI and these individuals were not interrogation subjects. PFC England, however, claimed "MI Soldiers instructed them (MPs) to rough them up." When SOLDIER-24 arrived the detainees were naked, being yelled at by an MP through a megaphone. The detainees were forced to crawl on their stomachs and were handcuffed together. SOLDIER-24 observed SOLDIER-10 join in the abuse with CPL Graner and SSG Frederick. All three made the detainees act as though they were having sex. He observed SOLDIER-19 dump water on the detainees from a cup and throw a foam football at them. SOLDIER-24 described what he saw to SOLDIER-25, B/321 MI BN, who reported the incident to SGT Joyner, 372 MP CO. SGT Joyner advised SOLDIER-25 he would notify his NCOIC and later told SOLDIER-25 "he had taken care of it." SOLDIER-25 stated that a few days later both she and SOLDIER24 told SOLDIER-22 of the incident. SOLDIER-22 subsequently failed to report what he was told. SOLDIER-25 did not report the abuse through MI channels because she felt it was an MP matter and would be handled by them.

(U) This is a clear incident of direct MI personnel involvement in detainee abuse; however, it does not appear to be based on MI orders. The three detainees were incarcerated for criminal acts and were not of intelligence interest. This incident was most likely orchestrated by MP personnel (CPL Graner, SSG Frederick, SOLDIER34, SPC Harman, PFC England), with the MI personnel (SOLDIER-19, SOLDIER-10, and SOLDIER-24, CIVILIAN-17, and another unidentified interpreter) joining in and/or observing the abuse. (Reference Annex B, Appendix 1, JOYNER, SOLDIER-19, CIVILIAN-17, SOLDIER-25; Annex B, Appendix 3, SOLDIER34, ENGLAND, HARMAN, DETAINEE-31, DETAINEE-30, DETAINEE-27; Annex I, Appendix 1, Photographs M36-41).

(4) (U) **Incident #4**. DETAINEE-08, arrived at Abu Ghraib on 27 October 2003 and was subsequently sent to the Hard Site. DETAINEE-08 claims when he was sent to the Hard Site, he was stripped of his clothing for six days. He was then given a blanket and remained with only the blanket for three more days. DETAINEE-08 stated the next evening he was transported by CPL Graner, 372 MP CO MP, to the shower room, which was commonly used for interrogations. When the interrogation ended, his female interrogator left, and DETAINEE-08 claims CPL Graner and another MP, who meets the description of SSG Fredrick, then threw pepper in DETAINEE-08's face and beat him for half an hour. DETAINEE-08 recalled being beaten with a chair until it broke, hit in the chest, kicked, and choked until he lost consciousness. On other occasions DETAINEE-08 recalled that CPL Graner would throw his food into the toilet and say "go take it and eat it." DETAINEE-08's claims of abuse do not involve his interrogator(s) and appear to have been committed by CPL Graner and SSG Frederick, both MPs. Reviewing the interrogation reports; however, suggests a correlation between this abuse and his interrogations. DETAINEE-08's interrogator for his first four interrogations was SOLDIER-29, a female, and almost certainly the interrogator he spoke of. Her Analyst was SOLDIER-10. In the first interrogation report they concluded he was lying and recommended a "fear up" approach if he continued to lie. Following his second interrogation it was recommended DETAINEE-08 be

moved to isolation (the Hard Site) as he continued "to be untruthful." Ten days later, a period roughly correlating with DETAINEE-08's claim of being without clothes and/or a blanket for nine days before his beating, was interrogated for a third time. The interrogation report references his placement in "the hole," a small lightless isolation closet, and the "Mutt and Jeff" interrogation technique being employed. Both techniques as they were used here were abusive and unauthorized. According to the report, the interrogators "let the MPs yell at him" and upon their return, "used a fear down," but "he was still holding back." The following day he was interrogated again and the report annotates "use a direct approach with a reminder of the unpleasantness that occurred the last time he lied." Comparing the interrogation reports with DETAINEE-08's recollections, it is likely the abuse he describes occurred between his third and forth interrogations and that his interrogators were aware of the abuse, the "unpleasantness." SGT Adams stated that SOLDIER-29 and SSG Frederick had a close personal relationship and it is plausible she had CPL Graner and SSG Frederick "soften up this detainee" as they have claimed "MI" told them to do on several, unspecified, occasions (Reference Annex B, Appendix 1, ADAMS, SOLDIER-29; Annex B, Appendix 3, DETAINEE-08; Annex I, Appendix 4, DETAINEE-08).

(5) (U) **Incident #5.** In October 2003, DETAINEE-07, reported alleged multiple incidents of physical abuse while in Abu Ghraib. DETAINEE-07 was an MI Hold and considered of potentially high value. He was interrogated on 8, 21, and 29 October; 4 and 23 November and 5 December 2003. DETAINEE-07's claims of physical abuse (hitting) started on his first day of arrival. He was left naked in his cell for extended periods, cuffed in his cell in stressful positions ("High cuffed"), left with a bag over his head for extended periods, and denied bedding or blankets. DETAINEE-07 described being made to "bark like a dog, being forced to crawl on his stomach while MPs spit and urinated on him, and being struck causing unconsciousness." On another occasion DETAINEE-07 was tied to a window in his cell and forced to wear women's underwear on his head. On yet another occasion, DETAINEE-07 was forced to lie down while MPs jumped onto his back and legs. He was beaten with a broom and a chemical light was broken and poured over his body. DETAINEE-04 witnessed the abuse with the chem-light. During this abuse a police stick was used to sodomize DETAINEE-07 and two female MPs were hitting him, throwing a ball at his penis, and taking photographs. This investigation surfaced no photographic evidence of the chemical light abuse or sodomy. DETAINEE-07 also alleged that CIVILIAN-17, MP Interpreter, Titan Corp., hit DETAINEE-07 once, cutting his ear to an extent that required stitches. He told SOLDIER-25, analyst, B/321 MI BN, about this hitting incident during an interrogation. SOLDIER-25 asked the MPs what had happened to the detainee's ear and was told he had fallen in his cell. SOLDIER-25 did not report the detainee's abuse. SOLDIER-25 claimed the detainee's allegation was made in the presence of CIVILIAN-21, Analyst/Interrogator, CACI, which CIVILIAN-21 denied hearing this report. Two photos taken at 2200 hours, 1 November 2003 depict a detainee with stitches in his ear; however, we could not confirm the photo was DETAINEE-07. Based on the details provided by the detainee and the

close correlation to other known MP abuses, it is highly probable DETAINEE-07's allegations are true. SOLDIER-25 failed to report the detainee's allegation of abuse. His statements and available photographs do not point to direct MI involvement. However, MI interest in this detainee, his placement in Tier 1A of the Hard Site, and initiation of the abuse once he arrived there, combine to create a circumstantial connection to MI (knowledge of or implicit tasking of the MPs to "set conditions") which are difficult to ignore. MI should have been aware of what was being done to this detainee based on the frequency of interrogations and high interest in his intelligence value. (Reference Annex B, Appendix 1, SOLDIER-25, CIVILIAN-21; Annex B, Appendix 3, DETAINEE-04, DETAINEE-07; Annex I, Appendix 1, Photographs M54-55).

(6) (U) **Incident #6**. DETAINEE-10 and DETAINEE-12 claimed that they and "four Iraqi Generals, were abused upon their arrival at the Hard Site. DETAINEE-10 was documented in MP records as receiving a 1.5 inch laceration on his chin, the result of his resisting an MP transfer. His injuries are likely those captured in several photographs of an unidentified detainee with a lacerated chin and bloody clothing which were taken on 14 November, a date coinciding with his transfer. DETAINEE-12 claimed he was slammed to the ground, punched, and forced to crawl naked to his cell with a sandbag over his head. These two detainees as well as the other four (DETAINEE-20, DETAINEE-19, DETAINEE-22, DETAINEE-21) were all high value Iraqi General Officers or senior members of the Iraqi Intelligence Service. MP logs from the Hard Site indicate they attempted to incite a riot in Camp Vigilant while being transferred to the Hard Site. There is no documentation of what occurred at Camp Vigilant or of detainees receiving injuries. When DETAINEE-10 was in-processed into the Hard Site, he was resisting and was pushed against the wall. At that point the MPs noticed blood coming from under his hood and they discovered the laceration on his chin. A medical corpsman was immediately called to suture the detainee's chin. These events are all documented, indicating the injury occurred before the detainee's arrival at the Hard Site and that he received prompt medical attention. When, where, and by whom this detainee suffered his injuries could not be determined nor could an evaluation be made of whether it constituted "reasonable force" in conjunction with a riot. Our interest in this incident stems from MP logs concerning DETAINEE-10 indicating MI provided direction about his treatment. CPL Graner wrote an entry indicating he was told by SFC Joyner, who was in turn told by LTC Jordan, to "Strip them out and PT them." Whether "strip out" meant to remove clothing or to isolate we couldn't determine. Whether "PT them" meant physical stress or abuse can't be determined. The vagueness of this order could, however, have led to any subsequent abuse. The alleged abuse, injury, and harsh treatment correlating with the detainees' transfer to MI hold also suggest MI could have provided direction or MP could have been given the perception they should abuse or "soften up detainees," however, there is no clear proof. (Reference Annex B, Appendix 1, JORDAN, JOYNER; Annex C).

(7) (U) **Incident #7**. On 4 November 2003, a CIA detainee, DETAINEE-28 died in custody in Tier 1B. Allegedly, a Navy SEAL Team had captured him during a joint TF-121/CIA

mission. DETAINEE-28 was suspected of having been involved in an attack against the ICRC and had numerous weapons with him at the time of his apprehension. He was reportedly resisting arrest, and a SEAL Team member butt-stroked him on the side of the head to suppress the threat he posed. CIA representatives brought DETAINEE-28 into Abu Ghraib sometime around 0430 to 0530 without notifying JIDC Operations, in accordance with a supposed verbal agreement with the CIA. While all the details of DETAINEE-28's death are still not known (CIA, DOJ, and CID have yet to complete and release the results of their investigations), SPC Stevanus, an MP on duty at the Hard Site at the time DETAINEE-28 was brought in, stated that two CIA representatives came in with DETAINEE-28 and he was placed in a shower room (in Tier 1B). About 30 to 45 minutes later, SPC Stevanus was summoned to the shower stall, and when he arrived, DETAINEE-28 appeared to be dead. SPC Stevanus removed the sandbag which was over DETAINEE-28's head and checked for the detainee's pulse. He found none. He un-cuffed DETAINEE-28 called for medical assistance, and notified his chain of command. LTC Jordan stated that he was informed of the death shortly thereafter, at approximately 0715 hours. LTC Jordan arrived at the Hard Site and talked to CIVILIAN03, an Iraqi prison medical doctor, who informed him DETAINEE-28 was dead. LTC Jordan stated that DETAINEE-28 was in the Tier 1B shower stall, face down, handcuffed with his hands behind his back. LTC Jordan's version of the handcuffs conflicts with SPC Stevanus' account that he un-cuffed DETAINEE-28. This incident remains under CID and CIA investigation.

(U) A CIA representative identified only as "OTHER AGENCY EMPLOYEE-01" was present, along with several MPs and US medical staff. LTC Jordan recalled that it was "OTHER AGENCY EMPLOYEE-01" who uncuffed DETAINEE-28 and the body was turned over. LTC Jordan stated that he did not see any blood anywhere, except for a small spot where DETAINEE-28's head was touching the floor. LTC Jordan notified COL Pappas (205 MI BDE Commander), and "OTHER AGENCY EMPLOYEE-01" said he would notify "OTHER AGENCY EMPLOYEE-02," his CIA supervisor. Once "OTHER AGENCY EMPLOYEE-02" arrived, he stated he would call Washington, and also requested that DETAINEE-28's body be held in the Hard Site until the following day. The body was placed in a body bag, packed in ice, and stored in the shower area. CID was notified and the body was removed from Abu Ghraib the next day on a litter to make it appear as if DETAINEE-28 was only ill, thereby not drawing the attention of the Iraqi guards and detainees. The body was transported to the morgue at BIAP for an autopsy, which concluded that DETAINEE-28 died of a blood clot in the head, a likely result of injuries he sustained while resisting apprehension. There is no indication or accusations that MI personnel were involved in this incident except for the removal of the body. (Reference Annex B, Appendix 1, JORDAN, PAPPAS, PHILLABAUM, SNIDER, STEVANUS, THOMPSON; Annex I, Appendix 1, Photographs C5-21, D5-11, M65-69).

(8) (U) **Incident #8**. On 20 October 2003, DETAINEE-03, was allegedly stripped and physically abused for sharpening a toothbrush to make a shank (knife-like weapon).

DETAINEE-03 claimed the toothbrush was not his. An MP log book entry by SSG Frederick, 372 MPs, directed DETAINEE-03 to be stripped in his cell for six days. DETAINEE-03 claimed he was told his clothing and mattress would be taken away as punishment. The next day he claims he was cuffed to his cell door for several hours. He claims he was taken to a closed room where he had cold water poured on him and his face was forced into someone's urine. DETAINEE-03 claimed he was then beaten with a broom and spat upon, and a female Soldier stood on his legs and pressed a broom against his anus. He described getting his clothes during the day from SGT Joyner and having them taken away each night by CPL Graner for the next three days. DETAINEE-03 was an MI Hold but was not interrogated between 16 September and 2 November 2003. It is plausible his interrogators would be unaware of the alleged abuse and DETAINEE-03 made no claim he informed them (Reference Annex B, Appendix 3, DETAINEE-03).

(9) (U) **Incident #9**. Three photographs taken on 25 October 2003 depicted PFC England, 372 MP CO, holding a leash which was wrapped around an unidentified detainee's neck. Present in the photograph is SPC Ambuhl who was standing to the side watching. PFC England claimed in her initial statement to CID that CPL Graner had placed the tie-down strap around the detainee's neck and then asked her to pose for the photograph. There is no indication of MI involvement or knowledge of this incident (Reference Annex E, CID Report and Reference Annex I, Appendix 1, Photographs M33-35).

(10) (U) **Incident #10**. Six Photographs of DETAINEE-15, depict him standing on a box with simulated electrical wires attached to his fingers and a hood over his head. These photographs were taken between 2145 and 2315 on 4 November 2003. DETAINEE-15 described a female making him stand on the box, telling him if he fell off he would be electrocuted, and a "tall black man" as putting the wires on his fingers and penis. From the CID investigation into abuse at Abu Ghraib it was determined SGT J. Davis, SPC Harman, CPL Graner, and SSG Frederick, 372 MP CO, were present during this abuse. DETAINEE-15 was not an MI Hold and it is unlikely MI had knowledge of this abuse (Reference Annex B, Appendix 3, DETAINEE-15; Annex I, Appendix 1, Photographs C1-2, D19-21, M64).

(11) (U) **Incident #11**. Twenty-nine photos taken between 2315 and 0024, on 7 and 8 November 2003 depict seven detainees (DETAINEE-17, DETAINEE-16, DETAINEE-24, DETAINEE-23, DETAINEE-26, DETAINEE-01, DETAINEE-18) who were physically abused, placed in a pile and forced to masturbate. Present in some of these photographs are CPL Graner and SPC Harman. The CID investigation into these abuses identified SSG Frederick, CPL Graner, SGT J. Davis, SPC Ambuhl, SPC Harman, SPC Sivits, and PFC England; all MPs, as involved in the abuses which occurred. There is no evidence to support MI personnel involvement in this incident. CID statements from PFC England, SGT J. Davis, SPC Sivits, SPC Wisdom, SPC Harman, DETAINEE-17, DETAINEE-01, and DETAINEE-16 detail that the

detainees were stripped, pushed into a pile, and jumped on by SGT J. Davis, CPL Graner, and SSG Frederick. They were photographed at different times by SPC Harman, SPC Sivits, and SSG Frederick. The detainees were subsequently posed sexually, forced to masturbate, and "ridden like animals." CPL Graner knocked at least one detainee unconscious and SSG Frederick punched one so hard in the chest that he couldn't breath and a medic was summoned. SSG Frederick initiated the masturbation and forced the detainees to hit each other. PFC England stated she observed SSG Frederick strike a detainee in the chest during these abuses. The detainee had difficulty breathing and a medic, SOLDIER-01, was summoned. SOLDIER-01 treated the detainee and while in the Hard Site observed the "human pyramid" of naked detainees with bags over their heads. SOLDIER-01 failed to report this abuse. These detainees were not MI Holds and MI involvement in this abuse has not been alleged nor is it likely. SOLDIER-29 reported seeing a screen saver for a computer in the Hard Site that depicted several naked detainees stacked in a "pyramid." She also once observed, unrelated to this incident, CPL Graner slap a detainee. She stated that she didn't report the picture of naked detainees to MI because she did not see it again and also did not report the slap because she didn't consider it abuse (Reference Annex B, Appendix 1, SOLDIER-29; Annex B, Appendix 3, DETAINEE-01, DETAINEE-17, DETAINEE-16, ENGLAND, DAVIS, HARMAN,SIVITS, WISDOM; Annex B, Appendix 3, TAB A, SOLDIER-01, and Annex I, Appendix 1, Photographs C24-42, D22-25, M73-77, M87).

(12) (U) **Incident #12**. A photograph taken circa 27 December 2003, depicts a naked DETAINEE-14, apparently shot with a shotgun in his buttocks. This photograph could not be tied to a specific incident, detainee, or allegation and MI involvement is indeterminate (Reference Annex I, Appendix 1, Photographs D37-38, H2, M111).

(13) (U) **Incident #13**. Three photographs taken on 29 November 2003, depict an unidentified detainee dressed only in his underwear, standing with each foot on a separate box, and bent over at the waist. This photograph could not be tied to a specific incident, detainee, or allegation and MI involvement is indeterminate. (Reference Annex I, Appendix1, Photographs D37-38, M111)

(14) (U) **Incident #14**. An 18 November 2003 photograph depicts a detainee dressed in a shirt or blanket lying on the floor with a banana inserted into his anus. This as well as several others show the same detainee covered in feces, with his hands encased in sandbags, or tied in foam and between two stretchers. These are all identified as DETAINEE-25 and were determined by CID investigation to be self-inflicted incidents. Even so, these incidents constitute abuse; a detainee with a known mental condition should not have been provided the banana or photographed. The detainee has a severe mental problem and the restraints depicted in these photographs were allegedly used to prevent the detainee from sodomizing himself and assaulting himself and others with his bodily fluids. He was known for inserting various objects

into his rectum and for consuming and throwing his urine and feces. MI had no association with this detainee (Reference Annex C; Annex E; Annex I, Appendix 1, Photographs, C22-23, D28-36, D39, M97-99, M105-110, M131-133).

(15) (U) **Incident #15**. On 26 or 27 November 2003, SOLDIER-15, 66 MI GP, observed CIVILIAN-11, a CACI contractor, interrogating an Iraqi policeman. During the interrogation, SSG Frederick, 372 MP CO, alternated between coming into the cell and standing next to the detainee and standing outside the cell. CIVILIAN-11 would ask the policeman a question stating that if he did not answer, he would bring SSG Frederick back into the cell. At one point, SSG Frederick put his hand over the policeman's nose, not allowing him to breathe for a few seconds. At another point SSG Frederick used a collapsible nightstick to push and possibly twist the policeman's arm, causing pain. When SSG Frederick walked out of the cell, he told SOLDIER-15 he knew ways to do this without leaving marks. SOLDIER-15 did not report the incident. The interpreter utilized for this interrogation was CIVILIAN-16. (Reference Annex B, Appendix 1, SOLDIER-15)

(16) (U) **Incident #16**. On an unknown date, SGT Hernandez, an analyst, observed CIVILIAN-05, a CACI contractor, grab a detainee from the back of a High-Mobility, Multipurpose, Wheeled Vehicle (HMMWV) and drop him on the ground. CIVILIAN-05 then dragged the detainee into an interrogation booth. The detainee was handcuffed the entire time. When the detainee tried to get up to his knees, CIVILIAN-05 would force him to fall. SGT Hernandez reported the incident to CID but did not report it in MI channels. (Reference Annex B, Appendix 1, HERNANDEZ)

(17) (U) **Incident #17**. A 30 November 2003, MP Log entry described an unidentified detainee found in a cell covered in blood. This detainee had assaulted CPL Graner, 372 MP CO, while they moved him to an isolation cell in Tier 1A. CPL Graner and CPL Kamauf, subdued the detainee, placed restraints on him and put him in an isolation cell. At approximately 0320 hours, 30 November 2003, after hearing banging on the isolation cell door, the cell was checked and the detainee was found in the cell standing by the door covered in blood. This detainee was not an MI Hold and there is no record of MI association with this incident or detainee. (Reference Annex I, Appendix 1, Photographs M115-129, M134).

(18) (U) **Incident #18**. On approximately 12 or 13 December 2003, DETAINEE-06 claimed numerous abuse incidents against US Soldiers. DETAINEE-06 was a Syrian foreign fighter and self-proclaimed Jihadist who came to Iraq to kill Coalition troops. DETAINEE-06 stated the Soldiers supposedly retaliated against him when he returned to the Hard Site after being released from the hospital following a shooting incident in which he attempted to kill US Soldiers. DETAINEE-06 had a pistol smuggled into him by an Iraqi Policeman and used that pistol to try to kill US personnel working in the Hard Site on 24 November 2003. An MP

returned fire and wounded DETAINEE-06. Once DETAINEE-06 ran out of ammunition, he surrendered and was transported to the hospital. DETAINEE-06 claimed CIVILIAN-21 visited him in the hospital and threatened him with terrible torture upon his return. DETAINEE-06 claimed that upon his return to the Hard Site, he was subjected to various threats and abuses which included Soldiers threatening to torture and kill him, being forced to eat pork and having liquor put in his mouth, having a "very hot" substance put in his nose and on his forehead, having the guards hit his "broken" leg several times with a solid plastic stick, being forced to "curse" his religion, being urinated on, being hung by handcuffs from the cell door for hours, being "smacked" on the back of the head, and "allowing dogs to try to bite" him. This claim was substantiated by a medic, SOLDIER-20, who was called to treat a detainee (DETAINEE-06) who had been complaining of pain. When SOLDIER-20 arrived DETAINEE-06 was cuffed to the upper bunk so that he could not sit down and CPL Graner was poking at his wounded legs with an asp with DETAINEE-06 crying out in pain. SOLDIER-20 provided pain medication and departed. He returned the following day to find DETAINEE-06 again cuffed to the upper bunk and a few days later returned to find him cuffed to the cell door with a dislocated shoulder. SOLDIER-20 failed to either stop or report this abuse. DETAINEE-06 also claimed that prior to the shooting incident, which he described as when "I got shot with several bullets" without mentioning that he ever fired a shot, he was threatened "every one or two hours… with torture and punishment", was subjected to sleep deprivation by standing up "for hours and hours", and had a "black man" tell him he would rape DETAINEE-06 on two occasions. Although DETAINEE-06 stated that CPL Graner led "a number of Soldiers" into his cell, he also stated that he had never seen CPL Graner beat a prisoner. These claims are from a detainee who attempted to kill US service members. While it is likely some Soldiers treated DETAINEE-06 harshly upon his return to the Hard Site, DETAINEE-06's accusations are potentially the exaggerations of a man who hated Americans. (Reference Annex B, Appendix 3, DETAINEE-06, SOLDIER-20).

(19) (U) **Incident #19**. SGT Adams, 470 MI GP, stated that sometime between 4 and 13 December 2003, several weeks after the shooting of "a detainee who had a pistol" (DETAINEE-06), she heard he was back from the hospital, and she went to check on him because he was one of the MI Holds she interrogated. She found DETAINEE-06 without clothes or blanket, his wounds were bleeding and he had a catheter on without a bag. The MPs told her they had no clothes for the detainee. SGT Adams ordered the MPs to get the detainee some clothes and went to the medical site to get the doctor on duty. The doctor (Colonel) asked what SGT Adams wanted and was asked if he was aware the detainee still had a catheter on. The Colonel said he was, the Combat Army Surgical Hospital (CASH) had made a mistake, and he couldn't remove it because the CASH was responsible for it. SGT Adams told him this was unacceptable, he again refused to remove it and stated the detainee was due to go back to the CASH the following day. SGT Adams asked if he had ever heard of the Geneva Conventions, and the Colonel responded "fine Sergeant, you do what you have to do, I am going back to bed."

(U) It is apparent from this incident that DETAINEE06 did not receive proper medical treatment, clothing or bedding. The "Colonel" has not been identified in this investigation, but efforts continue. LTC Akerson was chief of the medical team for "security holds" at Abu Ghraib from early October to late December 2003. He treated DETAINEE06 following his shooting and upon his return from the hospital. He did not recall such an incident or DETAINEE06 having a catheter. It is possible SGT Adams was taken to a different doctor that evening. She asked and was told the doctor was a Colonel, not a Lieutenant Colonel and is confident she can identify the Colonel from a photograph. LTC Akerson characterized the medical records as being exceptional at Abu Ghraib, however, the records found by this investigation were poor and in most cases non-existent. (Reference Annex B, Appendix 1, ADAMS, AKERSON; Annex B, Appendix 3, DETAINEE-06).

(20) (U) **Incident #20**. During the fall of 2003, a detainee stated that another detainee, named DETAINEE-09, was stripped, forced to stand on two boxes, had water poured on him and had his genitals hit with a glove. Additionally, the detainee was handcuffed to his cell door for a half day without food or water. The detainee making the statement did not recall the exact date or participants. Later, "Assad" was identified as DETAINEE-09, who stated that on 5 November 2003 he was stripped naked, beaten, and forced to crawl on the floor. He was forced to stand on a box and was hit in his genitals. The participants in this abuse could not be determined. MI involvement is indeterminate. (Reference Annex B, Appendix 3, DETAINEE-09; Annex I, Appendix 1, Photographs D37-38, M111)

(21) (U) **Incident #21**. Circa October 2003, CIVILIAN-17, an interpreter of the Titan Corporation, observed the following incident: CPL Graner, 372 MP CO, pushed a detainee, identified as one of the "three stooges" or "three wise men", into a wall, lacerating the detainee's chin. CIVILIAN-17 specifically stated the detainee was pushed into a wall and "busted his chin." A medic, SGT Wallin, stated he was summoned to stitch the detainee and treated a 2.5 inch laceration on the detainee's chin requiring 13 stitches. SGT Wallin did not know how the detainee was injured. Later that evening, CPL Graner took photos of the detainee. CPL Graner was identified in another incident where he stitched an injured detainee in the presence of medics. There is no indication of MI involvement, knowledge, or direction of this abuse. (Reference Annex B, Appendix 1,CIVILIAN-17; Annex B, Appendix 3,CIVILIAN-17, WALLIN, DETAINEE-02; Annex I, Appendix 1, Photographs M88-96).

(22) (U) **Incident #22**. On an unknown date, an interpreter named "CIVILIAN-01" allegedly raped a 15-18 year old male detainee according to DETAINEE-05. DETAINEE-05 heard screaming and climbed to the top of his cell door to see over a sheet covering the door of the cell where the abuse was occurring. DETAINEE-05 observed CIVILIAN-01, who was wearing a military uniform, raping the detainee. A female Soldier was taking pictures.

DETAINEE-05 described CIVILIAN-01 as possibly Egyptian, "not skinny or short," and effeminate. The date and participants of this alleged rape could not be confirmed. No other reporting supports DETAINEE-05's allegation, nor have photographs of the rape surfaced. A review of all available records could not identify a translator by the name of CIVILIAN-01. DETAINEE05's description of the interpreter partially matches CIVILIAN-17, Interpreter, Titan Corp. CIVILIAN-17 is a large man, believed by several witnesses to be homosexual, and of Egyptian extraction. CIVILIAN-17 functioned as an interpreter for a Tactical HUMINT Team at Abu Ghraib, but routinely provided translation for both MI and MP. CID has an open investigation into this allegation. (Reference Annex B, Appendix 3, DETAINEE-05)

(23) (U) **Incident #23**. On 24 November 2003, a US Army officer, CPT Brinson, MP, allegedly beat and kicked a detainee. This is one of three identified abuses associated with the 24 November shooting. A detainee obtained a pistol from Iraqi police guards, shot an MP and was subsequently shot and wounded. During a subsequent search of the Hard Site and interrogation of detainees, SGT Spiker, 229 MP CO, a member of the Abu Ghraib Internal Reaction Force (IRF), observed an Army Captain dragging an unidentified detainee in a choke hold, throwing him against a wall, and kicking him in the mid-section. SPC Polak, 229 MP CO, IRF was also present in the Hard Site and observed the same abuse involving two Soldiers and a detainee. The detainee was lying on his stomach with his hands cuffed behind his back and a bag over his head. One Soldier stood next to him with the barrel of a rifle pressed against the detainee's head. The other Soldier was kneeling next to the detainee punching him in the back with a closed fist. The Soldier then stood up and kicked the detainee several times. The Soldier inflicting the beating was described as a white male with close cropped blond hair. SPC Polak saw this Soldier a few days later in full uniform, identifying him as a Captain, but could not see his name. Both SPC Polak and SGT Spiker reported this abuse to their supervisors, SFC Plude and 1LT Sutton, 372 MP CO. Photos of company grade officers at Abu Ghraib during this time were obtained and shown to SPC Polak and SGT Spiker, who positively identified the "Captain" as CPT Brinson. This incident was investigated by CID and the assault was determined to be unfounded; a staged event to protect the fact the detainee was a cooperative MP Source. (Reference Annex B, Appendix 1, PLUDE, POLAK, SPIKER, SUTTON; Annex B, Appendix 3, PLUDE, SUTTON; Annex E, Appendix 5, CID Report of Investigation 0005-04-CID149-83131)

(24) (U) **Incident #24**. A photograph created circa early December 2003 depicts an unidentified detainee being interrogated by CIVILIAN-11, CACI, Interrogator, and CIVILIAN-16, Titan, linguist. The detainee is squatting on a chair which is an unauthorized stress position. Having the detainee on a chair which is a potentially unsafe situation, and photographing the detainee are violations of the ICRP. (Reference Annex I, Appendix 2, Photograph "Stress Position").

f. (U) Incidents of Detainee Abuse Using Dogs. (U) Abusing detainees with dogs started almost immediately after the dogs arrived at Abu Ghraib on 20 November 2003. By that date, abuses of detainees was already occurring and the addition of dogs was just one more abuse device. Dog Teams were brought to Abu Ghraib as a result of recommendations from MG G. Miller's assessment team from JTF-GTMO. MG G. Miller recommended dogs as beneficial for detainee custody and control issues, especially in instances where there were large numbers of detainees and few guards to help reduce the risk of detainee demonstrations or acts of violence, as at Abu Ghraib. MG G. Miller never recommended, nor were dogs used for interrogations at GTMO. The dog teams were requested by COL Pappas, Commander, 205 MI BDE. COL Pappas never understood the intent as described by MG G. Miller. Interrogations at Abu Ghraib were also influenced by several documents that spoke of exploiting the Arab fear of dogs: a 24 January 2003 "CJTF 180 Interrogation Techniques," an 11 October 2002 JTF 170 "Counter-Resistance Strategies," and a 14 September 2003 CJTF-7 ICRP. Once the dogs arrived, there was controversy over who "owned" the dogs. It was ultimately decided that the dogs would be attached to the Internal Reaction Force (IRF). The use of dogs in interrogations to "fear up" detainees was generally unquestioned and stems in part from the interrogation techniques and counter-resistance policy distributed from CJTF 180, JTF 170 and CJTF-7. It is likely the confusion about using dogs partially stems from the initial request for dog teams by MI, not MPs, and their presence being associated with MG G. Miller's visit. Most military intelligence personnel believed that the use of dogs in interrogations was a "non-standard" technique which required approval, and most also believed that approval rested with COL Pappas. COL Pappas also believed, incorrectly, that he had such authority delegated to him from LTG Sanchez. COL Pappas's belief likely stemmed in part from the changing ICRP. The initial policy was published on 14 September 2003 and allowed the use of dogs subject to approval by LTG Sanchez. On 12 October 2003, these were amended to eliminate several techniques due to CENTCOM objections. After the 12 October 2003 amendment, the ICRP safeguards allowed that dogs present at interrogations were to be muzzled and under the control of a handler. COL Pappas did not recall how he got the authority to employ dogs; just that he had it. (Reference Annex B, Appendix 1, G. MILLER and PAPPAS, and Annex J, Appendix 3)

(U) SFC Plude stated the two Army dog teams never joined the Navy teams as part of the IRF and remained separate and under the direct control of MAJ Dinenna, S3, 320 MP BN. These teams were involved in all documented detainee abuse involving dogs; both MP and MI directed. The Navy dog teams were properly employed because of good training, excellent leadership, personal moral character, and professionalism exhibited by the Navy Dog Handlers, MAI Kimbro, MA1 Clark, and MA2 Pankratz, and IRF personnel. The Army teams apparently agreed to be used in abusive situations by both MPs and MI in contravention to their doctrine, training, and values. In an atmosphere of permissiveness and absence of oversight or leadership the Army dog teams became involved in several incidents of abuse over the following weeks

(Reference Annex B, Appendix 1, KIMBRO, PLUDE; Annex B, Appendix 2, PLUDE; Annex B, Appendix 3, PLUDE).

(1) (U) **Incident #25**. The first documented incident of abuse with dogs occurred on 24 November 2003, just four days after the dogs teams arrived. An Iraqi detainee was smuggled a pistol by an Iraqi Police Guard. While attempting to confiscate the weapon, an MP was shot and the detainee was subsequently shot and wounded. Following the shooting, LTC Jordan ordered several interrogators to the Hard Site to screen eleven Iraqi Police who were detained following the shooting. The situation at the Hard Site was described by many as "chaos," and no one really appeared to be in charge. The perception was that LTG Sanchez had removed all restrictions that night because of the situation; however, that was not true. No one is able to pin down how that perception was created. A Navy Dog Team entered the Hard Site and was instructed to search for additional weapons and explosives. The dogs searched the cells, no explosives were detected and the Navy Dog Team eventually completed their mission and left. Shortly thereafter, MA1 Kimbro, USN, was recalled when someone "needed" a dog. MA1 Kimbro went to the top floor of Tier 1B, rather than the MI Hold area of Tier 1A. As he and his dog approached a cell door, he heard yelling and screaming and his dog became agitated. Inside the cell were CIVILIAN-11 (CACI contract interrogator), a second unidentified male in civilian clothes who appeared to be an interrogator and CIVILIAN16 (female contract interpreter), all of whom were yelling at a detainee squatting in the back right corner. MA1 Kimbro's dog was barking a lot with all the yelling and commotion. The dog lunged and MA1 Kimbro struggled to regain control of it. At that point, one of the men said words to the effect "You see that dog there, if you don't tell me what I want to know, I'm gonna get that dog on you!" The three began to step out of the cell leaving the detainee inside and MA1 Kimbro backed-up to allow them to exit, but there was not much room on the tier. After they exited, the dog lunged and pulled MA1 Kimbro just inside the cell. He quickly regained control of his dog, and exited the cell. As CIVILIAN-11, CIVILIAN-16, and the other interrogator re-entered the cell, MA1 Kimbro's dog grabbed CIVILIAN-16's forearm in its mouth. It apparently did not bite through her clothes or skin and CIVILIAN-16 stated the dog did not bite her. Realizing he had not been called for an explosives search, MA1 Kimbro departed the area with his dog and as he got to the bottom of the tier stairs, he heard someone calling for the dog again, but he did not return. No record of this interrogation exists, as was the case for the interrogations of Iraqi Police in the hours and days following the shooting incident. The use of dogs in the manner directed by CIVILIAN-11 was clearly abusive and unauthorized (Reference Annex B, Appendix 1, SOLDIER-11, KIMBRO, PAPPAS, CIVILIAN-11; Annex B, Appendix 2, PAPPAS).

(U) Even with all the apparent confusion over roles, responsibilities and authorities, there were early indications that MP and MI personnel knew the use of dog teams in interrogations was abusive. Following this 24 November 2003, incident the three Navy dog teams concluded that some interrogators might attempt to misuse Navy Dogs to support their

interrogations. For all subsequent requests they inquired what the specific purpose of the dog was and when told "for interrogation" they explained that Navy dogs were not intended for interrogations and the request would not be fulfilled. Over the next few weeks, the Navy dog teams received about eight similar calls, none of which were fulfilled. In the later part of December 2003, COL Pappas summoned MA1 Kimbro and wanted to know what the Navy dogs' capabilities were. MA1 Kimbro explained Navy dog capabilities and provided the Navy Dog Use SOP. COL Pappas never asked if they could be used in interrogations and following that meeting the Navy Dog teams received no additional requests to support interrogations.

(2) (U) **Incident #26**. On or about 8 January 2004, SOLDIER-17 was conducting an interrogation of a Baath Party General Officer in the shower area of Tier 1B of the Hard Site. Tier 1B was the area of the Hard Site dedicated to female and juvenile detainees. Although Tier 1B was not the normal location for interrogations, due to a space shortage in Tier 1A, SOLDIER-17 was using this area. SOLDIER-17 witnessed an MP guard and an MP Dog Handler, whom SOLDIER-17 later identified from photographs as SOLDIER27, enter Tier 1B with SOLDIER-27's black dog. The dog was on a leash, but was not muzzled. The MP guard and MP Dog Handler opened a cell in which two juveniles, one known as "Casper," were housed. SOLDIER-27 allowed the dog to enter the cell and "go nuts on the kids," barking at and scaring them. The juveniles were screaming and the smaller one tried to hide behind "Casper." SOLDIER-27 allowed the dog to get within about one foot of the juveniles. Afterward, SOLDIER-17 overheard SOLDIER-27 say that he had a competition with another handler (likely SOLDIER-08, the only other Army dog handler) to see if they could scare detainees to the point that they would defecate. He mentioned that they had already made some detainees urinate, so they appeared to be raising the competition. This incident has no direct MI involvement; however, SOLDIER-17 failed to properly report what he observed. He stated that he went to bed and forgot the incident until asked about misuse of dogs during this investigation (Reference Annex B, Appendix 1, SOLDIER-17).

(3) (U) **Incident #27**. On 12 December 2003, an MI Hold detainee named DETAINEE-11, was recommended by MI (SOLDIER-17) for an extended stay in the Hard Site because he appeared to be mentally unstable. He was bitten by a dog in the Hard Site, but at the time he was not undergoing an interrogation and no MI personnel were present. DETAINEE-11 told SOLDIER-17 that a dog had bitten him and SOLDIER-17 saw dog bite marks on DETAINEE11's thigh. SOLDIER-08, who was the dog handler of the dog that bit DETAINEE-11, stated that in December 2003 his dog bit a detainee and he believed that MPs were the only personnel around when the incident occurred, but he declined to make further statements regarding this incident to either the MG Taguba inquiry or to this inquiry. SOLDIER-27, another Army dog handler, also stated that SOLDIER-08's dog had bitten someone, but did not provide further information. This incident was captured on digital photograph 0178/CG LAPS and appears to be the result of MP harassment and amusement, no MI involvement is suspected

(Reference Annex B, Appendix 1,SOLDIER-17; Annex B, Appendix 2, SOLDIER-08, SMITH; Annex I, Appendix 1, Photographs, D45-54, M146-171).

(4) (U) **Incident #28**. In an apparent MI directed use of dogs in detainee abuse, circa 18 December 2003, a photograph depicts a Syrian detainee (DETAINEE-14) kneeling on the floor with his hands bound behind his back. DETAINEE-14 was a "high value" detainee who had arrived at Abu Ghraib in December 2003, from a Navy ship. DETAINEE-14 was suspected to be involved with Al-Qaeda. Military Working Dog Handler SOLDIER-27 is standing in front of DETAINEE-14 with his black dog a few feet from DETAINEE-14's face. The dog is leashed, but not muzzled. SGT Eckroth was DETAINEE-14's interrogator from 18 to 21 December 2003, and CIVILIAN-21, CACI contract interrogator, assumed the lead after SGT Eckroth departed Abu Ghraib on 22 December 2003. SGT Eckroth identified DETAINEE14 as his detainee when shown a photo of the incident. CIVILIAN-21 claimed to know nothing about this incident; however, in December 2003 he related to SSG Eckroth he was told by MPs that DETAINEE-14's bedding had been ripped apart by dogs. CIVILIAN-21 was characterized by SOLDIER25 as having a close relationship with the MPs, and she was told by SGT Frederick about dogs being used when CIVILIAN-21 was there. It is highly plausible that CIVILIAN-21 used dogs without authorization and directed the abuse in this incident as well as others related to this detainee (Reference Annex B, Appendix 1, ECKROTH, SOLDIER25, CIVILIAN-21; Annex I, Appendix 1, Photographs Z1-6).

(5) (U) **Incident #29**. On or about 14 - 15 December 2003, dogs were used in an interrogation. SPC Aston, who was the Section Chief of the Special Projects team, stated that on 14 December, one of his interrogation teams requested the use of dogs for a detainee captured in conjunction with the capture of Saddam Hussein on 13 December 2003. SPC Aston verbally requested the use of dogs from COL Pappas, and COL Pappas stated that he would call higher to request permission. This is contrary to COL Pappas's statement that he was given authority to use dogs as long as they were muzzled. About one hour later, SPC Aston received approval. SPC Aston stated that he was standing to the side of the dog handler the entire time the dog was used in the interrogation. The dog never hurt anyone and was always muzzled, about five feet away from the detainee (Reference Annex B, Appendix 1, ASTON, PAPPAS).

(6) (U) **Incident #30**. On another occasion, SOLDIER-26, an MI Soldier assigned to the S2, 320 MP BN, was present during an interrogation of a detainee and was told the detainee was suspected to have Al Qaeda affiliations. Dogs were requested and approved about three days later. SOLDIER-26 didn't know if the dog had to be muzzled or not, likely telling the dog handler to un-muzzle the dog, in contravention to CJTF-7 policy. The interrogators were CIVILIAN-20, CACI, and CIVILIAN-21 (CACI), SOLDIER-14, Operations Officer, ICE stated that CIVILIAN-21, used a dog during one of his interrogations and this is likely that occasion. According to SOLDIER-14, CIVILIAN-21 had the dog handler maintain control of the dog and

did not make any threatening reference to the dog, but apparently "felt just the presence of the dog would be unsettling to the detainee." SOLDIER-14 did not know who approved the procedure, but was verbally notified by SOLDIER-23, who supposedly received the approval from COL Pappas. CIVILIAN-21 claimed he once requested to use dogs, but it was never approved. Based on the evidence, CIVILIAN-21 was deceitful in his statement (Reference Annex B, Appendix 1, SOLDIER-14, SOLDIER-26, CIVILIAN-21).

(7) (U) **Incident #31**. In a 14/15 December 2003 interrogation, military working dogs were used but were deemed ineffective because the detainee had little to no response to them. CIVILIAN-11, SOLDIER-05 and SOLDIER-12, all who participated in the interrogation, believed they had authority to use the dogs from COL Pappas or from LTG Sanchez; however, no documentation was found showing CJTF7 approval to use dogs in interrogations. It is probable that approval was granted by COL Pappas without such authority. LTG Sanchez stated he never approved use of dogs. (Reference Annex B, Appendix 1, CIVILIAN-11, SOLDIER-12, SOLDIER-14, PAPPAS, SOLDIER-23, CIVILIAN-21, SANCHEZ).

(8) (U) **Incident #32**. In yet another instance, SOLDIER-25, an interrogator, stated that when she and SOLDIER15 were interrogating a female detainee in the Hard Site, they heard a dog barking. The female detainee was frightened by dogs, and SOLDIER-25 and SOLDIER-15 returned her to her cell. SOLDIER-25 went to see what was happening with the dog barking and saw a detainee in his underwear on a mattress on the floor of Tier 1A with a dog standing over him. CIVILIAN-21 was upstairs giving directions to SSG Fredrick (372 MP Co), telling him to "take him back home." SOLDIER-25 opined it was "common knowledge that CIVILIAN-21 used dogs while he was on special projects, working directly for COL Pappas after the capture of Saddam on 13 December 2003." SOLDIER25 could not identify anyone else specifically who knew of this "common knowledge." It appeared CIVILIAN-21 was encouraging and even directing the MP abuse with dogs; likely a "softening up" technique for future interrogations. The detainee was one of CIVILIAN-21's. SOLDIER-25 did not see an interpreter in the area, so it is unlikely that CIVILIAN-21 was actually doing an interrogation.

(9) (U) SOLDIER-25 stated that SSG Frederick would come into her office every other day or so and tell her about dogs being used while CIVILIAN-21 was present. SSG Fredrick and other MPs used to refer to "doggy dance" sessions. SOLDIER-25 did not specify what "doggy dance" was (Reference Annex B, Appendix 1, SOLDIER-25), but the obvious implication is that it referred to an unauthorized use of dogs to intimidate detainees.

g. (U) Incidents of Detainee Abuse Using Humiliation. Removal of clothing was not a technique developed at Abu Ghraib, but rather a technique which was imported and can be traced through Afghanistan and GTMO. The 1987 version of FM 34-52, Interrogation, talked about "controlling all aspects of the interrogation to include… clothing given to the source," while the

current 1992 version does not. The 1987 version was, however, cited as the primary reference for CJTF-7 in Iraq, even as late as 9 June 2004. The removal of clothing for both MI and MP objectives was authorized, approved, and employed in Afghanistan and GTMO. At GTMO, the JTF 170 "Counter-Resistance Strategy," documented on 11 October 2002, permitted the removal of clothing, approved by the interrogation officer-in-charge, as an incentive in detention operations and interrogations. The SECDEF granted this authority on 2 December 2002, but it was rescinded six weeks later in January 2003. This technique also surfaced in Afghanistan. The CJTF-180 "Interrogation Techniques," documented on 24 January 2003, highlighted that deprivation of clothing had not historically been included in battlefield interrogations. However, it went on to recommend clothing removal as an effective technique that could potentially raise objections as being degrading or inhumane, but for which no specific written legal prohibition existed. As interrogation operations in Iraq began to take form, it was often the same personnel who had operated and deployed in other theaters and in support of GWOT, who were called upon to establish and conduct interrogation operations in Abu Ghraib. The lines of authority and the prior legal opinions blurred. Soldiers simply carried forward the use of nudity into the Iraqi theater of operations.

(U) Removal of clothing is not a doctrinal or authorized interrogation technique but appears to have been directed and employed at various levels within MI as an "ego down" technique. It was also employed by MPs as a "control" mechanism. Individual observation and/or understanding of the use and approval of clothing removal varied in each interview conducted by this investigation. LTC Jordan was knowledgeable of naked detainees and removal of their clothing. He denied ordering it and blamed it on the MPs. CPT Wood and SOLDIER14 claimed not to have observed nudity or approved clothing removal. Multiple MPs, interrogators, analysts, and interpreters observed nudity and/or employed clothing removal as an incentive, while an equal number didn't. It is apparent from this investigation that removal of clothing was employed routinely and with the belief it was not abuse. SOLDIER-03, GTMO Tiger Team believed that clothing as an "ego down" technique could be employed. He thought, mistakenly, that GTMO still had that authority. Nudity of detainees throughout the Hard Site was common enough that even during an ICRC visit they noted several detainees without clothing, and CPT Reese, 372 MP CO, stated upon his initial arrival at Abu Ghraib, "There's a lot of nude people here." Some of the nudity was attributed to a lack of clothing and uniforms for the detainees; however, even in these cases we could not determine what happened to the detainee's original clothing. It was routine practice to strip search detainees before their movement to the Hard Site. The use of clothing as an incentive (nudity) is significant in that it likely contributed to an escalating "de-humanization" of the detainees and set the stage for additional and more severe abuses to occur (Reference Annex I, Appendix 1, Photographs D42-43, M5-7, M17-18, M21, M137-141).

(1) (U) **Incident #33**. There is also ample evidence of detainees being forced to wear women's underwear, sometimes on their heads. These cases appear to be a form of humiliation, either for MP control or MI "ego down." DETAINEE-07 and DETAINEE-05 both claimed they were stripped of their clothing and forced to wear women's underwear on their heads. CIVILIAN-15 (CACI) and CIVILIAN-19 (CACI), a CJTF-7 analyst, alleged CIVILIAN-21 bragged and laughed about shaving a detainee and forcing him to wear red women's underwear. Several photographs include unidentified detainees with underwear on their heads. Such photos show abuse and constitute sexual humiliation of detainees (Reference Annex B, Appendix 1, SOLDIER-03, SOLDIER-14, JORDAN, REESE, CIVILIAN-21, WOOD; Annex B, Appendix 3, DETAINEE-05,CIVILIAN-15, CIVILIAN-19, DETAINEE-07; Annex C; Annex G; Annex I, Appendix 1, photographs D12, D14, M11-16).

(2) (U) **Incident #34**. On 16 September 2003, MI directed the removal of a detainee's clothing. This is the earliest incident we identified at Abu Ghraib. An MP log indicated a detainee "was stripped down per MI and he is neked (sic) and standing tall in his cell." The following day his interrogators, SPC Webster and SSG Clinscales, arrived at the detainee's cell, and he was unclothed. They were both surprised. An MP asked SSG Clinscales, a female, to stand to the side while the detainee dressed and the detainee appeared to have his clothing in his cell. SSG Clinscales was told by the MP the detainee had voluntarily removed his clothing as a protest and, in the subsequent interrogation, the detainee did not claim any abuse or the forcible removal of his clothing. It does not appear the detainee was stripped at the interrogator's direction, but someone in MI most likely directed it. SPC Webster and SOLDIER-25 provided statements where they opined SPC Claus, in charge of in-processing MI Holds, may have directed removal of detainee clothing on this and other occasions. SPC Claus denies ever giving such orders (Reference Annex B, Appendix 1, CLAUS, CLINSCALES, SOLDIER-25, WEBSTER).

(3) (U) **Incident #35**. On 19 September 2003, an interrogation "Tiger Team" consisting of SOLDIER-16, SOLDIER-07, and a civilian contract interpreter identified only as "Maher" (female), conducted a late night/early morning interrogation of a 17 year old Syrian foreign fighter. SOLDIER-16 was the lead interrogator. SOLDIER-07 was told by SOLDIER-16 that the detainee they were about to interrogate was naked. SOLDIER-07 was unsure if SOLDIER-16 was simply passing along that fact or had directed the MPs to strip the detainee. The detainee had fashioned an empty "Meals-Ready-to-Eat" (MRE) bag to cover his genital area. SOLDIER-07 couldn't recall who ordered the detainee to raise his hands to his sides, but when he did, the bag fell to the floor exposing him to SOLDIER-07 and the two female interrogation team members. SOLDIER-16 used a direct interrogation approach with the incentive of getting back clothing, and the use of stress positions.

(U) There is no record of an Interrogation Plan or any approval documents which would authorize these techniques. The fact these techniques were documented in the Interrogation Report suggests, however, that the interrogators believed they had the authority to use clothing as an incentive, as well as stress positions, and were not attempting to hide their use. Stress positions were permissible with Commander, CJTF-7 approval at that time. It is probable that use of nudity was sanctioned at some level within the chain-of-command. If not, lack of leadership and oversight permitted the nudity to occur. Having a detainee raise his hands to expose himself in front of two females is humiliation and therefore violates the Geneva Conventions (Reference Annex B, Appendix 1, SOLDIER-07, SOLDIER-14, SOLDIER-16, SOLDIER-24, WOOD).

(4) (U) **Incident #36**. In early October 2003, SOLDIER-19 was conducting an interrogation and ordered a detainee to roll his orange jumpsuit down to his waist, insinuating to the detainee that he would be further stripped if he did not cooperate. SOLDIER-19's interpreter put up his hand, looked away, said that he was not comfortable with the situation, and exited the interrogation booth. SOLDIER-19 was then forced to stop the interrogation due to lack of language support. SOLDIER-11, an analyst from a visiting JTF GTMO Tiger Team, witnessed this incident through the booth's observation window and brought it to the attention of SOLDIER-16, who was SOLDIER-19's Team Chief and first line supervisor. SOLDIER-16 responded that SOLDIER-19 knew what he was doing and did not take any action regarding the matter. SOLDIER-11 reported the same information to SOLDIER-28, his JTF GTMO Tiger Team Chief, who, according to SOLDIER-11, said he would "take care of it." SOLDIER-28 recalled a conversation with SOLDIER-11 concerning an interpreter walking out of an interrogation due to a "cultural difference," but could not remember the incident. This incident has four abuse components: the actual unauthorized stripping of a detainee by SOLDIER-19, the failure of SOLDIER-10 to report the incident he witnessed, the failure of SOLDIER-16 to take corrective action, reporting the incident up the chain of command, and the failure of SOLDIER-28 to report. (Reference Annex B, Appendix 1, SOLDIER-11, SOLDIER-16, SOLDIER-19, SOLDIER-28)

(5) (U) **Incident #37**. A photograph taken on 17 October 2003 depicts a naked detainee chained to his cell door with a hood on his head. Several other photographs taken on 18 October 2003 depict a hooded detainee cuffed to his cell door. Additional photographs on 19 October 2003 depict a detainee cuffed to his bed with underwear on his head. A review of available documents could not tie these photos to a specific incident, detainee or allegation, but these photos reinforce the reality that humiliation and nudity were being employed routinely enough that photo opportunities occurred on three successive days. MI involvement in these apparent abuses cannot be confirmed. (Reference Annex I, Appendix 1, Photographs D12, D14, D42-44, M5-7, M17-18, M21, M11-16, M137-141)

(6) (U) **Incident #38**. Eleven photographs of two female detainees arrested for suspected prostitution were obtained. Identified in these photographs are SPC Harman and CPL Graner, both MPs. In some of these photos, a criminal detainee housed in the Hard Site was shown lifting her shirt with both her breasts exposed. There is no evidence to confirm if these acts were consensual or coerced; however in either case sexual exploitation of a person in US custody constitutes abuse. There does not appear to be any direct MI involvement in either of the two incidents above. (Reference Annex I, Appendix 1, Photographs M42-52)

(7) (U) **Incident #39**. On 16 November 2003, SOLDIER-29 decided to strip a detainee in response to what she believed was uncooperative and physically recalcitrant behavior. She had submitted an Interrogation Plan in which she planned to use the "Pride and Ego Down," technique but did not specify that she would strip the detainee as part of that approach. SOLDIER-29 felt the detainee was "arrogant," and when she and her analyst, SOLDIER-10, "placed him against the wall" the detainee pushed SOLDIER-10. SOLDIER-29 warned if he touched SOLDIER-10 again, she would have him remove his shoes. A bizarre tit-for-tat scenario then ensued where SOLDIER-29 would warn the detainee about touching SOLDIER-10, the detainee would "touch" SOLDIER-10, and then had his shirt, blanket, and finally his pants removed. At this point, SOLDIER-29 concluded that the detainee was "completely uncooperative" and terminated the interrogation. While nudity seemed to be acceptable, SOLDIER-29 went further than most when she walked the semi-naked detainee across the camp. SGT Adams, SOLDIER-29's supervisor, commented that walking a semi-naked detainee across the camp could have caused a riot. CIVILIAN-21, a CACI contract interrogator, witnessed SOLDIER-29 and SOLDIER-10 escorting the scantily clad detainee from the Hard Site back to Camp Vigilant, wearing only his underwear and carrying his blanket. CIVILIAN-21 notified SGT Adams, who was SOLDIER-29's section chief, who in turn notified CPT Wood, the ICE OIC. SGT Adams immediately called SOLDIER-29 and SOLDIER-10 into her office, counseled them, and removed them from interrogation duties.

(U) The incident was relatively well known among JIDC personnel and appeared in several statements as second hand information when interviewees were asked if they knew of detainee abuse. LTC Jordan temporarily removed SOLDIER-29 and SOLDIER-10 from interrogation duties. COL Pappas left the issue for LTC Jordan to handle. COL Pappas should have taken sterner action such as an Article 15, UCMJ. His failure to do so did not send a strong enough message to the rest of the JIDC that abuse would not be tolerated. CPT Wood had recommended to LTC Jordan that SOLDIER-29 receive an Article 15 and SFC Johnson, the interrogation NCOIC, recommended she be turned over to her parent unit for the non-compliance. (Reference Annex B, Appendix 1, ADAMS, CIVILIAN-04, JORDAN, PAPPAS, SOLDIER-29, CIVILIAN-21, WOOD; Annex B, Appendix 2, JORDAN).

(8) (U) **Incident #40**. On 24 November 2003, there was a shooting of a detainee at Abu Ghraib in Tier 1A. DETAINEE-06, had obtained a pistol. While the MPs attempted to confiscate the weapon, an MP and DETAINEE-06 were shot. It was alleged that an Iraqi Police Guard had smuggled the pistol to DETAINEE-06 and in the aftermath of the shooting forty-three Iraqi Police were screened and eleven subsequently detained and interrogated. All but three were released following intense questioning. A fourth did not report for work the next day and is still at large. The Iraqi guard detainees admitted smuggling the weapons into the facility hiding them in an inner tube of a tire and several of the Iraqi guards were identified as Fedayeen trainers and members. During the interrogations of the Iraqi Police, harsh and unauthorized techniques were employed to include the use of dogs, discussed earlier in this report, and removal of clothing (See paragraph 5.e(18), above). Once detained, the police were strip-searched, which was a reasonable precaution considering the threat of contraband or weapons. Following such search, however, the police were not returned their clothes before being interrogated. This is an act of humiliation and was unauthorized. It was the general understanding that evening that LTG Sanchez and COL Pappas had authorized all measures to identify those involved, however, that should not have been construed to include abuse. LTC Jordan was the senior officer present at the interrogations and is responsible for the harsh and humiliating treatment of the police (Reference Annex B, Appendix 1, JORDAN, PAPPAS; Annex B, Appendix 2, JORDAN, PAPPAS, Annex B, Appendix 1, DETAINEE-06).

(9) (U) **Incident #41**. On 4 December 2003, documentation in the MP Logs indicated that MI leadership was aware of clothing removal. An entry indicated "Spoke with LTC Jordan (205 MI BDE) about MI holds in Tier 1A/B. He stated he would clear up with MI and let MPs run Tiers 1A/B as far as what inmate gets (clothes)." Additionally, in his statement, LTC Phillabaum claims he asked LTC Jordan what the situation was with naked detainees, and LTC Jordan responded with, "It was an interrogation technique." Whether this supports allegations of MI involvement in the clothing and stripping of detainees is uncertain, but it does show that MI at least knew of the practice and was willing to defer decisions to the MPs. Such vague guidance, if later combined with an implied tasking from MI, or perceived tasking by MP, potentially contributed to the subsequent abuse (Reference Annex B, Appendix 2, PHILLABAUM).

h. (U) Incidents of Detainee Abuse Using Isolation. Isolation is a valid interrogation technique which required approval by the CJTF-7 Commander. We identified documentation of four instances where isolation was approved by LTG Sanchez. LTG Sanchez stated he had approved 25 instances of isolation. This investigation, however, found numerous incidents of chronic confusion by both MI and MPs at all levels of command, up through CJTF-7, between the definitions of "isolation" and "segregation." Since these terms were commonly interchanged, we conclude Segregation was used far more often than Isolation. Segregation is a valid procedure to limit collaboration between detainees. This is what was employed most often in Tier 1A (putting a detainee in a cell by himself vice in a communal cell as was common outside

the Hard Site) and was sometimes incorrectly referred to as "isolation." Tier 1A did have isolation cells with solid doors which could be closed as well as a small room (closet) which was referred to as the isolation "Hole." Use of these rooms should have been closely controlled and monitored by MI and MP leaders. They were not, however, which subjected the detainees to excessive cold in the winter and heat in the summer. There was obviously poor air quality, no monitoring of time limits, no frequent checks on the physical condition of the detainee, and no medical screening, all of which added up to detainee abuse. A review of interrogation reports identified ten references to "putting people in the Hole," "taking them out of the Hole," or consideration of isolation. These occurred between 15 September 2003 and 3 January 2004. (Reference Annex B, Appendix 1, SANCHEZ)

(1) (U) **Incident #42**. On 15 September 2003, at 2150 hours, unidentified MI personnel, using the initials CKD, directed the use of isolation on a unidentified detainee. The detainee in cell #9 was directed to leave his outer cell door open for ventilation and was directed to be taken off the light schedule. The identification of CKD, the MI personnel, or the detainee could not be determined. This information originated from the prison log entry and confirms the use of isolation and sensory deprivation as interrogation techniques. (Reference MP Hard Site log book entry, 15 September 2003).

(2) (U) **Incident #43**. In early October 2003, SOLDIER-11 was interrogating an unidentified detainee with SOLDIER-19, an interrogator, and an unidentified contract interpreter. About an hour and 45 minutes into the interrogation, SOLDIER-19 turned to SOLDIER-11 and asked if he thought they should place the detainee in solitary confinement for a few hours, apparently because the detainee was not cooperating or answering questions. SOLDIER-11 expressed his misgivings about the tactic, but deferred to SOLDIER-19 as the interrogator. About 15 minutes later, SOLDIER-19 stopped the interrogation, departed the booth, and returned about five minutes later with an MP, SSG Frederick. SSG Frederick jammed a bag over the detainee's head, grabbed the handcuffs restraining him and said something like "come with me piggy", as he led the detainee to solitary confinement in the Hard Site, Tier 1A of Abu Ghraib.

(U) About half an hour later, SOLDIER-19 and SOLDIER-11 went to the Hard Site without their interpreter, although he was available if needed. When they arrived at the detainee's cell, they found him lying on the floor, completely naked except for a hood that covered his head from his upper lip, whimpering, but there were no bruises or marks on him. SSG Frederick then met SOLDIER-19 and SOLDIER-11 at the cell door. He started yelling at the detainee, "You've been moving little piggy, you know you shouldn't move", or words to that effect, and yanked the hood back down over the detainee's head. SOLDIER-19 and SOLDIER-11 instructed other MPs to clothe the detainee, which they did. SOLDIER-11 then asked SOLDIER-19 if he knew the MPs were going to strip the detainee, and SOLDIER-19 said that he

did not. After the detainee was clothed, both SOLDIER-19 and SOLDIER-11 escorted him to the general population and released him without interrogating him again. SSG Frederick made the statement "I want to thank you guys, because up until a week or two ago, I was a good Christian." SOLDIER-11 is uncertain under what context SSG Frederick made this statement. SOLDIER-11 noted that neither the isolation technique, nor the "striping incident" in the cell, was in any "interrogator notes" or "interrogation plan."

(U) More than likely, SOLDIER-19 knew what SSG Frederick was going to do. Given that the order for isolation appeared to be a spontaneous reaction to the detainee's recalcitrance and not part of an orchestrated Interrogation Plan; that the "isolation" lasted only approximately half an hour; that SOLDIER-19 chose to re-contact the detainee without an interpreter present; and that SOLDIER-19 was present with SSG Frederick at another incident of detainee abuse; it is possible that SOLDIER-19 had a prearranged agreement with SSG Frederick to "soften up" uncooperative detainees and directed SSG Frederick to strip the detainee in isolation as punishment for being uncooperative, thus providing the detainee an incentive to cooperate during the next interrogation. We believe at a minimum, SOLDIER-19 knew or at least suspected this type of treatment would take place even without specific instructions (Reference Annex B, Appendix 1,SOLDIER-11, SOLDIER-19, PAPPAS, SOLDIER-28).

(3) (U) **Incident(s) #44**. On 13 November 2003, SOLDIER-29 and SOLDIER-10, MI interrogators, noted that a detainee was unhappy with his stay in isolation and visits to the hole.

(U) On 11, 13, and 14 November 2003, MI interrogators SOLDIER-04, SOLDIER-09, SOLDIER-02, and SOLDIER-23 noted that a detainee was "walked and put in the Hole," "pulled out of extreme segregation," "did not seem to be bothered to return to the Hole," "Kept in the Hole for a long time unless he started to talk," and "was in good spirits even after three days in the Hole." (Reference Annex I, Appendix 3, Photo of "the Hole").

(U) A 5 November 2003 interrogation report indicates in the recommendations/future approaches paragraph: "Detainee has been recommended for the hole in ISO. Detainee should be treated harshly because friendly treatment has not been productive and because COL Pappas wants fast resolution, or he will turn the detainee over to someone other than the 205th [MI]."

(U) On 12 November 2003, MI interrogators SOLDIER-18 and SOLDIER13 noted that a detainee "feared the isolation Hole, and it made him upset, but not enough to break."

(U) On 29 November 2003, MI interrogators SOLDIER-18 and SOLDIER-06 told a detainee that "he would go into the Hole if he didn't start cooperating."

(U) On 8 December 2003, unidentified interrogators told a detainee that he was "recommended for movement to ISO and the Hole - he was told his sun [sunlight] would be taken away, so he better enjoy it now."

(U) These incidents all indicate the routine and repetitive use of total isolation and light deprivation. Documentation of this technique in the interrogation reports implies those employing it thought it was authorized. The manner it was applied is a violation of the Geneva Conventions, CJTF-7 policy, and Army policy (Reference Annex M, Appendix 2, AR 190-8). Isolation was being employed without proper approval and with little oversight, resulting in abuse (Reference Annex I, Appendix 4, DETAINEE-08).

i. (U) Several alleged abuses were investigated and found to be unsubstantiated. Others turned out to be no more than general rumor or fabrication. This investigation established a threshold below which information on alleged or potential abuse was not included in this report. Fragmentary or difficult to understand allegations or information at times defied our ability to investigate further. One such example is contained in a statement from an alleged abuse victim, DETAINEE-13, who claimed he was always treated well at Abu Ghraib but was abused earlier by his captors. He potentially contradicts that claim by stating his head was hit into a wall. The detainee appears confused concerning the times and locations at which he was abused. Several incidents involved numerous victims and/or occurred during a single "event," such as the Iraqi Police Interrogations on 24 November 2003. One example receiving some visibility was a report by SOLDIER-22 who overheard a conversation in the "chow hall" between SPC Mitchell and his unidentified "friends." SPC Mitchell was alleged to have said: "MPs were using detainees as practice dummies. They would hit the detainees as practice shots. They would apply strikes to their necks and knock them out. One detainee was so scared; the MPs held his head and told him everything would be alright, and then they would strike him. The detainees would plead for mercy and the MPs thought it was all funny." SPC Mitchell was interviewed and denied having knowledge of any abuse. He admitted that he and his friends would joke about noises they heard in the Hard Site and say things such as "the MPs are doing their thing." SPC Mitchell never thought anyone would take him seriously. Several associates of SPC Mitchell were interviewed (SPC Griffin, SOLDIER-12, PVT Heidenreich). All claimed their discussions with SPC Mitchell were just rumor, and they didn't think anyone would take him seriously or construe he had personal knowledge of abuse. SPC Mitchell's duties also make it unlikely he would have witnessed any abuse. He arrived at Abu Ghraib as an analyst, working the day shift, in late November 2003. Shortly after his arrival, the 24 November "shooting incident" occurred and the following day, he was moved to Camp Victory for three weeks. Upon his return, he was transferred to guard duty at Camp Wood and Camp Steel and never returned to the Hard Site. This alleged abuse is likely an individual's boastful exaggeration of a rumor which was rampant throughout Abu Ghraib, nothing more (Reference Annex B, Appendix 1, SOLDIER-12, GRIFFIN, HEIDENREICH, MITCHELL, SOLDIER-22).

SUBJECT: (U) AR 15-6 Investigation of the Abu Ghraib Detention Facility and 205th MI Brigade

Allegations of Abuse Incidents, the Nature of Reported Abuse, and Associated Personnel
Note: The chart lists all allegations considered. The specific abuse claimed and entities involved are not confirmed in all cases. The category of abuse are underlined. (See paragraph 5e-h, above)

Date/ Time	Incident	Nature of Alleged Abuse						Comments
		Nudity/ Humiliation	Assault	Sexual Assault	Use of Dogs	The "Hole"	Other	
15 SEP 03/ 2150	Use of Isolation. Incident #42.					MI/MP		MP log entry confirms MI use of isolation and sensory deprivation as an interrogation technique.
16 SEP 03/ 1315-1445	MI Directs Removal of Clothing. Incident #34.	MI/MP						MPs respond to MI tasking. Detainee apparently stripped upon arrival to Hard Site at MI direction.
19-20 SEP 03	Naked Detainee During Interrogation. Incident #35.	MI/MP						
20 SEP 03	Two MI Soldiers Beat and Kicked a Cuffed Detainee. Incident #1.		MI					CID investigated and referred the case back to the command.

SUBJECT: (U) AR 15-6 Investigation of the Abu Ghraib Detention Facility and 205th MI Brigade

Allegations of Abuse Incidents, the Nature of Reported Abuse, and Associated Personnel
Note: The chart lists all allegations considered. The specific abuse claimed and entities involved are not confirmed in all cases. The category of abuse are underlined. (See paragraph 5e-h, above)

Date/ Time	Incident	Nature of Alleged Abuse						Comments
		Nudity/ Humiliation	Assault	Sexual Assault	Use of Dogs	The "Hole"	Other	
7 OCT 03	Unauthorized Interrogation and Alleged Assault of a Female Detainee. Incident #2.	MI		MI				Unauthorized interrogation. MI personnel received Field Grade Article 15s.
Early OCT 03	Interrogator Directs Partial Removal of Clothing/Failure to Report. Incident #36.	MI						
Early OCT 03	Interrogator Directs Unauthorized Solitary Confinement/Military Police Stripping of Detainee/Failure to Report. Incident #43.	MP	MP			MI/MP		MI directed the MP place the detainee in solitary confinement (apparently the "Hole") for a few hours. The MPs carried out the request, stripped and hooded the detainee.

SUBJECT: (U) AR 15-6 Investigation of the Abu Ghraib Detention Facility and 205th MI Brigade

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		Nudity/ Humiliation	Assault	Sexual Assault	Use of Dogs	The "Hole"	Other	
17 OCT 03 - 19 Oct 03	Photos Depicting a Naked Hooded Detainee Cuffed to His Cell Door. Detainee Cuffed to His Bed with Underwear on his Head. Incident #37.	UNK						Nudity, hooding, and restraint. No indication of association with MI.
20 OCT 03	Detainee Was Stripped and Abused for Making a Shank from a Toothbrush. Incident #8.	MP	MP	MP				No indication of association with MI.
25 OCT 03/ 2015 (est)	Photos of a Naked Detainee on a Dog Leash. Incident #9.	MP		MP				Humiliation and degradation. No indication of association with MI.

SUBJECT: (U) AR 15-6 Investigation of the Abu Ghraib Detention Facility and 205th MI Brigade

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Date/ Time	Incident	Nature of Alleged Abuse						Comments
		Nudity/ Humiliation	Assault	Sexual Assault	Use of Dogs	The "Hole"	Other	
25 OCT 03/ 2300 – 2317 (est)	Three Naked Detainees Handcuffed Together and Forced to Simulate Sex While Photographed and Abused. Incident #3.	MI/MP	MI/MP	MI/MP				Incident not associated with interrogation operations. MI personnel observed and participated as individuals.
28 OCT 03	Photographs of Female Detainees. Incident #38.	MP		MP				MPs took many photos of two female detainees. One detainee photographed exposing her breasts.
OCT 03	Abuse and Sodomy of a Detainee (Chem Light Incident). Incident #5.	MP	MP	MP				Detainee on MI Hold. No other indication of association with MI.

SUBJECT: (U) AR 15-6 Investigation of the Abu Ghraib Detention Facility and 205th MI Brigade

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		Nudity/ Humiliation	Assault	Sexual Assault	Use of Dogs	The "Hole"	Other	
OCT 03	Detainee's Chin Lacerated. Incident #21.		MP					No indication of association with MI. Assailant unknown.
4 NOV 03/ 2140 - 2315	Detainee Forced to Stand on a Box With Simulated Electrical Wires Attached to his Fingers and Penis. Incident #10.	MP		MP				No indication of association with MI. Attached wire to penis. Threatened detainee with electrocution
4 NOV 03	CIA Detainee Dies in Custody. Incident #7.		CIA					SEAL Team involved in apprehending detainee. MPs photographed body. Tampered with evidence
5 NOV 03	Detainee Forced to Stand on Boxes, Water is Poured on Him, His Genitals are Hit. Incident #20.	MP	MP	MP				Detainee on MI Hold. No other indication of association with MI.

SUBJECT: (U) AR 15-6 Investigation of the Abu Ghraib Detention Facility and 205th MI Brigade

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		Nudity/ Humiliation	Assault	Sexual Assault	Use of Dogs	The "Hole"	Other	
7-8 NOV 03/ 2315 – 0024 (est)	Naked "Dog pile and Forced Masturbation of Detainees Following the 6 NOV 03 Riot at Camp Vigilant. Incident #11.	MP	MP	MP				
13 NOV 03	Detainee Claim of MP Abuse Corresponds with Interrogations. Incident #4.	MP	MP					Interrogation reports suggest MI directed abuse. Withholding of bedding
14 NOV 03	MP Log-Detainees Were Ordered "PT'd" By MI. Incident #6.	MP	MP					MPs performed unauthorized medical procedures – stitching detainee wounds

SUBJECT: (U) AR 15-6 Investigation of the Abu Ghraib Detention Facility and 205th MI Brigade

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		Nudity/ Humiliation	Assault	Sexual Assault	Use of Dogs	The "Hole"	Other	
16 NOV 03	Stripping of Detainee During Interrogation. Incident #39.	MI						MI interrogator counseled and removed as lead interrogator.
18 NOV 03	Photo Depicting Detainee on the Floor with a Banana Inserted into his Anus. Incident #14.		MP					Detainee had an apparent mental disorder. Photos were taken of him on other dates included showing him naked, praying upside down or covered in feces; blood on a door from an apparently self-inflicted wound; and efforts to restrain him. Appropriate psychiatric care and facilities apparently were not available.
24 NOV 03	MP CPT Beat and Kicked a Detainee. Incident #23.		MP					Subsequent investigation determined to be a staged event and not an abusive incident.

SUBJECT: (U) AR 15-6 Investigation of the Abu Ghraib Detention Facility and 205th MI Brigade

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		Nudity/ Humiliation	Assault	Sexual Assault	Use of Dogs	The "Hole"	Other	
24 NOV 03	Interrogator Threatens Use of Military Working Dog. Incident #25.				MP/MI			
24 NOV 03	The use of dogs and humiliation (clothing removal) was approved by MI. Incident #40.	MI/MP			MI/MP			COL Pappas authorized, and LTC Jordan supervised, the harsh treatment of Iraqi Police during interrogations, to include humiliation (clothing removal) and the use of dogs.
26 or 27 Nov 03	MI/MP Abuse During an Interrogation of Iraqi Policeman. Incident #15.		MI/MP					MP cutoff air supply by covering nose and mouth of detainee and twisted his arm at direction of contract interrogator during interrogation of Iraqi policeman.
29 NOV 04	Photo Depicting a detainee in his underwear standing on a box. Incident #13.	UNK	UNK					Photo could not be tied to any specific incident, detainee, or allegation and MI involvement is indeterminate.

SUBJECT: (U) AR 15-6 Investigation of the Abu Ghraib Detention Facility and 205th MI Brigade

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30 NOV 03	MP Log Entry- Detainee Was Found in Cell Covered in Blood. Incident #17.		UNK					Wounds apparently self-inflicted. No indication of association with MI.
Circa Dec 03	Photo Depicting detainee in stress position on chair. Incident #24.		MI					Photo shows detainee kneeling on a chair with Interrogators watching. No associated interrogation summaries to ID detainee
4 DEC 03	MP Log- Determination of Inmate Clothing by MI. Incident #41.	MI/MP						Suggests MI direction to remove selected detainee's clothing, with MP collaboration.

SUBJECT: (U) AR 15-6 Investigation of the Abu Ghraib Detention Facility and 205th MI Brigade

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Date/ Time	Incident	Nature of Alleged Abuse						Comments
		Nudity/ Humiliation	Assault	Sexual Assault	Use of Dogs	The "Hole"	Other	
12-13 DEC 03 (est)	Detainee Involved in Attempted Murder of MPs Claims Retaliatory Acts Upon Return to the Hard Site. Incident #18.		MP		MP			Detainee allegations may have been exaggerated. MP – Forced him to eat pork and forced alcohol in his mouth. MPs may have retaliated in response to the detainee shooting an MP on 24 NOV 03.
4-13 DEC 03 (est)	Withholding of Clothing, Bedding, and Medical Care. Incident #19.	MP	UNK					MI Soldier discovered and attempted to rectify the situation. A U/I COL or LTC medical officer refused to remove a catheter when notified by MI.
12 DEC 03	Dog Bites Iranian Detainee. Incident #27.	MP	MP		MP			Detainee on MI Hold. No other indication of association with MI.
14/15 DEC 03	MI Uses Dog in Interrogation. Incident #29.				MI/MP			Used allegedly in response to COL Pappas's blanket approval for use of harsher techniques against Saddam associates.

SUBJECT: (U) AR 15-6 Investigation of the Abu Ghraib Detention Facility and 205th MI Brigade

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Date/ Time	Incident	Nature of Alleged Abuse						Comments
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14/15 DEC 03	MI Uses Dog in Interrogation. Incident #31.				MI/MP			Interrogation report indicates dogs used with little effect during an interrogation.
Late DEC 03	Contract Interrogator Possibly Involved in Dog Use on Detainee. Incident #32.				MI/MP			
18 DEC 03 or later	Dog Handler Uses Dog on Detainee. Incident #28.				MP			Photos of incident show only MP personnel; however, it is possible MI directed the dogs to prepare the detainee for interrogation.
27 DEC 03 (est)	Photo Depicting Apparent Shotgun Wounds on Detainee's Buttocks. Incident #12.	UNK	UNK					Detainee apparently shot by MP personnel with shotgun using less-than-lethal rounds. Nudity may have been required to have medics observe and treat wounds. No indication of association with MI.

SUBJECT: (U) AR 15-6 Investigation of the Abu Ghraib Detention Facility and 205th MI Brigade

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8 JAN 04 (Estimated)	Dog Used to Scare Juvenile Inmates. Incident #26.				MP			MI Soldier observed the event while in the area during an interrogation. MP motivation unknown. MI Soldier failed to report it.
Unspecified	Un-muzzled dog used during an interrogation. Incident #30.				MI/MP			MI approved the use of dogs during an interrogation. The dog was un-muzzled without such approval.
Unspecified	Possible Rape of a Detainee by a US Translator. Incident #22.			MI				

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Date/ Time	Incident	Nature of Alleged Abuse						Comments
		Nudity/ Humiliation	Assault	Sexual Assault	Use of Dogs	The "Hole"	Other	
Unspecified	Civilian Interrogator Forcibly Pulls Detainee from Truck and Drags Him Across Ground. Incident #16.		MI					The incident was reported by MI, but CID apparently did not pursue the case.
Various Dates	MI Use of Isolation as an Interrogation Technique. Incident #44.					MI/MP		Seven detainees are associated with this line item.
Various Dates	MI Forces Detainee to Wear Women's Underwear on his Head. Incident #33.	MI/MP						MPs may have performed two of the incidents identified in photos, and may have no MI association.

SUBJECT: (U) AR 15-6 Investigation of the Abu Ghraib Detention Facility and 205th MI Brigade

6. (U) Findings and Recommendations.

a. (U) **Major Finding**: From 25 July 2003 to 6 February 2004, twenty-seven (27) 205 MI BDE personnel allegedly:

- Requested, encouraged, condoned, or solicited MP personnel to abuse detainees or;

- Participated in detainee abuse or;

- Violated established interrogation procedures and applicable laws and regulations as preparation for interrogation operations at Abu Ghraib.

(U) **Explanation**: Some MI personnel encouraged, condoned, participated in, or ignored abuse. In a few instances, MI personnel acted alone in abusing detainees. MI abuse and MI solicitation of MP abuse included the use of isolation with sensory deprivation ("the Hole"), removal of clothing and humiliation, the use of dogs to "fear up" detainees, and on one occasion, the condoned twisting of a detainee's cuffed wrists and the smothering of this detainee with a cupped hand in MI's presence. Some MI personnel violated established interrogation practices, regulations, and conventions which resulted in the abuse of detainees. While Interrogation and Counter-Resistance Policies (ICRP) were poorly defined and changed several times, in most cases of detainee abuse the MI personnel involved knew or should have known what they were doing was outside the bounds of their authority. Ineffective leadership at the JIDC failed to detect violations and discipline those responsible. Likewise, leaders failed to provide adequate training to ensure Soldiers understood the rules and complied.

(U) **Recommendation**: The Army needs to re-emphasize Soldier and leader responsibilities in interrogation and detention operations and retrain them to perform in accordance with law, regulations, and Army values and to live up to the responsibilities of their rank and position. Leaders must also provide adequate training to ensure Soldiers understand their authorities. The Army must ensure that future interrogation policies are simple, direct and include safeguards against abuse. Organizations such as the JIDC must possess a functioning chain of command capable of directing interrogation operations.

b. (U) Other Findings and Recommendations.

(1) (U) **Finding**: There was a lack of clear Command and Control of Detainee Operations at the CJTF-7 level.

(U) **Explanation**: COL Pappas was rated by MG Wojdakowski, DCG, V Corps/CJTF-7. MG Wojdakowski, however, was not directly involved with interrogation operations. Most of COL Pappas' direction was coming from LTG Sanchez directly as well as from MG Fast, the C2.

BG Karpinski was rated by BG Diamond, Commander, 377th Theater Support Command (377 TSC). However, she testified that she believed her rater was MG Wojdakowski and in fact it was he she received her direction from the entire time she was in Iraq (Reference Annex B, Appendix 1, KARPINSKI). The 800 MP BDE was TACON to CJTF-7. Overall responsibility for detainee operations never came together under one person short of LTG Sanchez himself until the assignment of MG G. Miller in April 2004.

(U) **Recommendation**: There should be a single authority designated for command and control for detention and interrogation operations. (DoD/DA)

(2) (U) **Finding**: FRAGO 1108 appointing COL Pappas as FOB Commander at Abu Ghraib was unclear. This issue did not impact detainee abuse.

(U) **Explanation**: Although FRAGO 1108 appointing COL Pappas as FOB Commander on 19 November 2003 changed the command relationship, it had no specific effect on detainee abuses at Abu Ghraib. The FRAGO giving him TACON of the 320 MP BN did not contain any specified or implied tasks. The TACON did not include responsibility for conducting prison or "Warden" functions. Those functions remained the responsibility of the 320 MP BN. This FRAGO has been cited as a significant contributing factor that allowed the abuses to happen, but the abuses were already underway for two months before CJTF-7 issued this FRAGO. COL Pappas and the Commander of the 320 MP BN interpreted that FRAGO strictly for COL Pappas to exercise the external Force Protection and Security of Detainees. COL Pappas had a Long Range Reconnaissance Company in the 165 MI BN that would augment the external protection of Abu Ghraib. The internal protection of detainees, however, still remained the responsibility of the 320 MP BN. The confusion and disorganization between MI and MPs already existed by the time CJTF-7 published the FRAGO. Had there been no change of FOB Command, it is likely abuse would have continued anyway.

(U) **Recommendation**: Joint Task Forces such as CJTF-7 should clearly specify relationships in FRAGOs so as to preclude confusion. Terms such as Tactical Control (TACON) should be clearly defined to identify specific command relationships and preclude confusion. (DoD/CJTF-7)

(3) (U) **Finding**: The JIDC was manned with personnel from numerous organizations and consequently lacked unit cohesion. There was an absence of an established, effective MI chain of command at the JIDC.

(U) **Explanation**: A decision was made not to run the JIDC as a unit mission. The JIDC was manned, led and managed by staff officers from multiple organizations as opposed to a unit with its functioning chain of command. Responsibilities for balancing the demands of

managing interrogation operations and establishing good order and discipline in this environment were unclear and lead to lapses in accountability.

(U) **Recommendation**: JIDCs need to be structured, manned, trained and equipped as standard military organizations. These organizations should be certified by TRADOC and/or JFCOM. Appropriate Army and Joint doctrine should be developed defining JIDCs' missions and functions as separate commands. (DoD/DA/CJTF-7)

(4) (U) **Finding**: Selecting Abu Ghraib as a detention facility placed soldiers and detainees at an unnecessary force protection risk.

(U) **Explanation**: Failure adequately to protect and house detainees is a violation of the Third and Fourth Geneva Conventions and AR 190-8. Therefore, the selection of Abu Ghraib as a detention facility was inappropriate because of its inherent indefensibility and poor condition. The selection of Abu Ghraib as a detention center was dictated by the Coalition Provisional Authority officials despite concerns that the Iraqi people would look negatively on Americans interning detainees in a facility associated with torture. Abu Ghraib was in poor physical condition with buildings and sections of the perimeter wall having been destroyed, resulting in completely inadequate living conditions. Force protection must be a major consideration in selecting any facility as a detention facility. Abu Ghraib was located in the middle of the Sunni Triangle, an area known to be very hostile to coalition forces. Further, being surrounded by civilian housing and open fields and encircled by a network of roads and highways, its defense presented formidable force protection challenges. Even though the force protection posture at Abu Ghraib was compromised from the start due to its location and poor condition, coalition personnel still had a duty and responsibility to undertake appropriate defensive measures. However, the poor security posture at Abu Ghraib resulted in the deaths and wounding of both coalition forces and detainees.

(U) **Recommendations**:

- Detention centers must be established in accordance with AR 190-8 to ensure safety and compliance with the Geneva Conventions. (DoD/DA/CJTF-7).
- As a matter of policy, force protection concerns must be applicable to any detention facility and all detention operations. (DoD/DA/CJTF-7)
- Protect detainees in accordance with Geneva Convention IV by providing adequate force protection. (DoD/DA/CJTF-7)

(5) (U) **Finding**: Leaders failed to take steps to effectively manage pressure placed upon JIDC personnel.

(U) **Explanation**: During our interviews, leaders within the MI community commented upon the intense pressure they felt from higher headquarters, to include CENTCOM,

the Pentagon, and DIA for timelier, actionable intelligence (Reference Annex B, Appendix 1, WOOD, PAPPAS, and PRICE). These leaders have stated that this pressure adversely affected their decision making. Requests for information were being sent to Abu Ghraib from a number of headquarters without any prioritization. Based on the statements from the interrogators and analysts, the pressure was allowed to be passed down to the lowest levels.

(U) **Recommendation**: Leaders must balance mission requirements with unit capabilities, soldier morale and effectiveness. Protecting Soldiers from unnecessary pressure to enhance mission effectiveness is a leader's job. Rigorous and challenging training can help prepare units and soldiers for the stress they face in combat. (DoD/DA/CENTCOM/CJTF-7)

(6) (U) **Finding**: Some capturing units failed to follow procedures, training, and directives in the capture, screening, and exploitation of detainees.

(U) **Explanation**: The role of the capturing unit was to conduct preliminary screening of captured detainees to determine if they posed a security risk or possessed information of intelligence value. Detainees who did not pose a security risk and possessed no intelligence value should have been released. Those that posed a security risk and possessed no intelligence value should have been transferred to Abu Ghraib as a security hold. Those that possessed intelligence information should have been interrogated within 72 hours at the tactical level to gather perishable information of value to the capturing unit. After 72 hours, these personnel should have been transferred to Abu Ghraib for further intelligence exploitation as an MI hold. Since most detainees were not properly screened, large numbers of detainees were transferred to Abu Ghraib, who in some cases should not have been sent there at all, and in almost all cases, were not properly identified or documented in accordance with doctrine and directives. This failure led to the arrival of a significant number of detainees at Abu Ghraib. Without proper detainee capture documentation, JIDC interrogators were diverted from interrogation and intelligence production to screening operations in order to assess the value of the incoming detainees (no value, security hold, or MI Hold). The overall result was that less intelligence was produced at the JIDC than could have been if capturing forces had followed proper procedures.

(U) **Recommendation**: Screening, interrogation and release procedures at the tactical level need to be properly executed. Those detainees who pose no threat and are of no intelligence value should be released by capturing units within 72 hours. Those detainees thought to be a threat but of no further intelligence value should be sent to a long term confinement facility. Those detainees thought to possess further intelligence value should be sent to a Corps/Theater Interrogation Center. (DA/CENTCOM/CJTF-7)

(7) (U) **Finding**: DoD's development of multiple policies on interrogation operations for use in different theaters or operations confused Army and civilian Interrogators at Abu Ghraib.

SUBJECT: (U) AR 15-6 Investigation of the Abu Ghraib Detention Facility and 205th MI Brigade

(U) **Explanation**: National policy and DoD directives were not completely consistent with Army doctrine concerning detainee treatment or interrogation tactics, resulting in CJTF-7 interrogation and counter-resistance policies and practices that lacked basis in Army interrogation doctrine. As a result, interrogators at Abu Ghraib employed non-doctrinal approaches that conflicted with other DoD and Army regulatory, doctrinal and procedural guidance.

(U) **Recommendation**: Adopt one DoD policy for interrogation, within the framework of existing doctrine, adhering to the standards found in doctrine, and enforce that standard policy across DoD. Interrogation policy must be simple and direct, with reference to existing doctrine, and possess effective safeguards against abuse. It must be totally understandable by the interrogator using it. (DoD/DA/CJTF-7)

(8) (U) **Finding**: There are an inadequate number of MI units to satisfy current and future HUMINT missions. The Army does not possess enough interrogators and linguists to support interrogation operations.

(U) **Explanation**: The demand for interrogators and linguists to support tactical screening operations at the point-of-capture of detainees, tactical HUMINT teams, and personnel to support interrogation operations at organizations like the JIDC cannot be supported with the current force structure. As a result, each of these operations in Iraq was undermanned and suffered accordingly.

(U) **Recommendation**: The Army must increase the number of HUMINT units to overcome downsizing of HUMINT forces over the last 10 years and to address current and future HUMINT requirements.

(9) (U) **Finding**: The JIDC was not provided with adequate personnel resources to effectively operate as an interrogation center.

(U) **Explanation**: The JIDC was established in an ad hoc manner without proper planning, personnel, and logistical support for the missions it was intended to perform. Interrogation and analyst personnel were quickly kluged together from a half dozen units in an effort to meet personnel requirements. Even at its peak strength, interrogation and analyst manpower at the JIDC was too shorthanded to deal with the large number of detainees at hand. Logistical support was also inadequate.

(U) **Recommendation**: The Army and DoD should plan on operating JIDC organizations in future operational environments, establish appropriate manning and equipment authorizations for the same. (DoD/DA)

(10) (U) **Finding**: There was/is a severe shortage of CAT II and CAT III Arab linguists available in Iraq.

(U) **Explanation**: This shortage negatively affected every level of detainee operations from point-of-capture through detention facility. Tactical units were unable to properly screen detainees at their levels not only because of the lack of interrogators but even more so because of the lack of interpreters. The linguist problem also existed at Abu Ghraib. There were only 20 linguists assigned to Abu Ghraib at the height of operations. Linguists were a critical node and limited the maximum number of interrogations that could be conducted at any time to the number of linguists available.

(U) **Recommendation**: Army and DoD need to address the issue of inadequate linguist resources to conduct detention operations. (DA/DoD)

(11) (U) **Finding**: The cross leveling of a large number of Reserve Component (RC) Soldiers during the Mobilization process contributed to training challenges and lack of unit cohesion of the RC units at Abu Ghraib.

(U) **Recommendation**: If cross leveling of personnel is necessary in order to bring RC units up to required strength levels, then post mobilization training time should be extended. Post mobilization training should include unit level training in addition to Soldier training to ensure cross leveled Soldiers are made part of the team. (DA)

(12) (U) **Finding**: Interrogator training in the Laws of Land Warfare and the Geneva Conventions is ineffective.

(U) **Explanation**: The US Army Intelligence Center and follow on unit training provided interrogators with what appears to be adequate curriculum, practical exercises and man-hours in Law of Land Warfare and Geneva Conventions training. Soldiers at Abu Ghraib, however, remained uncertain about what interrogation procedures were authorized and what proper reporting procedures were required. This indicates that Initial Entry Training for interrogators was not sufficient or was not reinforced properly by additional unit training or leadership.

(U) **Recommendation**: More training emphasis needs to be placed on Soldier and leader responsibilities concerning the identification and reporting of detainee abuse incidents or concerns up through the chain of command, or to other offices such as CID, IG or SJA. This training should not just address the rules, but address case studies from recent and past detainee and interrogation operations to address likely issues interrogators and their supervisors will encounter. Soldiers and leaders need to be taught to integrate Army values and ethical decision-

making to deal with interrogation issues that are not clearly prohibited or allowed. Furthermore, it should be stressed that methods employed by US Army interrogators will represent US values.

(13) (U) **Finding**: MI, MP, and Medical Corps personnel observed and failed to report instances of Abuse at Abu Ghraib. Likewise, several reports indicated that capturing units did not always treat detainees IAW the Geneva Convention.

(U) **Recommendation**: DoD should improve training provided to all personnel in Geneva Conventions, detainee operations, and the responsibilities of reporting detainee abuse. (DoD)

(14) (U) **Finding**: Combined MI/MP training in the conduct of detainee/interrogation operations is inadequate.

(U) **Explanation**: MI and MP personnel at Abu Ghraib had little knowledge of each other's missions, roles and responsibilities in the conduct of detainee/interrogation operations. As a result, some "lanes in the road" were worked out "on the fly." Other relationships were never fully defined and contributed to the confused operational environment.

(U) **Recommendation**: TRADOC should initiate an effort to develop a cross branch training program in detainee and interrogation operations training. FORSCOM should reinstitute combined MI/MP unit training such as the Gold Sword/Silver Sword Exercises that were conducted annually. (DA)

(15) (U) **Finding**: MI leaders do not receive adequate training in the conduct and management of interrogation operations.

(U) **Explanation**: MI Leaders at the JIDC were unfamiliar with and untrained in interrogation operations (with the exception of CPT Wood) as well as the mission and purposes of a JIDC. Absent any knowledge from training and experience in interrogation operations, JIDC leaders had to rely upon instinct to operate the JIDC. MTTs and Tiger Teams were deployed to the JIDC as a solution to help train interrogators and leaders in the management of HUMINT and detainee/interrogator operations.

(U) **Recommendation**: MI Officer, NCO and Warrant Officer training needs to include interrogation operations to include management procedures, automation support, collection management and JIDC operations. Officer and senior NCO training should also emphasize the potential for abuse involved in detention and interrogation operations. (DA)

(16) (U) **Finding**: Army doctrine exists for both MI interrogation and MP detainee operations, but it was not comprehensive enough to cover the situation that existed at Abu Ghraib.

(U) **Explanation**: The lines of authority and accountability between MI and MP were unclear and undefined. For example, when MI would order sleep adjustment, MPs would use their judgment on how to apply that technique. The result was MP taking detainees from their cells stripping them and giving them cold showers or throwing cold water on them to keep them awake.

(U) **Recommendation**: DA should conduct a review to determine future Army doctrine for interrogation operations and detention operations. (DA)

(17) (U) **Finding**: Because of a lack of doctrine concerning detainee and interrogation operations, critical records on detainees were not created or maintained properly thereby hampering effective operations.

(U) **Explanation**: This lack of record keeping included the complete life cycle of detainee records to include detainee capture information and documentation, prison records, medical records, interrogation plans and records, and release board records. Lack of record keeping significantly hampered the ability of this investigation to discover critical information concerning detainee abuse.

(U) **Recommendation:** As TRADOC reviews and enhances detainee and interrogation operations doctrine, it should ensure that record keeping and information sharing requirements are addressed. (DA)

(18) (U) **Finding**: Four (4) contract interrogators allegedly abused detainees at Abu Ghraib.

(U) **Explanation**: The contracting system failed to ensure that properly trained and vetted linguist and interrogator personnel were hired to support operations at Abu Ghraib. The system also failed to provide useful contract management functions in support of the facility. Soldiers and leaders at the prison were unprepared for the arrival, employment, and oversight of contract interrogators.

(U) **Recommendations**: The Army should review the use contract interrogators. In the event contract interrogators must be used, the Army must ensure that they are properly qualified from a training and performance perspective, and properly vetted. The Army should establish standards for contract requirements and personnel. Additionally, the Army must

provide sufficient contract management resources to monitor contracts and contractor performance at the point of performance.

(19) (U) **Observation**: MG Miller's visit did not introduce "harsh techniques" into the Abu Ghraib interrogation operation.

(U) **Explanation**: While there was an increase in intelligence reports after the visit, it appears more likely it was due to the assignment of trained interrogators and an increased number of MI Hold detainees to interrogate. This increase in production does not equate to an increase in quality of the collected intelligence. MG G. Miller's visit did not introduce "harsh techniques" into the Abu Ghraib interrogation operation.

(20) (U) **Finding**: The JTF-GTMO training team had positive impact on the operational management of the JIDC; however, the JTF-GTMO training team inadvertently validated restricted interrogation techniques.

(U) **Explanation**: The JTF-GTMO team stressed the conduct of operations with a strategic objective, while the Abu Ghraib team remained focused on tactical operations. Instead of providing guidance and assistance, the team's impact was limited to one-on-one interaction during interrogations. Clearly a significant problem was the JTF-GTMO's lack of understanding of the approved interrogation techniques, either for GTMO or CJTF-7 or Abu Ghraib. When the training team composed of the experts from a national level operation failed to recognize, object to, or report detainee abuse, such as the use of nudity as an interrogation tactic, they failed as a training team and further validated the use of unacceptable interrogation techniques.

(U) **Recommendation**: TRADOC should initiate an Army-wide effort to ensure all personnel involved in detention and interrogation operations are properly trained with respect to approved doctrine. There should be a MTT to assist ongoing detention operations. This MTT must be of the highest quality and understand the mission they have been sent to support. They must have clearly defined and unmistakable objectives. Team members with varied experience must be careful to avoid providing any training or guidance that contradicts local or national policy. (DA/DoD)

(21) (U) **Finding**: The Fort Huachuca MTT failed to adapt the ISCT training (which was focused upon improving the JTF-GTMO operational environment) to the mission needs of CJTF-7 and JIDC; however, actions of one team member resulted in the inadvertent validation of restricted interrogation techniques.

(U) **Explanation**: Although the Fort Huachuca Team (ISCT) team was successful in arranging a few classes and providing some formal training, to include classes on the Geneva Conventions, both the JIDC leadership and the ISCT team failed to include/require the contract

personnel to attend the training. Furthermore, the training that was given was ineffective and certainly did nothing to prevent the abuses occurring at Abu Ghraib, e.g., the "Hole," nakedness, withholding of bedding, and the use of dogs to threaten detainees. The ISCT MTT members were assigned to the various Tiger Teams/sections to conduct interrogations. The ISCT team's lack of understanding of approved doctrine was a significant failure. This lack of understanding was evident in SFC Walters' "unofficial" conversation with one of the Abu Ghraib interrogators (CIVILIAN21). SFC Walters related several stories about the use of dogs as an inducement, suggesting the interrogator talk to the MPs about the possibilities. SFC Walters noted that detainees are most susceptible during the first few hours after capture. "The prisoners are captured by Soldiers, taken from their familiar surroundings, blindfolded and put into a truck and brought to this place (Abu Ghraib); and then they are pushed down a hall with guards barking orders and thrown into a cell, naked; and that not knowing what was going to happen or what the guards might do caused them extreme fear." It was also suggested that an interrogator could take some pictures of what seemed to be guards being rough with prisoners so he could use them to scare the prisoners. This conversation certainly contributed to the abusive environment at Abu Ghraib. The team validated the use of unacceptable interrogation techniques. The ISCT team's Geneva Conventions training was not effective in helping to halt abusive techniques, as it failed to train Soldiers on their responsibilities for identifying and reporting those techniques.

(U) **Recommendation**: TRADOC should initiate an Army-wide effort to ensure all personnel involved in detention and interrogation operations are properly trained with respect to approved doctrine. There should be a MTT to assist ongoing detention operations. This MTT must be of the highest quality and understand the mission they have been sent to support. They must have clearly defined and unmistakable objectives. Team members with varied experience must be careful to avoid providing any training or guidance that contradicts local or national policy. (DA/DoD)

(22) (U) **Finding**: Other Government Agency (OGA) interrogation practices led to a loss of accountability at Abu Ghraib.

(U) **Explanation**: While the FBI, JTF-121, Criminal Investigative Task Force, Iraq Survey Group, and the CIA were all present at Abu Ghraib, the acronym "Other Government Agency" referred almost exclusively to the CIA. Lack of military control over OGA interrogator actions or lack of systemic accountability for detainees plagued detainee operations in Abu Ghraib almost from the start. Army allowed CIA to house "Ghost Detainees" who were unidentified and unaccounted for in Abu Ghraib. This procedure created confusion and uncertainty concerning their classification and subsequent DoD reporting requirements under the Geneva Conventions. Additionally, the treatment and interrogation of OGA detainees occurred under different practices and procedures which were absent any DoD visibility, control, or oversight. This separate grouping of OGA detainees added to the confusion over proper treatment of detainees and created a perception that OGA techniques and practices were suitable

and authorized for DoD operations. No memorandum of understanding on detainee accountability or interrogation practices between the CIA and CJTF-7 was created.

(U) **Recommendation**: DoD must enforce adherence by OGA with established DoD practices and procedures while conducting detainee interrogation operations at DoD facilities.

(23) (U) **Finding**: There was neither a defined procedure nor specific responsibility within CJTF-7 for dealing with ICRC visits. ICRC recommendations were ignored by MI, MP and CJTF-7 personnel.

(U) **Explanation**: Within this investigation's timeframe, 16 September 2003 through 31 January 2004, the ICRC visited Abu Ghraib three times, notifying CJTF-7 twice of their visit results, describing serious violations of international Humanitarian Law and of the Geneva Conventions. In spite of the ICRC's role as independent observers, there seemed to be a consensus among personnel at Abu Ghraib that the allegations were not true. Neither the leadership, nor CJTF-7 made any attempt to verify the allegations.

(U) **Recommendation**: DoD should review current policy concerning ICRC visits and establish procedures whereby findings and recommendations made by the ICRC are investigated. Investigation should not be done by the units responsible for the facility in question. Specific procedures and responsibilities should be developed for ICRC visits, reports, and responses. There also needs to be specific inquiries made into ICRC allegations of abuse or maltreatment by an independent entity to ensure that an unbiased review has occurred. (DoD/CJTF-7)

(24) (U) **Finding**: Two soldiers that the 519 MI BN had reason to suspect were involved in the questionable death of a detainee in Afghanistan were allowed to deploy and continue conducting interrogations in Iraq. While in Iraq, those same soldiers were alleged to have abused detainees.

(U) **Recommendation**: Once soldiers in a unit have been identified as possible participants in abuse related to the performance of their duties, they should be suspended from such duties or flagged.

(25) (U) **Observation**: While some MI Soldiers acted outside the scope of applicable laws and regulations, most Soldiers performed their duties in accordance with the Geneva Conventions and Army Regulations.

(U) **Explanation**: MI Soldiers operating the JIDC at Abu Ghraib screened thousands of Iraqi detainees, conducted over 2500 interrogations, and produced several thousand valuable intelligence products supporting the war fighter and the global war on terrorism. This great effort

was executed in difficult and dangerous conditions with inadequate physical and personnel resources.

c. (U) Individual Responsibility for Detainee Abuse at Abu Ghraib.

(1) (U) **Finding**: **COL Thomas M. Pappas, Commander, 205 MI BDE.** A preponderance of evidence supports that COL Pappas did, or failed to do, the following:

- Failed to insure that the JIDC performed its mission to its full capabilities, within the applicable rules, regulations and appropriate procedures.
- Failed to properly organize the JIDC.
- Failed to put the necessary checks and balances in place to prevent and detect abuses.
- Failed to ensure that his Soldiers and civilians were properly trained for the mission.
- Showed poor judgment by leaving LTC Jordan in charge of the JIDC during the critical early stages of the JIDC.
- Showed poor judgment by leaving LTC Jordan in charge during the aftermath of a shooting incident known as the Iraqi Police Roundup (IP Roundup).
- Improperly authorized the use of dogs during interrogations. Failed to properly supervise the use of dogs to make sure they were muzzled after he improperly permitted their use.
- Failed to take appropriate action regarding the ICRC reports of abuse.
- Failed to take aggressive action against Soldiers who violated the ICRP, the CJTF-7 interrogation and Counter-Resistance Policy and the Geneva Conventions.
- Failed to properly communicate to Higher Headquarters when his Brigade would be unable to accomplish its mission due to lack of manpower and/or resources. Allowed his Soldiers and civilians at the JIDC to be subjected to inordinate pressure from Higher Headquarters.
- Failed to establish appropriate MI and MP coordination at the brigade level which would have alleviated much of the confusion that contributed to the abusive environment at Abu Ghraib.
- The significant number of systemic failures documented in this report does not relieve COL Pappas of his responsibility as the Commander, 205th MI BDE for the abuses that occurred and went undetected for a considerable length of time.

(U) **Recommendation**: This information should be forwarded to COL Pappas' chain of command for appropriate action.

SUBJECT: (U) AR 15-6 Investigation of the Abu Ghraib Detention Facility and 205th MI Brigade

(2) (U) **Finding**: **LTC Stephen L. Jordan, Director, Joint Interrogation Debriefing Center.** A preponderance of evidence supports that LTC Jordan did, or failed to do, the following:

- Failed to properly train Soldiers and civilians on the ICRP.
- Failed to take full responsibility for his role as the Director, JIDC.
- Failed to establish the necessary checks and balances to prevent and detect abuses.
- Was derelict in his duties by failing to establish order and enforce proper use of ICRP during the night of 24 November 2003 (IP Roundup) which contributed to a chaotic situation in which detainees were abused.
- Failed to prevent the unauthorized use of dogs and the humiliation of detainees who were kept naked for no acceptable purpose while he was the senior officer-in-charge in the Hard Site.
- Failed to accurately and timely relay critical information to COL Pappas, such as:
  - The incident where a detainee had obtained a weapon.
  - ICRC issues.
- Was deceitful during this, as well as the MG Taguba, investigations. His recollection of facts, statements, and incidents were always recounted to avoid blame or responsibility. His version of events frequently diverged from most others.
- Failed to obey a lawful order to refrain from contacting anyone except his attorney regarding this investigation. He conducted an e-mail campaign soliciting support from others involved in the investigation.

(U) **Recommendation**: This information should be forwarded to LTC Jordan's chain of command for appropriate action.

(3) (U) **Finding**: **MAJ David M. Price, Operations Officer, Joint Interrogation and Debriefing Center, 141st MI Battalion.** A preponderance of evidence indicates that MAJ Price did, or failed to do, the following:

- Failed to properly train Soldiers and civilians on the ICRP.
- Failed to understand the breadth of his responsibilities as the JIDC Operations Officer. Failed to effectively assess, plan, and seek command guidance and assistance regarding JIDC operations.
- Failed to intervene when the Interrogation Control Element (ICE) received pressure from Higher Headquarters.
- Failed to plan and implement the necessary checks and balances to prevent and detect abuses.
- Failed to properly review interrogation plans which clearly specified the improper use of nudity and isolation as punishment.

(U) **Recommendation**: This information should be forwarded to MAJ Price's chain of command for appropriate action.

(4) (U) **Finding**: **MAJ Michael D. Thompson, Deputy Operations Officer, Joint Interrogation and Debriefing Center, 325 MI BN.** A preponderance of evidence supports that MAJ Thompson failed to do the following:

- Failed to properly train Soldiers and civilians on the ICRP.
- Failed to understand the breadth of his responsibilities as the JIDC Deputy Operations Officer. Failed to effectively assess, plan, and seek command guidance and assistance regarding JIDC operations.
- Failed to intervene when the ICE received pressure from Higher Headquarters.
- Failed to plan and implement the necessary checks and balances to prevent and detect abuses.
- Failed to properly review interrogation plans which clearly specified the improper use of nudity and isolation as punishment.

(U) **Recommendation**: This information should be forwarded to MAJ Thompson's chain of command for appropriate action.

(5) (U) **Finding**: **CPT Carolyn A. Wood, Officer in Charge, Interrogation Control Element (ICE), Joint Interrogation and Debriefing Center, 519 MI BDE.** A preponderance of evidence supports that CPT Wood failed to do the following:

- Failed to implement the necessary checks and balances to detect and prevent detainee abuse. Given her knowledge of prior abuse in Afghanistan, as well as the reported sexual assault of a female detainee by three 519 MI BN Soldiers working in the ICE, CPT Wood should have been aware of the potential for detainee abuse at Abu Ghraib. As the Officer-in-Charge (OIC) she was in a position to take steps to prevent further abuse. Her failure to do so allowed the abuse by Soldiers and civilians to go undetected and unchecked.
- Failed to assist in gaining control of a chaotic situation during the IP Roundup, even after SGT Eckroth approached her for help.
- Failed to provide proper supervision. Should have been more alert due to the following incidents:
  - An ongoing investigation on the 519 MI BN in Afghanistan.
  - Prior reports of 519 MI BN interrogators conducting unauthorized interrogations.
  - SOLDIER29's reported use of nudity and humiliation techniques.
  - Quick Reaction Force (QRF) allegations of detainee abuse by 519th MI Soldiers.
- Failed to properly review interrogation plans which clearly specified the improper use of nudity and isolation in interrogations and as punishment.
- Failed to ensure that Soldiers were properly trained on interrogation techniques and operations.
- Failed to adequately train Soldiers and civilians on the ICRP.

(U) **Recommendation**: This information should be forwarded to CPT Wood's chain of command for appropriate action.

(6) (U) **Finding**: **SOLDIER-28, Guantanamo Base Team Chief, 260th MI Battalion.** A preponderance of evidence supports that SOLDIER28 did, or failed to do, the following:

- Failed to report detainee abuse when he was notified by SOLDIER-11 that a detainee was observed in a cell naked, hooded, and whimpering, and when SOLDIER-11 reported an interrogator made a detainee pull his jumpsuit down to his waist.

(U) **Recommendation**: This information should be forwarded to SOLDIER-28's chain of command for appropriate action.

(7) (U) **Finding**: **SOLDIER-23, Operations Section, ICE, JIDC, 325 MI BN.** A preponderance of evidence supports that SOLDIER23 did, or failed to do, the following:

- Failed to prevent detainee abuse and permitted the unauthorized use of dogs and unauthorized interrogations during the IP Roundup. As the second senior MI officer during the IP Roundup, his lack of leadership contributed to detainee abuse and the chaotic situation during the IP Roundup.
- Failed to properly supervise and ensure Soldiers and civilians followed the ICRP.
- Failed to properly review interrogation plans which clearly specified the improper use of nudity and isolation as interrogation techniques and punishment.

(U) **Recommendation**: This information should be forwarded to SOLDIER23' chain of command for appropriate action.

(8) (U) **Finding**: **SOLDIER-14, Night Shift OIC, ICE, JIDC, 519 MI BN.** A preponderance of evidence supports that SOLDIER-14 did, or failed to do, the following:

- Failed to properly supervise and ensure Soldiers and civilians followed the ICRP.
- Failed to provide proper supervision. SOLDIER-14 should have been aware of the potential for detainee abuse at Abu Ghraib: The following incidents should have increased his diligence in overseeing operations:
  - An ongoing investigation of the 519 MI BN in Afghanistan.
  - Allegations by a female detainee that 519 MI BN interrogators sexually assaulted her. The Soldiers received non-judicial punishment for conducting unauthorized interrogations.
  - SOLDIER-29's reported use of nudity and humiliation techniques.
  - Quick Reaction Force (QRF) allegations of detainee abuse by 519 MI BN Soldiers.
- Failed to properly review interrogation plans which clearly specified the improper use of nudity and isolation as punishment.

(U) **Recommendation**: This information should be forwarded to SOLDIER-14's chain of command for appropriate action.

(9) (U) **Finding**: **SOLDIER-15, Interrogator, 66 MI GP.** A preponderance of evidence supports that SOLDIER15 did, or failed to do, the following:

- Failed to report detainee abuse. He witnessed SSG Frederick twisting the handcuffs of a detainee causing pain and covering the detainee's nose and mouth to restrict him from breathing.
  - Witnessed during that same incident, CIVILIAN-11 threaten a detainee by suggesting he would be turned over to SSG Frederick for further abuse if he did not cooperate.

(U) **Recommendation**: This information should be forwarded to SOLDIER-15's chain of command for appropriate action.

(10) (U) **Finding**: **SOLDIER-22, 302d MI Battalion.** A preponderance of evidence supports that SOLDIER22 did, or failed to do, the following:

- Failed to report detainee abuse.
  - He was made aware by SOLDIER-25 of an incident where three detainees were abused by MPs (Reference Annex I, Appendix 1, Photographs M36-37, M39-41).
  - He was made aware by SOLDIER-25 of the use of dogs to scare detainees.
  - He overheard Soldiers stating that MPs were using detainees as "practice dummies;" striking their necks and knocking them unconscious.
  - He was made aware of MPs conducting "PT" (Physical Training) sessions with detainees and MI personnel participating:

- Failed to obey a direct order. He interfered with this investigation by talking about the investigation, giving interviews to the media, and passing the questions being asked by investigators to others via a website.

(U) **Recommendation**: This information should be forwarded to SOLDIER-22's chain of command for appropriate action.

(11) (U) **Finding**: **SOLDIER-10, Analyst, 325 MI BN (currently attached to HHC, 504 MI BDE).** A preponderance of evidence supports that SOLDIER10 did, or failed to do, the following:

- Actively participated in abuse when he threw water on three detainees who were hand-cuffed together and made to lie on the floor of the detention facility (Reference Annex I, Appendix 1, Photographs M36-37).
- Failed to stop detainee abuse in the above incident and in the incident when SOLDIER-29 stripped a detainee of his clothes and walked the detainee naked from an interrogation booth to Camp Vigilant during a cold winter day.
- Failed to report detainee abuse.

(U) **Recommendation**: This information should be forwarded to SOLDIER-10's chain of command for appropriate action.

(12) (U) **Finding**: **SOLDIER-17, Interrogator, 2d MI Battalion.** A preponderance of evidence supports that SOLDIER17 did, or failed to do, the following:

- Failed to report the improper use of dogs. He saw an un-muzzled black dog go into a cell and scare two juvenile detainees. The dog handler allowed the dogs to "go nuts" on the juveniles (Reference Annex I, Appendix 1, Photograph D-48).
- Failed to report inappropriate actions of dog handlers. He overheard Dog Handlers state they had a competition to scare detainees to the point they would defecate. They claimed to have already made several detainees urinate when threatened by their dogs.

(U) **Recommendation**: This information should be forwarded to SOLDIER-17's chain of command for appropriate action.

SUBJECT: (U) AR 15-6 Investigation of the Abu Ghraib Detention Facility and 205th MI Brigade

(13) (U) **Finding**: **SOLDIER-19, Interrogator, 325 MI BN.** A preponderance of evidence supports that SOLDIER-19 did, or failed to do, the following:

- Abused detainees:
  - Actively participated in the abuse of three detainees depicted in photographs (Reference Annex I, Appendix 1, Photographs M36-37, M39-41). He threw a Foam-ball at their genitals and poured water on the detainees while they were bound, nude, and abused by others.
  - Turned over a detainee to the MPs with apparent instructions for his abuse. He returned to find the detainee naked and hooded on the floor whimpering.
  - Used improper interrogation techniques. He made a detainee roll down his jumpsuit and threatened the detainee with complete nudity if he did not cooperate.
- Failed to stop detainee abuse in the above incidents.
- Failed to report detainee abuse for above incidents.

(U) **Recommendation**: This information should be forwarded to SOLDIER-19's chain of command for appropriate action.

(14) (U) **Findings**: **SOLDIER-24, Analyst, 325 MI BN (currently attached to HHC, 504 MI BDE).** A preponderance of evidence supports that SOLDIER24 did, or failed to do, the following:

- Failed to report detainee abuse. He was present during the abuse of detainees depicted in photographs (Reference Annex I, Appendix 1, Photographs M36-37, M39, M41).
- Failed to stop detainee abuse.

(U) **Recommendation**: This information should be forwarded to SOLDIER-24's chain of command for appropriate action.

(15) (U) **Findings**: **SOLDIER-25, Interrogator, 321st MI BN.** A preponderance of evidence supports that SOLDIER25 did, or failed to do, the following:

- Failed to report detainee abuse.
  - She saw Dog Handlers use dogs to scare detainees. She "thought it was funny" as the detainees would run into their cells from the dogs.
  - She was told by SOLDIER-24 that the detainees who allegedly had raped another detainee were handcuffed together, naked, in contorted positions, making it look like they were having sex with each other.
  - She was told that MPs made the detainees wear women's underwear.
- Failed to stop detainee abuse.

(U) **Recommendation**: This information should be forwarded to SOLDIER-25's chain of command for appropriate action.

(16) (U) **Finding**: **SOLDIER-29, Interrogator, 66 MI GP.** A preponderance of evidence supports that SOLDIER29 did, or failed to do, the following:

- Failed to report detainee abuse.
  - She saw CPL Graner slap a detainee.
  - She saw a computer screen saver depicting naked detainees in a "human pyramid."
  - She was aware MPs were taking photos of detainees.
  - She knew MPs had given a detainee a cold shower, made him roll in the dirt, and stand outside in the cold until he was dry. The detainee was then given another cold shower.
- Detainee abuse (Humiliation). She violated interrogation rules of engagement by stripping a detainee of his clothes and walking him naked from an interrogation booth to Camp Vigilant on a cold winter night.
- Gave MPs instruction to mistreat/abuse detainees.
  - SOLDIER2-9's telling MPs (SSG Frederick) when detainees had not cooperated in an interrogation appeared to result in subsequent abuse.
  - One of the detainees she interrogated was placed in isolation for several days and allegedly abused by the MPs. She annotated in an interrogation report (IN-AG00992-DETAINEE-08-04) that a "direct approach" was used with "the reminder of the unpleasantness that occurred the last time he lied to us."

(U) **Recommendation**: This information should be forwarded to SOLDIER-29's chain of command for appropriate action.

(17) (U) **Findings**: **SOLDIER-08, Dog Handler, Abu Ghraib, 42 MP Detachment, 16 MP BDE (ABN).** A preponderance of evidence supports that SOLDIER08 did, or failed to do, the following:

- Inappropriate use of dogs. Photographs (Reference Annex I, Appendix 1, D46, D52, M149-151) depict SOLDIER-08 inappropriately using his dog to terrorize detainees.
- Abused detainees. SOLDIER-08 had an on-going contest with SOLDIER-27, another dog handler, to scare detainees with their dogs in order to see who could make the detainees urinate and defecate first.

(U) **Recommendation**: This information should be forwarded to SOLDIER-08's chain of command for appropriate action.

(18) (U) **Findings**: **SOLDIER34, 372 MP CO.** A preponderance of evidence supports that SOLDIER34 did, or failed to do, the following:

- Failed to report detainee abuse. He was present during the abuse of detainees depicted in photographs (Reference Annex I, Appendix 1, Photographs M36-37, M39-41).
- Failed to stop detainee abuse.

(U) **Recommendation**: This information should be forwarded to SOLDIER34's chain of command for appropriate action.

(19) (U) **Findings**: **SOLDIER-27, 372 MP CO.** A preponderance of evidence supports that SOLDIER27 did, or failed to do, the following:

- Actively participated in detainee abuse.
  - During the medical treatment (stitching) of a detainee, he stepped on the chest of the detainee (Reference Annex I, Appendix 1, Photograph M163).
  - He participated in the abuse of naked detainees depicted in photographs (Reference Annex I, Appendix 1, Photographs M36-37, M39-41).
- Failed to stop detainee abuse.

(U) **Recommendation**: This information should be forwarded to SOLDIER27's chain of command for appropriate action.

(20) (U) **Findings**: **SOLDIER-27, Dog Handler, Abu Ghraib, 523 MP Detachment.** A preponderance of evidence supports that SOLDIER27 did, or failed to do, the following:

- Inappropriate use of dogs. Photographs (Reference Annex I, Appendix 1, Photographs D46, D48, M148, M150, M151, M153, Z1, Z3-6) depict SOLDIER-27 inappropriately using his dog terrorizing detainees.
- Detainee abuse. SOLDIER-27 had an on-going contest with SOLDIER-08, another dog handler, to scare detainees with their dogs and cause the detainees to urinate and defecate.
- Led his dog into a cell with two juvenile detainees and let his dog go "nuts." The two juveniles were yelling and screaming with the youngest one hiding behind the oldest.

(U) **Recommendation**: This information should be forwarded to SOLDIER-27's chain of command for appropriate action.

(21) (U) **Finding**: **SOLDIER-20, Medic, 372 MP CO.** A preponderance of evidence supports that SOLDIER20 did, or failed to do, the following:

- Failed to report detainee abuse.
  - When called to assist a detainee who had been shot in the leg, he witnessed CPL Graner hit the detainee in his injured leg with a stick.
  - He saw the same detainee handcuffed to a bed over several days, causing great pain to the detainee as he was forced to stand.
  - He saw the same detainee handcuffed to a bed which resulted in a dislocated shoulder.
  - He saw pictures of detainees being abused (stacked naked in a "human pyramid").

(U) **Recommendation**: This information should be forwarded to SOLDIER-20's chain of command for appropriate action.

(22) (U) **Finding**: **SOLDIER-01, Medic, Abu Ghraib.** A preponderance of evidence supports that SOLDIER01 did, or failed to do, the following:

- Failed to report detainee abuse. She saw a 'human pyramid" of naked Iraqi prisoners, all with sandbags on their heads when called to the Hard Site to provide medical treatment.

(U) **Recommendation**: This information should be forwarded to SOLDIER-01's chain of command for appropriate action.

(23) (U) **Finding**: **CIVILIAN-05, CACI employee.** A preponderance of evidence supports that CIVILIAN-05 did, or failed to do, the following:

- He grabbed a detainee (who was handcuffed) off a vehicle and dropped him to the ground. He then dragged him into an interrogation booth and as the detainee tried to get up, CIVILIAN-05 would yank the detainee very hard and make him fall again.
- Disobeyed General Order Number One; drinking alcohol while at Abu Ghraib.
- Refused to take instructions from a Tiger Team leader and refused to take instructions from military trainers.
    - When confronted by SSG Neal, his Tiger Team leader, about his inadequate interrogation techniques, he replied, "I have been doing this for 20 years and I do not need a 20 year old telling me how to do my job."
    - When placed in a remedial report writing class because of his poor writing, he did not pay attention to the trainer and sat in the back of the room facing away from the trainer.

(U) **Recommendation**: This information should be forwarded to the Army General Counsel for determination of whether CIVILIAN-05 should be referred to the Department of Justice for prosecution. This information should be forwarded to the Contracting Officer (KO) for appropriate contractual action.

(24) (U) **Finding**: **CIVILIAN-10, Translator, Titan employee.** After a thorough investigation, we found no direct involvement in detainee abuse by CIVILIAN-10. Our investigation revealed CIVILIAN-10 had a valid security clearance until it was suspended.

(U) **Recommendation**: This information should be forwarded to Titan via the KO. CIVILIAN-10 is cleared of any wrong doing and should retain his security clearance.

SUBJECT: (U) AR 15-6 Investigation of the Abu Ghraib Detention Facility and 205th MI Brigade

(25) (U) **Finding**: **CIVILIAN-11, Interrogator, CACI employee.** A preponderance of evidence supports that CIVILIAN11 did, or failed to do, the following:

- Detainee abuse.
  - He encouraged SSG Frederick to abuse Iraqi Police detained following a shooting incident (IP Roundup). SSG Frederick twisted the handcuffs of a detainee being interrogated; causing pain.
  - He failed to prevent SSG Frederick from covering the detainee's mouth and nose restricting the detainee from breathing:
- Threatened the Iraqi Police "with SSG Frederick." He told the Iraqi Police to answer his questions or he would bring SSG Frederick back into the cell.
- Used dogs during the IP Roundup in an unauthorized manner. He told a detainee, "You see that dog there, if you do not tell me what I want to know, I'm going to get that dog on you."
- Placed a detainee in an unauthorized stress position (Reference Annex I, Appendix 2, Photograph "Stress Positions"). CIVILIAN-11 is photographed facing a detainee who is in a stress position on a chair with his back exposed. The detainee is in a dangerous position where he might fall back and injure himself.
- Failed to prevent a detainee from being photographed.

(U) **Recommendation**: This information should be forwarded to the Army General Counsel for determination of whether CIVILIAN-11 should be referred to the Department of Justice for prosecution. This information should be forwarded to the KO for appropriate contractual action.

(26) (U) **Finding**: **CIVILIAN-16, Translator, Titan employee.** A preponderance of evidence supports that CIVILIAN-16 did, or failed to do, the following:

- Failed to report detainee abuse.
  - She participated in an interrogation during the IP Roundup, where a dog was brought into a cell in violation of approved ICRP.
  - She participated in the interrogation of an Iraqi Policeman who was placed in a stress position; squatting backwards on a plastic lawn chair. Any sudden movement by the IP could have resulted in injury (Reference Annex I, Appendix 2, Photograph "Stress Positions").
  - She was present during an interrogation when SSG Frederick twisted the handcuffs of a detainee, causing the detainee pain.
  - She was present when SSG Frederick covered an IP's mouth and nose, restricting the detainee from breathing.
- Failed to report threats against detainees.
  - She was present when CIVILIAN-11 told a detainee, "You see that dog there, if you do not tell me what I want to know, I'm going to get that dog on you."
  - She was present when CIVILIAN-11 threatened a detainee "with SSG Frederick."

(U) **Recommendation**: This information should be forwarded to the Army General Counsel for determination of whether CIVILIAN-16 should be referred to the Department of Justice for prosecution. This information should be forwarded to the KO for appropriate contractual action.

(27) (U) **Finding**: **CIVILIAN-17, Interpreter, Titan employee.** A preponderance of evidence supports that CIVILIAN-17 did, or failed to do, the following:

- Actively participated in detainee abuse.
  - He was present during the abuse of detainees depicted in photographs (Reference Annex I, Appendix 1, Photographs M36-37, M39, M41).
  - A detainee claimed that CIVILIAN-17 (sic), an interpreter, hit him and cut his ear which required stitches.
  - Another detainee claimed that someone fitting CIVILIAN-17's description raped a young detainee.
- Failure to report detainee abuse.
- Failure to stop detainee abuse.

(U) **Recommendation**: This information should be forwarded to the Army General Counsel for determination of whether CIVILIAN-17 should be referred to the Department of Justice for prosecution. This information should be forwarded to the KO for appropriate contractual action.

SUBJECT: (U) AR 15-6 Investigation of the Abu Ghraib Detention Facility and 205th MI Brigade

(28) (U) **Finding**: **CIVILIAN-21, Interrogator, CACI employee.** A preponderance of evidence supports that CIVILIAN-21 did, or failed to do, the following:

- Inappropriate use of dogs. SOLDIER-26 stated that CIVILIAN-21 used a dog during an interrogation and the dog was unmuzzled. SOLDIER-25 stated she once saw CIVILIAN21 standing on the second floor of the Hard Site, looking down to where a dog was being used against a detainee, and yelling to the MPs "Take him home." The dog had torn the detainee's mattress. He also used a dog during an interrogation with SSG Aston but stated he never used dogs.
- Detainee abuse. CPT Reese stated he saw "NAME" (his description of "NAME"" matched CIVILIAN-21) push (kick) a detainee into a cell with his foot.
- Making false statements. During questioning about the use of dogs in interrogations, CIVILIAN21 stated he never used them.
- Failed to report detainee abuse. During an interrogation, a detainee told SOLDIER-25 and CIVILIAN-21 that CIVILIAN-17, an interpreter, hit him and cut his ear which required stitches. SOLDIER-25 stated she told CIVILIAN-21 to annotate this on the interrogation report. He did not report it to appropriate authorities.
- Detainee Humiliation.
    - CIVILIAN-15 stated he heard CIVILIAN-21 tell several people that he had shaved the hair and beard of a detainee and put him in red women's underwear. CIVILIAN-21 was allegedly bragging about it.
    - CIVILIAN-19 stated he heard OTHER AGENCY EMPLOYEE02 laughing about red panties on detainees.

(U) **Recommendation**: This information should be forwarded to the Army General Counsel for determination of whether CIVILIAN-21 should be referred to the Department of Justice for prosecution. This information should be forwarded to the KO for appropriate contractual action.

SUBJECT: (U) AR 15-6 Investigation of the Abu Ghraib Detention Facility and 205th MI Brigade

(29) (U) **Finding**: There were several personnel who used clothing removal, improper isolation, or dogs as techniques for interrogations in violation of the Geneva Conventions. Several interrogators documented these techniques in their interrogation plans and stated they received approval from the JIDC, Interrogation Control Element. The investigative team found several entries in interrogation reports which clearly specified clothing removal; however, all personnel having the authority to approve interrogation plans claim they never approved or were aware of clothing removal being used in interrogations. Also found were interrogation reports specifying use of isolation, "the Hole." While the Commander, CJTF-7 approved "segregation" on 25 occasions, this use of isolation sometimes trended toward abuse based on sensory deprivation and inhumane conditions. Dogs were never approved, however on several occasions personnel thought they were. Personnel who committed abuse based on confusion regarding approvals or policies are in need of additional training.

(U) **Recommendation**: This information should be forwarded to the Soldiers' chain of command for appropriate action.

CIVILIAN-14 (formally with 368 Military Intelligence Battalion)
SOLDIER-04, 500 Military Intelligence Group
SOLDIER-05, 500 Military Intelligence Group
SOLDIER-03, GTMO Team, 184 Military Intelligence Company
SOLDIER-13, 66 Military Intelligence Group
SOLDIER-18, 66 Military Intelligence Group
SOLDIER-02, 66 Military Intelligence Group
SOLDIER-11 6 Battalion 98 Division (IT)
SOLDIER-16, 325 Military Intelligence Battalion
SOLDIER-30, 325 Military Intelligence Battalion
SOLDIER-26, 320 Military Police Battalion
SOLDIER-06, 302 Military Intelligence Battalion
SOLDIER-07, 325 Military Intelligence Battalion
SOLDIER-21, 325 Military Intelligence Battalion
SOLDIER-09, 302 Military Intelligence Battalion
SOLDIER-12, 302 Military Intelligence Battalion
CIVILIAN-20, CACI Employee

(30) (U) **Finding**: In addition to SOLDIER-20 and SOLDIER01, medical personnel may have been aware of detainee abuse at Abu Ghraib and failed to report it. The scope of this investigation was MI personnel involvement. SOLDIER-20 and SOLDIER-01 were cited because sufficient evidence existed within the scope of this investigation to establish that they were aware of detainee abuse and failed to report it. Medical records were requested, but not obtained, by this investigation. The location of the records at the time this request was made was unknown.

(U) **Recommendation**: An inquiry should be conducted into 1) whether appropriate medical records were maintained, and if so, were they properly stored and collected and 2) whether medical personnel were aware of detainee abuse and failed to properly document and report the abuse.

(31) (U) **Finding**: A preponderance of the evidence supports that SOLDIER-31, SOLDIER-32, and SOLDIER-33 participated in the alleged sexual assault of a female detainee by forcibly kissing her and removing her shirt (Reference CID Case–0216-03-CID259-6121). The individuals received non-judicial punishment for conducting an unauthorized interrogation, but were not punished for the alleged sexual assault.

(U) **Recommendation**: CID should review case # 0216-03-CID259-61211 to determine if further investigation is appropriate. The case should then be forwarded to the Soldiers' chain of command for appropriate action.

(32) (U) **Finding**: An unidentified person, believed to be a contractor interpreter, was depicted in six photographs taken on 25 October 2003 showing the abuse of three detainees. The detainees were nude and handcuffed together on the floor. This investigation could not confirm the identity of this person; however, potential leads have been passed to and are currently being pursued by CID.

(U) **Recommendation**: CID should continue to aggressively pursue all available leads to identify this person and determine the degree of his involvement in detainee abuse.

SUBJECT: (U) AR 15-6 Investigation of the Abu Ghraib Detention Facility and 205th MI Brigade

7. (U) Personnel Listing. Deleted in accordance with the Privacy Act and 10 USC §130b

SUBJECT: (U) AR 15-6 Investigation of the Abu Ghraib Detention Facility and 205th MI Brigade

8. (U) Task Force Members.

LTG Anthony R. CIVILIAN08	Investigating Officer	HQs, Training and Doctrine Command
MG George R. Fay	Investigating Officer	HQs, Dept of the Army, G2
Mr. Thomas A. Gandy	Deputy	HQs, Dept of the Army, G2
LTC Phillip H. Bender	Chief Investigator	HQs, Dept of the Army, G2
LTC Michael Benjamin	Legal Advisor	TJAG
MAJ(P) Maricela Alvarado	Executive Officer	HQs, Dept of the Army, G2
CPT Roseanne M. Bleam	Staff Judge Advocate, CJTF-7	CJTF-7 (MNF-I) SJA
CW5 Donald Marquis	SME – Training & Doctrine	HQs, US Army Intelligence Center
CW3 Brent Pack	CID Liaison	US Army CID Command
CW2 Mark Engan	Investigator – Baghdad Team	HQs, 308th MI Bn, 902nd MI Group
SGT Patrick D. Devine	All Source Analyst	ACIC, 310th MI Bn, 902nd MI Group
CPL Ryan Hausterman	Investigator – Baghdad Team	HQs, 310th MI Bn, 902nd MI Group
Mr. Maurice J. Sheley	Investigator	HQs, US Army INSCOM
Mr. Michael P. Scanland	Investigator	HQs, 902nd MI Group
Mr. Claude B. Benner	Investigative Review	ACIC, 902nd MI Group
Mr. Michael Wright	Investigator	HQs, 308th MI Bn, 902nd MI Group
Mr. Scott Robertson	Investigator	HQs, Dept of the Army, G2
Mr. Paul Stark	Chief of Analysis	ACIC, 310th MI Bn, 902nd MI Group
Mr. Kevin Brucie	Investigator – Baghdad Team	Det 13, FCA, 902nd MI Group
Ms. Linda Flanigan	Analyst	ACIC, 310th MI Bn, 902nd MI Group
Mr. Albert Scott	Cyber-Forensic Analyst	HQs, 310th MI Bn, 902nd MI Group
Ms. Saoirse Spain	Analyst	ACIC, 310th MI Bn, 902nd MI group
Mr. Albert J. McCarn Jr.	Chief of Logistics	HQs, Dept of the Army, G2
Ms. Cheryl Clowser	Administrator	HQs, Dept of the Army, G2
Mr. Alfred Moreau	SME – Contract Law	HQs, Dept of the Army, OTJAG
Mr. Rudolph Garcia	Senior Editor	HQs, Dept of the Army, G2

Contract Services provided by Object Sciences Corp. and SYTEX

9. (U) Acronyms.

2 MI BN	2d Military Intelligence Battalion
B/321 MI BN	B Company, 321st Military Intelligence Battalion
B/325 MI BN	B Company, 325th Military Intelligence Battalion
A/205 MI BN	A Company, 205th Military Intelligence Battalion
115 MP BN	115th Military Police Battalion
165 MI BN	165th Military Intelligence Battalion
205 MI BDE	205th Military Intelligence Brigade
229 MP CO	229th Military Police Battalion
320 MP BN	320th Military Police Battalion
320 MP CO	320th Military Police Company
323 MI BN	323d Military Intelligence Battalion
325 MI BN	325th Military Intelligence Battalion
372 MP CO	372d Military Police Company
377 TSC	377th Theater Support Command
400 MP BN	400th Military Police Battalion
470 MI GP	470th Military Intelligence Group
447 MP CO	447th Military Police Company
500 MI GP	500th Military Intelligence Group
504 MI BDE	504th Military Intelligence Battalion
519 MI BN	519th Military Intelligence Battalion
66 MI GP	66th Military Intelligence Group
670 MP CO	670th Military Police Company
72 MP CO	72d Military Police Company
800 MP BDE	800th Military Police Brigade
870 MP CO	870th Military Police Company
1SG	First Sergeant
A/519 MI BN	A Company, 519th Military Intelligence Battalion
AAR	After Action Report
AFJI	Air Force Joint Instructor
AG	Abu Ghraib
ANCOC	Advanced Non-Commission Officer's Course
AR	Army Regulation
ATSD (IO)	Assistant to the Secretary of Defense for Intelligence Oversight
BDE	Brigade
BG	Brigadier General
BIAP	Baghdad International Airport
BN	Battalion
BNCOC	Basic Non-Commission Officer's Course
BPA	Blanket Purchase Agreement
C2X	Command and Control Exercise

CALL	Center for Army Lessons Learned
CENTCOM	US Central Command
CG	Commanding General
CHA	Corps Holding Area
CIA	Central Intelligence Agency
CID	Criminal Investigation Command
CJCS-I	Chairman, Joint Chief of Staff Instruction
CJTF-7	Combined Joint Task Force 7
CM&D	Collection Management and Dissemination
COL	Colonel
COR	Contracting Officers Representative
CP	Collection Point
CPA	Coalition Provisional Authority
CPL	Corporal
CPT	Captain
CSH	Combat Support Hospital
DA	Department of the Army
DAIG	Department of the Army Inspector General
DCI	Director of Central Intelligence
DCG	Deputy Commanding General
DIAM	Defense Intelligence Agency Manual
DoD	Department of Defense
1LT	First Lieutenant
CASH	Combat Army Surgical Hospital
DIA	Defense Intelligence Agency
KO	Contracting Officer
DOJ	Department of Justice
DRA	Detention Review Authority
DRB	Detainee Release Branch
EPW	Enemy Prisoner of War
FM	Field Manual
FOB	Forward Operating Base
FRAGO	Fragmentary Order
G-3	Army Training Division
GCIV	Geneva Conventions IV
GP	Group
GSA	General Services Administration
GTMO	Guantanamo Naval Base, Cuba
GWOT	Global War On Terrorism
HQ	Headquarters
HUMINT	Human Intelligence
IAW	In Accordance With
ICE	Interrogation and Control Element
ICRC	International Committee of the Red Cross

ICRP	Interrogation and Counter-Resistance Policies
IET	Initial Entry Training
ID	Infantry Division
IG	Inspector General
IMINT	Imagery Intelligence
INSCOM	Intelligence and Security Command
IP	Iraqi Police
IR	Interment/Resettlement
IROE	Interrogation Rules Of Engagement
ISCT	Interrogation Support to Counterterrorism
ISG	Iraqi Survey Group
JA	Judge Advocate
JCS	Joint Chiefs of Staff
JIDC	Joint Interrogation and Detention Center
JTF-GTMO	Joint Task Force Guantanamo
MAJ	Major
MCO	Marine Corps Order
LTC	Lieutenant Colonel
LTG	Lieutenant General
MFR	Memorandum For Record
MG	Major General
MI	Military Intelligence
MIT	Mobile Interrogation Team
MOS	Military Occupational Specialty
MOU	Memorandum of Understanding
MP	Military Police
MRE	Meals Ready to Eat
MSC	Major Subordinate Command
MSG	Master Sergeant
MTT	Mobile Training Team
NCO	Non-Commissioned Officer
NCOIC	Non-Commissioned Officer In Charge
OER	Officer Evaluation Report
OGA	Other Government Agency
OGC	Office Of General Counsel
OIC	Officer In Charge
OIF	Operation Iraqi Freedom
OPORD	Operations Order
OPNAVINST	Office of the Chief of Naval Operations Instructions
OSJA	Office Of the Staff Judge Advocate
OVB	Operation Victory Bounty
RP	Retained Personnel
SASO	Stability And Support Operations
SECARMY	Secretary of the Army

SECDEF	Secretary of Defense
SFC	Sergeant First Class
SGT	Sergeant
SIGINT	Signals Intelligence
SITREP	Situation Report
HMMWV	High-Mobility, Multipurpose Wheeled Vehicle
PFC	Private First Class
MA1	Master at Arms 1
MA2	Master at Arms 2
PVT	Private
QRF	Quick Reaction Force
SJA	Staff Judge Advocate
SOF	Special Operations Forces
SOP	Standard Operating Procedure
SOUTHCOM	US Southern Command
SOW	Statement of Work
SSG	Staff Sergeant
TACON	Tactical Control
THT	Tactical HUMINT Team
TRADOC	Training and Doctrine Command
TTP	Tactics, Techniques, and Procedures
UCMJ	Uniform Code Of Military Justice
USAIC	US Army Intelligence Center
USAR	US Army Reserve
VFR	Visual Flight Rules
E-6	Enlisted Grade 6 (Staff Sergeant)
E-7	Enlisted Grade 7 (Sergeant First Class)
E-5	Enlisted Grade 5 (Sergeant)
96B	Intelligence Analyst
NBC	National Business Center
FSS	Federal Supply Schedule
POC	Point of Contact
DAIG	Department of the Army Inspector General
97E	Human Intelligence Collector
351E	Interrogation Warrant Officer
FBI	Federal Bureau of Investigation
ISN	Internee Serial Number
JTF-21	Joint Task Force – 21
TF-121	Task Force – 121
SEAL	Sea, Air, Land
SPC	Specialist
RFF	Request for Forces
TF-20	Task Force – 20
97B	Counterintelligence Agent

CM&D	Collection, Management and Dissemination
JIG	Joint Intelligence Group
351B	Counterintelligence Warrant Officer
PT	Physical Training
IRF	Internal Reaction Force

AR 15-6 Investigation of the Abu Ghraib Prison and 205th Military Intelligence Brigade

LTG Anthony R. Jones

AR 15-6 Investigation of the Abu Ghraib Detention Facility and 205th MI Brigade

LTG Anthony R. Jones

(U) Table of Contents

(U) AR 15-6 Investigation of the Abu Ghraib Detention Facility and 205th MI Brigade

1. (U) Executive Summary

a. (U) Appointment, Charter and Investigative Activity

(1) (U) On 24 June 2004, Acting Secretary of the Army R. L. Brownlee notified me that I was selected to serve as the Senior Investigating Officer in the investigation of the 205th Military Intelligence Brigade. GEN Paul Kern was the appointing authority and in a memorandum, dated 25 June 2004, formally designated me Senior Investigating Officer. MG George Fay, who had been investigating the 205th MI BDE since his appointment by LTG Ricardo Sanchez on 31 March 2004, would continue as an investigating officer. Without reinvestigating areas reviewed by MG Fay, I was specifically directed to focus on whether organizations or personnel higher than the 205th Military Intelligence (MI) Brigade chain of command, or events and circumstances outside of the 205th MI Brigade, were involved, directly or indirectly, in the questionable activities regarding alleged detainee abuse at Abu Ghraib prison.

(2) (U) During the course of my investigation, I interviewed LTG Ricardo Sanchez, the Commander of Combined Joint Task Force-7 (CJTF-7)[1] during the period under investigation, and the senior intelligence officer on his staff, MG Barbara Fast (the "C2"). In addition, I reviewed witness statements that MG Fay' s investigation team had collected; assessment and investigation reports written by MG Geoffrey Miller, MG Donald Ryder, MG Antonio Taguba and the Department of the Army Inspector General (DAIG); and other written materials including relevant law, doctrine, organizational documents, policy, directives, and U.S. Central Command (CENTCOM) and CJTF-7 operational orders (OPORDS) and fragmentary orders (FRAGOs).

b. (U) Background and Operational Environment

(1) (U) The events at Abu Ghraib cannot be understood in a vacuum. Three interrelated aspects of the operational environment played important roles in the abuses that occurred at Abu Ghraib. First, from the time V Corps transitioned to become CJTF-7, and throughout the period under investigation, it was not resourced adequately to accomplish the missions of the CJTF: stability and support operations (SASO) and support to the Coalition Provisional Authority (CPA). The CJTF-7 headquarters lacked adequate personnel and equipment. In addition, the military police and military intelligence units at Abu Ghraib were severely under-resourced. Second, providing support to the Coalition Provisional Authority (CPA) required greater resources than envisioned in operational plans. Third, operational plans envisioned that CJTF-7 would execute SASO and provide support to the CPA in a relatively non-hostile environment. In fact, opposition was robust and hostilities continued throughout the period under investigation. Therefore, CJTF-7 had to conduct tactical counter-insurgency operations, while also executing its planned missions.

1 CJTF-7 was the higher headquarters to which the 205th MI Brigade reported.

(2) (U) These three circumstances delayed establishment of an intelligence architecture and degraded the ability of the CJTF-7 staff to execute its assigned tasks, including oversight of interrogation and detention operations at Abu Ghraib.

(3) (U) When hostilities were declared over, U.S. forces had control of only 600 Enemy Prisoners of War (EPWs) and Iraqi criminals. In the fall of 2003, the number of detainees rose exponentially due to tactical operations to capture counter-insurgents dangerous to U.S. forces and Iraqi civilians. At this time, the CJTF-7 commander believed he had no choice but to use Abu Ghraib as the central detention facility.

c. (U) Abuse at Abu Ghraib

(1) (U) Clearly abuses occurred at the prison at Abu Ghraib. For purposes of this report, I defined abuse as treatment of detainees that violated U.S. criminal law or international law or treatment that was inhumane or coercive without lawful justification. Whether the Soldier or contractor knew, at the time of the acts, that the conduct violated any law or standard, is not an element of the definition. MG Fay's portion of this report describes the particular abuses in detail.

(2) (U) I found that no single, or simple, explanation exists for why some of the Abu Ghraib abuses occurred. For clarity of analysis, my assessment divides abuses at Abu Ghraib into two different types of improper conduct: First, intentional violent or sexual abuses and, second, actions taken based on misinterpretations of or confusion about law or policy.

(3) (U) Intentional violent or sexual abuses include acts causing bodily harm using unlawful force as well as sexual offenses including, but not limited to rape, sodomy and indecent assault. No Soldier or contractor believed that these abuses were permitted by any policy or guidance. If proven, these actions would be criminal acts. The primary causes of the violent and sexual abuses were relatively straight-forward individual criminal misconduct, clearly in violation of law, policy, and doctrine and contrary to Army values.

(4) (U) Incidents in the second category resulted from misinterpretations of law or policy or resulted from confusion about what interrogation techniques were permitted. These latter abuses include some cases of clothing removal (without any touching) and some uses of dogs in interrogations (uses without physical contact or extreme fear). Some of these incidents may have violated international law. At the time the Soldiers or contractors committed the acts, however, some of them may have honestly believed the techniques were condoned.

d. (U) Major Findings

(1) (U) The chain of command directly above the 205th MI Brigade was not directly involved in the abuses at Abu Ghraib. However, policy memoranda promulgated by the CJTF-7 Commander led indirectly to some of the non-violent and non-sexual abuses. In addition, the CJTF-7 Commander and Deputy Commander failed to ensure proper staff oversight of detention and interrogation operations. Finally, CJTF-7 staff elements reacted inadequately to earlier indications and warnings that problems existed at Abu Ghraib.

Command and staff actions and inaction must be understood in the context of the operational environment discussed above. In light of the operational environment, and CJTF-7 staff and subordinate unit's under-resourcing and increased missions, the CJTF-7 Commander had to prioritize efforts. CJTF-7 devoted its resources to fighting the counter-insurgency and supporting the CPA, thereby saving Coalition and civilian Iraqi lives and assisting in the transition to Iraqi self-rule. I find that the CJTF-7 Commander and staff performed above expectations, in the over-all scheme of OIF.

(2) (U) Most, though not all, of the violent or sexual abuses occurred separately from scheduled interrogations and did not focus on persons held for intelligence purposes. No policy, directive or doctrine directly or indirectly caused violent or sexual abuse. Soldiers knew they were violating the approved techniques and procedures.

(3) (U) Confusion about what interrogation techniques were authorized resulted from the proliferation of guidance and information from other theaters of operation; individual interrogator experiences in other theaters; and, the failure to distinguish between interrogation operations in other theaters and Iraq. This confusion contributed to the occurrence of some of the non-violent and non-sexual abuses.

(4) (U) Military Intelligence and Military Police units also had missions throughout the Iraqi Theater of Operations (ITO), however, 205th MI Brigade and 800th Military Police Brigade leaders at Abu Ghraib failed to execute their assigned responsibilities. The leaders from these units located at Abu Ghraib or with supervision over Soldiers and units at Abu Ghraib, failed to supervise subordinates or provide direct oversight of this important mission. These leaders failed to properly discipline their Soldiers. These leaders failed to learn from prior mistakes and failed to provide continued mission-specific training. The 205th MI Brigade Commander did not assign a specific subordinate unit to be responsible for interrogations at Abu Ghraib and did not ensure that a Military Intelligence chain of command at Abu Ghraib was established. The absence of effective leadership was a factor in not sooner discovering and taking actions to prevent both the violent/sexual abuse incidents and the misinterpretation/confusion incidents.

(5) (U) Neither Defense nor Army doctrine caused any abuses. Abuses would not have occurred had doctrine been followed and mission training conducted. Nonetheless, certain facets of interrogation and detention operations doctrine need to be updated, refined or expanded, including, the concept, organization, and operations of a Joint Interrogation and Debriefing Center (J1DC); guidance for interrogation techniques at both tactical and strategic levels; the roles, responsibilities and relationships between Military Police and Military Intelligence personnel at detention facilities; and, the establishment and organization of a Joint Task Force structure and in particular, its intelligence architecture.

(6) (U) No single or simple theory can explain why some of the abuses at Abu Ghraib occurred. In addition to individual criminal propensities, leadership failures and, multiple policies, many other factors contributed to the abuses occurring at Abu Ghraib, including:

- Safety and security conditions at Abu Ghraib;

- Multiple agencies/organizations involvement in interrogation operations at Abu Ghraib;

- Failure to effectively screen, certify, and then integrate contractor interrogators/analysts/linguists;

- Lack of a clear understanding of MP and MI roles and responsibilities in interrogation operations.

- Dysfunctional command relationships at brigade and higher echelons, including the tactical control (TACON) relationship between the 800th MP Brigade and CJTF-7.

(7) (U) Demands on the Human Intelligence (HUMINT) capabilities in a counter-insurgency and in the future joint operational environment will continue to tax tactical and strategic assets. The Army needs trained and experienced tactical HUMINT personnel.

(8) (U) Working alongside non-DOD organizations/agencies in detention facilities proved complex and demanding. The perception that non-DOD agencies had different rules regarding interrogation and detention operations was evident, Interrogation and detention policies and limits of authority should apply equally to all agencies in the Iraqi Theater of Operations.

(9) (U) Leaders and Soldiers throughout Operation Iraqi Freedom were confronted with a complex and dangerous operational environment. Although a clear breakdown in discipline and leadership, the events at Abu Ghraib should not blind us from the noble conduct of the vast majority of our Soldiers. We are a values based profession in which the clear majority of our Soldiers and leaders take great pride.

(10) (U) A clear vote of confidence should be extended by the senior leadership to the leaders and Soldiers who continue to perform extraordinarily in supporting our Nation's wartime mission. Many of our Soldiers have paid the ultimate sacrifice to preserve the freedoms and liberties that America and our Army represent throughout the world.

2. (U) Charter and Investigative Activity

a. (U) On 24 June 2004, Acting Secretary of the Army, R. L. Brownlee, notified me that I was selected to serve as the Senior Investigating Officer in the investigation of the 205th Military Intelligence Brigade. GEN Paul Kern was the appointing authority and in a memorandum dated 25 June 2004, formally designated me Senior Investigating Officer. MG George Fay, who had been investigating the 205th MI BDE since his appointment by LTG Ricardo Sanchez on 31 March 2004, would continue as an investigating officer.

b. (U) My specific duties were to focus on whether organizations or personnel higher than the 205th Military Intelligence (MI) Brigade chain of command, or events and circumstances outside of the 205th MI Brigade, were involved, directly or indirectly, in the questionable activities regarding alleged detainee abuse at Abu Ghraib prison.

c. (U) In accordance with guidance from the Appointing Authority, I would interview LTG Ricardo Sanchez and other Combined Joint Task Force-7 (CJTF-7) staff, as required, to obtain information to make findings and recommendations to GEN Kern on the culpability of senior leaders who had responsibility for interrogation and detainee operations in Iraq. My directions were to not reinvestigate the areas that MG Fay had already reviewed. Rather, I was to look at operational and strategic level events that occurred prior to and during the period under investigation and determine their relationship, if any, to the abuses that occurred while the 205th MI Brigade was involved in interrogations and intelligence analysis at Abu Ghraib.

d. (U) During the course of my investigation, I interviewed LTG Ricardo Sanchez, the Commander of Combined Joint Task Force-7 (CJTF-7) during the period under investigation, and the senior intelligence officer on his staff, MG Barbara Fast (the "C2"). In addition, I reviewed witness statements that MG Fay' s investigation team had collected; reviewed the assessment and investigation reports written by MG Geoffrey Miller, MG Donald Ryder, MG Antonio Taguba, and the Department of the Army Inspector General; and reviewed other written materials including relevant law, doctrine, organizational documents, policy, directives, and U.S. Central Command (CENTCOM) and CJTF-7 Operational Orders (OPORDS) and Fragmentary Orders (FRAGOs).

3. (U) Background: Operation Iraqi Freedom During this Period

4. (U) Operational Environment

a. (U) Before deciding to centralize detainees at Abu Ghraib, major organizational changes were ongoing in the structure of U.S. Forces fighting the Iraqi campaign. Following major ground operations and declaration of the end of hostilities, the U.S. Army V Corps transitioned to become the CJTF-7. Also during this period, then-MG Sanchez was promoted to Lieutenant General and assumed command of V Corps, replacing LTG Wallace who led Phase III, Decisive Operations, in Iraq. LTG Sanchez transitioned from commanding a division, consisting of approximately 15,000 Soldiers, to commanding V Corps. The U.S. Third Army, or ARCENT, was designated the Combined Forces Land Component Command under the U.S. Central Command during the initial phases of OW. When V Corps transitioned to the CJTF-7, the new command assumed responsibility for the Combined Forces Land Component Command (CFLCC) missions and operations in the Iraqi Theater of Operations (IT 0). The Forces under the command of LTG Sanchez grew to approximately 180,000 U.S. and Coalition forces. In addition, the new CJTF-7 was directed to transition to Phase IV of the Iraqi campaign. Phase IV operations were envisioned as stability and support operations (SASO) and direct support to the CPA. CJTF-7 assistance to the CPA was essential to help the CPA succeed in recreating essential government departments under the control of Iraqi leaders. CJTF-7 would also help the CPA transition control of critical government organizations, strategic communications, reconstruction contracts, and lines of operation necessary to enable Iraqi self-rule.

b. (U) In actuality, LTG Sanchez and his V Corps staff rapidly realized that the war had not ended. They were in a counter-insurgency operation with a complex, adaptive enemy that opposed the rule of law and ignored the Geneva Conventions. This enemy opposed the transition of the new Iraqi governing councils that would enable self-rule, and opposed any occupation by U.S. or coalition forces. The hostilities continued. Operations were planned and executed to counter the insurgency.

c. (U) In June 2003, when the CJTF-7 organization was established, a vast increase in responsibilities began. A Joint Manning Document (JMD) was developed to delineate the specific skill sets of personnel needed to perform the increased roles and functions of this new headquarters. After multiple reviews, the JMD for the CJTF-7 HQ5 was formally approved for 1400 personnel in December 2003. That JMD included personnel needed to support the Coalition Provisional Authority (CPA), staff the functional elements needed to focus at joint operational and strategic levels, and specifically augment areas such as intelligence, operations, and logistics. Building a coherent, focused team was essential to the success of Phase IV operations.

d. (U) CJTF-7 remained in the direct chain of command of the U.S. Central Command, but also was charged with a direct support role to the CPA. Command relationships of subordinate tactical commands previously under V Corps remained as previously outlined in Operational Orders. Therefore, the divisions' and Corps' separate brigades, which included the 205th MI Brigade, remained under the CJTF-7. The level of authority and responsibilities of a command of this magnitude is normally vested in a four-star level Army Service Component Command under a Regional Combatant Commander, Of the 1400 personnel required on the JMD, the V Corps staff transitioned to only *495,* or roughly a third, of the manning requirements. The new JMD also required that key staff positions be manned by general officers rather than the normal

colonel level positions on a Corps staff Although the JMD was properly staffed and approved, personnel and equipment shortages impacted on CJTF-7's ability to execute the mission and remained a critical issue throughout the period in question. The JMD had 169 positions earmarked for support of operations at Abu Ghraib.

(1) (S/NF)

(2) (U) The 800th MP Brigade remained TACON to the CJTF-7 throughout this period. With the essential task and responsibility for all EPW and confinement operations transferring from CFLCC to CJTF-7, this unit would have been more appropriately designated as OPCON instead of TACON to the CJTF. Tactical Control (TACON) allows commanders the detailed and usually local direction and control of movements and maneuver necessary to accomplish missions and tasks. Whereas, Operational Control (OPCON) provides full authority to organize commands and forces and employ them as the commander considers necessary to accomplish assigned missions. The 800th MP Brigade's parent unit in the area of operations remained the 377th Theater Support Command, located in Kuwait. In accordance with the CENTCOM OPLAN, CFLCC (ARCENT) had to provide operational logistic support to Army Forces employed from Kuwait. The TACON relationship of the 800th MP Brigade with CJTF-7 resulted in disparate support from the CJTF-7 staff, lower priority in meeting resource needs for detention facilities, and the lack of intrusive, aggressive oversight of the unit by CJTF-7 leadership. No attempt was made by the CJTF-7 or ARCENT Staff to coordinate a change in this command relationship.

e. (U) Following the period of major ground hostilities in Phase III operations, the infrastructure of the country remained in desperate need of reconstruction. In addition to battle damage, looting, pillaging, and criminal actions had decimated the government buildings and infrastructure necessary to detain enemy prisoners of war or criminals.

f. (U) The logistics system, including local contracted support, to support units in Iraq was slowly catching up to the priority requirements that needed to be executed. Improving living conditions and basic support for Soldiers, as well as ensuring the safety and security of all forces, remained priorities, especially with the advent of the counter-insurgency. Quality of life for Soldiers did not improve in many locations until December of 2003.

g. (U) Prior to the beginning of hostilities, planners estimated 30-100 thousand enemy prisoners of war would need to be secured, segregated, detained, and interrogated. The 800th MP Brigade was given the mission to establish as many as twelve detention centers, to be run by subordinate battalion units. As of May 2003, BG Hill reported that only an estimated 600 detainees were being held - a combination of enemy prisoners and criminals. As a result, additional military police units previously identified for deployment were demobilized in CONUS. The original plan also envisioned that only the prisoners remaining from the initial major combat operations would require detention facilities, and they would eventually be released or turned over to the Iraqi authorities once justice departments and criminal detention facilities were re-established,

h. (U) As major counter-insurgency operations began in the July 2003 timeframe, the demands on the CJTF-7 commander and staff, the CPA, the subordinate units, the Iraqi interim

government, and Soldiers at all levels increased dramatically. Decisions were made to keep some units in-country to fight the insurgency. Pressure increased to obtain operational intelligence on the enemy's identity, support systems, locations, leadership, intelligence sources, weapons and ammunition caches, and centers of gravity. In addition, the location of Saddam Hussein and information on WMD remained intelligence priorities. The complexity of missions being conducted by CJTF-7 and subordinate units increased and placed a high demand on leadership at all levels. Leaders had to adapt to the new environment and prosecute hostilities, while at the same time exercising appropriate compassion for non-combatants and protecting the people who were trying to do what was right for their country. Operations were planned to pursue the various factions of the counter-insurgency based on intelligence developed with the Iraqi people and Coalition Forces. A rapid increase in the number of detainees (due to the apprehension of counter-insurgents who posed a security risk to our Soldiers and to the Iraqi people, members of criminal factions, and personnel of intelligence value) demanded a decision on a detention facility and a need to rapidly expand interrogation operations.

i. (U) Throughout the Iraqi Theater of Operations (ITO), synchronization of force protection and security operations between operational forces and forward operating bases, such as Abu Ghraib, demanded more focus by brigade-level leadership. Supported-to-supporting relationships were blurred due to the large geographical areas given to tactical units. At Abu Ghraib, outside-the-wire responsibilities during the period in question were the responsibility of the 3d Armored Cavalry Regiment and then the 82d Airborne Division. Force Protection and security for the Abu Ghraib forward operating base was an implied task for the 320th MP Battalion initially, and then, after the 19 November FRAGO, a specified task for the 205th MI Brigade Commander. The defense and security of the Abu Ghraib forward operating base, to include engaging the communities outside of the base for information, was a key concern of LTG Sanchez during his visits and led to the decision to place the 205th MI Brigade commander in charge of forces at Abu Ghraib for force protection and defense of the base in November 2003.

j. (U) Interrogating detainees was a massive undertaking. In accordance with doctrine, unit level personnel would gather initial battlefield intelligence at the point of apprehension. Tactical interrogations would continue at designated collection points (CP) at Brigade and Division levels. Then a more detailed interrogation to get operational and strategic intelligence was to be conducted at a designated central detention facility. The location and facility for this detention and interrogation was Abu Ghraib. Abu Ghraib was selected by Ambassador Bremer after consultation with his staff and LTG Sanchez. Abu Ghraib was envisioned as a temporary facility to be used for criminal detainees until the new Iraqi government could be established and an Iraqi prison established at another site. Following operations during the summer of 2003, Abu Ghraib also was designated by CJTF-7 as the detention center for security detainees. The population of criminals, security detainees, and detainees with potential intelligence value grew to an estimated 4000-5000 personnel in the fall of 2003.

k. (U) The 800th MP Brigade was designated the responsible unit for the Abu Ghraib detention facility and for securing and safeguarding the detainees. The 205th MI Brigade was given responsibility for screening and interrogating detainees at Abu Ghraib. The 320th MP battalion was the unit specifically charged with operating the Abu Ghraib detainee facility by the 800th MP Brigade. Initially, the 205th MI Brigade commander did not specify an MI unit or organization for interrogation operations at Abu Ghraib. Interrogators, analysts, and linguists arrived at Abu Ghraib from multiple units and locations within the 205th MI Brigade.

Contractor personnel were also later used to augment interrogation, analyst, and linguist personnel at Abu Ghraib.

5. (U) Assessments and Visits to Improve Intelligence, Detention and Interrogation Operations

a. (U) As commanders at all levels sought operational intelligence, it became apparent that the intelligence structure was undermanned, under-equipped, and inappropriately organized for counter-insurgency operations. Upon arrival in July 2003, MG Barbara Fast was tasked to do an initial assessment of the intelligence architecture needed to execute the CJTF-7 mission in Iraq. Technical intelligence collection means alone were insufficient in providing the requisite information on an enemy that had adapted to the environment and to a high-tech opponent. Only through an aggressive structure of human intelligence (HUMINT) collection and analysis could the requisite information be obtained. Communications equipment, computers, and access to sufficient bandwidth to allow reachback capabilities to national databases were needed to assist in the fusion and collaboration of tactical through strategic intelligence data. Disparate cells of different agencies had to be co-located to allow access to respective data bases to assist in the fusion and collaboration effort. Interrogation reports had to be standardized and rapidly reviewed to allow dissemination to subordinate tactical units, coalition allies, Iraqis, and other personnel at the unclassified level.

b. (U) Following MG Fast's initial assessment and report to CENTCOM headquarters, changes began to take place to put the right architecture in place. An Intelligence Fusion Cell was established, as were a Joint Inter-Agency Task Force and an expanded JC2X HUMINT Management Cell, at CJTF-7 headquarters. The CPA staff was augmented with military personnel from the CJTF-7 intelligence staff With the assistance of the Department of the Army Staff, CJTF-7 obtained needed communications equipment, computers, and reachback access to the Information Dominance Center (IDC) to collaborate intelligence information. The focus of the previous V Corps staff, which formed the nucleus of the initial CJTF-7 staff, rapidly changed from a tactical focus to a joint operational and strategic level focus. The subsequent successes of this new intelligence architecture created by MG Fast and her team exponentially improved the intelligence process and saved the lives of Coalition Forces and Iraqi civilians. HUMINT operations and the fusion of intelligence led to the capture of key members of the former regime, and ultimately, to the capture of Saddam Hussein himself. During the time period of the Abu Ghraib abuses, the intelligence focus was on Saddam Hussein's capture and exploitation of documents related to Saddam Hussein, preparation for Ramadan, and large scale enemy activity at Fallujah and Najaf. The effort to expand the intelligence organization, obtain operational intelligence about the counter-insurgency, and support the CPA consumed the efforts of the CJTF-7 staff. Responsibilities for oversight of tactical interrogation procedures, Intel analysis, and reporting at Abu Ghraib as throughout the ITO, were entrusted to the commanders in the field.

c. (U) Due to the expanded scope of the mission for this new organization, the need to gain operational intelligence about the counter-insurgency, and the rapid and unexpected number of detainees, assistance was requested to help inform the leadership on proper procedures, techniques, and changes needed for success. The assessment visit by MG Ryder greatly assisted

the review and improvement of detention operations. Ryder's recommendations to automate the in-processing and accountability of detainees using the Biometrics Automated Tool Set (BATS), to discipline the audit trail of detainees from point of capture to the central detention facility, and to properly segregate different groups, were implemented.

d. (S/NF)

e. (U) MG Fast's initial assessment and report on the intelligence organization and the needed systems architecture to support the mission was invaluable to establishing a roadmap for needed intelligence resources. LTG Alexander, the DA G2, was instrumental in providing needed equipment and guidance to improve the intelligence collection and fusion capabilities in Iraq. LTG Alexander was specifically helpful in getting the equipment necessary to support the intelligence architecture from the tactical to the strategic fusion levels.

6. (U) Indications and Warnings

a. (U) In retrospect, indications and warnings had surfaced at the CJTF-7 level that additional oversight and corrective actions were needed in the handling of detainees from point of capture through the central collection facilities, to include Abu Ghraib. Examples of these indications and warnings include: the investigation of an incident at Camp Cropper, the International Committee of the Red Cross (ICRC) reports on handling of detainees in subordinate units, ICRC reports on Abu Ghraib detainee conditions and treatment, CID investigations and disciplinary actions being taken by commanders, the death of an OGA detainee at Abu Ghraib, the lack of an adequate system for identification and accountability of detainees, and division commanders' continual concerns that intelligence information was not returning to the tactical level once detainees were evacuated to the central holding facility. The Commander, CJTF-7, recognized the need to place emphasis on proper handling of detainees and proper treatment of the Iraqi people in close proximity to operations. In October and December 2003, CDR, CJTF-7 published two policy memos entitled "Proper treatment of the Iraqi people during combat operations" and "Dignity and respect while conducting operations." Reports from the assessments of MG Miller and MG Ryder clearly confirmed the CJTF-7 Commander's instincts that action was needed to improve procedures and set the conditions for success in intelligence and detention operations. The report from the CID in January 2004 and subsequent investigation by MG Taguba confirmed that abuses occurred at Abu Ghraib during the period under investigation.

b. (U) I would be remiss if I did not reemphasize that the 180,000 U.S. and coalition forces, under all echelons of command within the CJTF-7, were prosecuting this complex counter-insurgency operation in a tremendously horrid environment, and were performing above all expectations. Leaders and Soldiers confronted a faceless enemy whose hatred of the United States knew no limits. The actions of a few undisciplined Soldiers at Abu Ghraib have overshadowed the selfless service demonstrated every day, twenty-four hours a day, by the vast majority of our Soldiers and civilians on the battlefield. We, as a Nation, owe a debt of gratitude to our service members who have answered our Nation's call and are in harm's way, every day. This fact became perfectly clear to me as I conducted my investigation.

7. (U) Doctrine, Organizational Structure and Policy Challenges in the Iraqi Theater of Operations

a. (U) Doctrine and Organizational Structures

(1) (U) Doctrine could not provide quick solutions for all the situations that confronted CJTF-7. In many cases, the situation, mission, and environment dictated the decisions and the actions taken by the CJTF leadership. This situation is not uncommon. Rarely does war follow the pre-planned strategy. As the V Corps staff morphed to form the nucleus of the CJTF-7 staff, doctrine was not available to prescribe a detailed sequence to efficiently and effectively execute the transition. The new JMD focused on supplementing the V Corps headquarters structure to perform the expected mission in the Iraqi environment -stability and support operations and support of the CPA.

(2) (U) Joint Interrogation and Debriefing Center. In accordance with JP 2.01, the use of a JIDC by a JTF is situation-dependent. No defined organization exists for implementing the JIDC concept. At Abu Ghraib, a JIDC was established based on the recommendation of MG Miller during his assessment. At the time, Abu Ghraib had only a few hundred detainees. LTC Jordan was sent to Abu Ghraib to oversee the establishment of the JIDC. On 19 November 2003, when COL Thomas Pappas assumed the role of commander of the forward operating base, he directed activities of the JIDC and LTC Jordan became the deputy director of the JIDC. There are conflicting statements regarding who had the responsibilities to implement and oversee the JIDC at Abu Ghraib. In accordance with doctrine, the CJTF-7 C2, MG Fast, through her JC2-X staff, provided priority intelligence requirements for the interrogators and analysts in the J1IDC. A portion of the approved CJTF-7 JMD earmarked 169 personnel for the interrogation operations and analysis cells in the JIDC. Many of these positions were later filled with contractor personnel. Although a senior officer was directed to be the Chief, JIDC, the establishment and efficient operation of the JIDC was further complicated by the lack of an organizational MI unit and chain of command at Abu Ghraib solely responsible for MI personnel and intelligence operations.

(3) (U) MI & MP Responsibilities at Abu Ghraib The delineation of responsibilities for interrogations between the military intelligence and military police may not have been understood by some Soldiers and some leaders. The doctrinal implications of this issue are discussed later in this report. At Abu Ghraib, the lack of an MI commander and chain of command precluded the coordination needed for effective operations. At the same time, LTC Jordan failed to execute his responsibilities as Chief, JIDC. Tactical doctrine states that interrogators should specify to the guards what types of behavior on their part will facilitate screening of detainees. Normally, interrogation facilities are collocated with detention facilities, requiring close coordination between the MPs who are responsible for detention operations, and the MI personnel who are responsible for screening and interrogations. Both doctrinal manuals, for military police and military intelligence operations, clearly provide that Soldiers and units must obey rules of land warfare and, specifically, the Geneva Conventions when handling detainees. At Abu Ghraib, the delineation of responsibilities seems to have been blurred when military police Soldiers, untrained in interrogation operations, were used to enable interrogations. Problems arose in the following areas: use of dogs in interrogations, sleep deprivation as an interrogation technique and use of isolation as an interrogation technique.

(4) (U) CJTF-7 Staff Responsibility. CJTF-7 responsibility for staff oversight of detention operations, facilities, intelligence analysis and fusion, and limits of authority of interrogation techniques was dispersed among the principal and special staff Overall responsibility for detention operations was vested in the C3, MG Tom Miller, with further delegation to the Provost Marshal. Support of facilities was a C4 responsibility, with priorities of work established by the DCG, MG Walter Wojdakowski. MG Wojdakowski also had direct responsibility and oversight of the separate brigades assigned or TACON to CJTF-7. Priorities for intelligence collection, analysis and fusion were the responsibility of the C2, MG Fast. Lastly, LTG Sanchez used his Staff Judge Advocate, Colonel Marc Warren, to advise him on the

limits of authority for interrogation and compliance with the Geneva Conventions for the memos published. The lack of one person on the staff to oversee detention operations and facilities, and the responsibilities of all units at a detention facility complicated effective and efficient coordination among the staff Subordinate brigade commanders and their staffs also had to coordinate different actions for support with the various staff sections responsible for the support requested.

b. (U) Policy

(1) (U) Policy Guidance. DOD-wide, formal written policies for interrogation techniques have been prescribed by various levels of command and authority. In most cases, the doctrinal reference is FM 34-52, Intelligence Interrogation, dated September 1992. As stated, this manual is currently under revision by the proponent. During the period under investigation, there was confusing and sometimes conflicting guidance resulting from the number of policy memos and the specific areas of operation the various policies were intended to cover. Each theater's techniques for interrogation and counter-resistance were reviewed by appropriate legal authorities and subjected to external assessments before commanders were advised of their acceptability. In the wartime settings of each theater, commanders were satisfied that appropriate oversight had been conducted for procedures being used for interrogations. However, when reviewing the various reports on the number of abuses in the ITO, it became clear there is no agreed upon definition of abuse among all legal, investigating and oversight agencies.

(2) (U) Interrogation techniques, including Counter-Resistance Techniques, were developed and approved for the detainees in Guantanamo and Afghanistan who were determined not to be EPWs or protected persons under the Geneva Conventions of 1949. The OSD memo promulgated in December 2002, approving techniques and safeguards for interrogation of unlawful combatants in GTMO, included the use of dogs to induce stress and the removal of clothing as Counter-Resistance Techniques. This memo was rescinded in January 2003. A General Counsel Interrogation Working Group was subsequently formed and published a revised memo in April 2003 under the signature of the SECDEF on Counter-Resistance Techniques. This memo produced by the Working Group and the techniques outlined in FM 34-52 were referenced by Colonel Warren and his staff to develop the limits of authority memo for LTG Sanchez. The provisions of Geneva Convention IV, Relative to Protection of Civilian Persons in Time of War, did apply to detainees in Iraq.

(3) (U) Initially, no theater-specific guidance on approved interrogation techniques was published by CJTF-7 for the ITO. Thus, LTG Sanchez reemphasized the limits of authority for

interrogations in his memos dated 14 September 2003 and 12 October 2003. The first was rescinded, and the second addressed only security detainees and, inadvertently, left certain issues for interpretation: namely, the responsibility for clothing detainees, the use of dogs in interrogation, and applicability of techniques to detainees who were not categorized as "security detainees." Furthermore, some military intelligence personnel executing their interrogation duties at Abu Ghraib had previously served as interrogators in other theaters of operation, primarily Afghanistan and GTMO. These prior interrogation experiences complicated understanding at the interrogator level. The extent of "word of mouth" techniques that were passed to the interrogators in Abu Ghraib by assistance teams from Guantanamo, Fort Huachuca, or amongst themselves due to prior assignments is unclear and likely impossible to definitively determine. The clear thread in the CJTF-7 policy memos and published doctrine is the humane treatment of detainees and the applicability of the Geneva Conventions. Experienced interrogators will confirm that interrogation is an art, not a science, and knowing the limits of authority is crucial. Therefore, the existence of confusing and inconsistent interrogation technique policies contributed to the belief that additional interrogation techniques were condoned in order to gain intelligence.

8. (U) Specific Comments on Abuse at Abu Ghraib

a. (U) This report, so far, has discussed the OPLAN background, operational environment, and policy, doctrine and structural decisions that created conditions which allowed the abuses at Abu Ghraib to occur. The earlier investigations aptly described what happened at Abu Ghraib. MG Taguba found that "numerous incidents of sadistic, blatant, and wanton criminal abuses were inflicted on detainees." MG Fay identified forty-four incidents of detainee abuse and his report describes the particular abuses in detail. In this section, I rely on the statements and other investigative activity from MG Fay. The conclusions, however, are my own. Clearly, shameful events occurred at the detention facility of Abu Ghraib and the culpable MI and MP Soldiers and leaders should be held responsible. In this section, I set forth an analytical framework for categorizing the abuses propose causes for the incidents of abuse, and also discuss the culpability of organizations and personnel higher than the 205th MI Brigade Commander.

b. (U) For purposes of this report, I defined abuse as treatment of detainees that violated U.S. criminal law (including the Uniform Code of Military Justice (UCMJ)) or international law, or treatment that was inhumane or coercive without lawful justification. Whether the Soldier or contractor knew, at the time of the acts, that the conduct violated any law or standard, is not an element of the definition. In other words, conduct that met the definition would be "abuse" independent of the actor's knowledge that the conduct violated any law or standard.

c. (U) For clarity of analysis, my assessment divides abuses at Abu Ghraib into two different types of improper conduct: first, intentional violent or sexual abuses and, second, actions taken based on misinterpretation of or confusion about law or policy.

(1) (U) Intentional violent or sexual abuses, for purposes of this report, include acts causing bodily harm using unlawful force as well as sexual offenses including, but not limited to rape, sodomy and indecent assault.[2] These incidents of physical or sexual abuse are serious

2 .As those offenses are defined in the Uniform Code of Military Justice.

enough that no Soldier or contractor believed the conduct was based on official policy or guidance. If proven, these actions would be criminal acts. I found that no policy, directive, or doctrine caused the violent or sexual abuse incidents. Soldiers knew they were violating the approved techniques and procedures. The primary causes of these actions were relatively straight-forward - individual criminal misconduct, clearly in violation of law, policy, and doctrine and contrary to Army values.

(2) (U) The second category of abuse consists of incidents that resulted from misinterpretations of law or policy or resulted from confusion about what interrogation techniques were permitted by law or local SOPs. I found that misinterpretation as to accepted practices or confusion occurred due to the proliferation of guidance and information from other theaters of operation; individual interrogator experiences in other theaters; and, the failure to distinguish between permitted interrogation techniques in other theater environments and Iraq. These abuses include some cases of clothing removal (without any touching), some use of dogs in interrogations (uses without physical contact or extreme fear) and some instances of improper imposition of isolation. Some of these incidents involve conduct which, in retrospect, violated international law. However, at the time some of the Soldiers or contractors committed the acts, they may have honestly believed the techniques were condoned. Some of these incidents either took place during interrogations or were related to interrogation. Often, these incidents consisted of MP Soldiers, rather than MI personnel, implementing interrogation techniques.

d. (U) Some abuses may in fact fall in between these two categories or have elements of both. For instance, some Soldiers under the guise of confusion or misinterpretation may actually have intentionally violated approved interrogation techniques. For example, a Soldier may know that clothing removal is prohibited, but still removed some of a detainee's clothing to try to enhance interrogation techniques. This Soldier can later claim to have believed the actions were condoned. Soldier culpability in this area is best left to individual criminal or command investigations. While no analytical scheme can aptly categorize all misconduct, I think using the two categories set forth above helps explain why the entire range of abuses occurred.

e. (U) The appointment memo directed me to determine whether organizations or personnel higher than the 205th MI Brigade chain of command were involved directly or indirectly, in the questionable activities regarding alleged detainee abuse at Abu Ghraib prison.

(1) (U) I find no organization or individual higher in the chain of command of the 205th MI Brigade were directly involved in the questionable activities regarding alleged detainee abuse at Abu Ghraib prison.

(2) (U) CJTF-7 leaders and staff actions, however, contributed indirectly to the questionable activities regarding alleged detainee abuse at Abu Ghraib.

(a) (U) Policy memoranda promulgated by the CJTF-7 Commander led indirectly to some of the non-violent and non-sexual abuses. The policy memos promulgated at the CJTF-7 level allowed for interpretation in several areas, including use of dogs and removal of clothing. Particularly, in light of the wide spectrum of interrogator qualifications, maturity, and experiences (i.e. in GTMO and Afghanistan), the memos did not adequately set forth the limits on interrogation techniques. Misinterpretations of CJTF policy memos led to some of the abuses at Abu Ghraib, but did not contribute to the violent or sexual abuses.

(b) (U) Inaction at the CJTF-7 staff level may have also contributed to the failure to discover and prevent abuses before January 2004. As discussed above, staff responsibility for detention and interrogation operations was dispersed among the Deputy Commanding General, C2, C3, C4 and SJA. The lack of a single CJTF-7 staff proponent for detention and interrogation operations resulted in no individual staff member focusing on these operations. As discussed in Section V, certain warning signs existed. In addition, there is sufficient evidence to reasonably believe that personnel in the CJTF-7 staff, principally in the OSJA and JC2X had knowledge of potential abuses and misconduct in violation of the Geneva Conventions at Abu Ghraib. This knowledge was not presented to the CJTF-7 leadership. Had the pace of combat operations and support to the CPA not been so overwhelming, the CJTF-7 staff may have provided additional oversight to interrogation operations at Abu Ghraib. The Commander, CJTF-7 had to prioritize efforts and CJTF-7, by necessity, devoted its resources to fighting the counter-insurgency and supporting the CPA, thereby saving U.S. and civilian Iraqi lives and assisting in the transition to Iraqi self-rule. Further, LTG Sanchez and MG Wojdakowski relied upon two senior officer Brigade Commanders (BG Janice Karpinski and COL Pappas) to run detention and interrogation operations at Abu Ghraib. In my professional opinion, in light of all the circumstances, the CJTF-7 staff did everything they could have reasonably been expected to do to successfully complete all their assigned missions.

f. (U) Assessing the materials from MG Fay and from MG Taguba, I agree that leadership failure, at the brigade level and below, clearly was a factor in not sooner discovering and taking actions to prevent both the violent/sexual abuse incidents and the misinterpretation/confusion incidents. At Abu Ghraib, interrogation operations were also plagued by a lack of an organizational chain of command presence and by a lack of proper actions to establish standards and training by the senior leaders present.

(1) (U) The leaders from 205th MI and 800th MP Brigades located at Abu Ghraib or with supervision over Abu Ghraib, failed to supervise subordinates or provide direct oversight of this important mission. The lack of command presence, particularly at night, was clear.

(2) (U) The 205th Brigade Commander did not specifically assign responsibility for interrogation operations to a specific subordinate MI unit at Abu Ghraib and did not ensure that a chain of command for the interrogation operations mission was established at Abu Ghraib. The presence of a clear chain of Military Intelligence command and associated responsibilities would have enhanced effective operations.

(3) (U) The leaders from 205th MI and 800th MP Brigades located at Abu Ghraib or with supervision over Soldiers and units at Abu Ghraib, failed to properly discipline their Soldiers and failed to develop and learn from AARs and lessons learned.

(4) (U) These leaders failed to provide adequate mission-specific training to execute a mission of this magnitude and complexity.

(5) (U) A dysfunctional command relationship existed between the MI Brigade and the MP Brigade, including:

(a) Failure to coordinate and document specific roles and responsibilities;

(b) Confusion at the Soldier level concerning the clarity of the MP role in interrogations.

(6) (U) Despite these leadership deficiencies, the primary cause of the most egregious violent and sexual abuses was the individual criminal propensities of the particular perpetrators. These individuals should not avoid personal responsibility, despite the failings of the chain of command.

g. (U) Other Contributing Factors. No single, or simple, cause explains why some of the Abu Ghraib abuses happened. In addition to the leadership failings discussed above, other contributing factors include:

(1) (U) Safety and security conditions at Abu Ghraib. Resources that might otherwise have been put towards detention operations instead had to be dedicated to force protection. In addition, the difficult circumstances for Soldiers, including a poor quality of life and the constant threat of death or serious injury, contributed to Soldiers' frustrations and increased their levels of stress. Facilities at Abu Ghraib were poor. Working and living conditions created a poor climate to conduct interrogation and detention operations to standard.

(2) (U) The lack of clear and consistent guidance, promulgated at the CJTF level on interrogation procedures coupled with the availability of information on Counter-Resistance Techniques used in other theaters.

(3) (U) Soldier knowledge of interrogation techniques permitted in GTMO and Afghanistan and failure to distinguish between those environments and Iraq.

(4) (U) Interaction with OGA and other agency interrogators who did not follow the same rules as U.S. Forces. There was at least the perception, and perhaps the reality, that non-DOD agencies had different rules regarding interrogation and detention operations. Such a perception encouraged Soldiers to deviate from prescribed techniques.

(5) (U) Integration of some contractors without training, qualifications, and certification created ineffective interrogation teams and the potential for non-compliance with doctrine and applicable laws.

(6) (U) Under-resourcing of personnel in both the 800th MP BDE (including the inability to replace personnel leaving theater) and in the 205th MI Brigade, specifically in the interrogator, analyst, and linguist fields. (Under-resourcing at the CJTF-7 level also contributed and was previously discussed.)

(7) (U) Lack of a clear understanding of MP and MI roles and responsibilities by some Soldiers and leaders.

(8) (U) Lack of clear roles and responsibilities for tactical, as opposed to, strategic interrogation.

9. (U) Assessments as the Senior Investigating Officer

a. (U) Introduction. Due to the previous assessments and investigations conducted on Abu Ghraib, I was able to develop my own assessments based on interviews I conducted, the findings and conclusions in the earlier reports, as well as the materials in MG Fay's report. The following assessments provide insight on the challenges that CJTF-7 faced, as well as areas that need to be addressed by our military in the near future. The specific investigations and assessments were provided by the reports of MG Miller, MG Ryder, MG Taguba, the DAIG, and MG Fay.

b. (U) Charters. MG Miller's and MG Ryder's assessments were conducted on interrogation and detention operations as a result of the request and/or discussions by the CJTF Commander and the Commander, CENTCOM. MG Taguba and MG Fay were directed to investigate personnel in the MP Brigade and the MI Brigade after the discovery of abuses at Abu Ghraib. The DAIG was specifically tasked to conduct an assessment of Detainee Operations as the Army executes its role as DOD Executive Agent for Enemy Prisoners of War and Detention Program.

c. (U) Summaries of assessment visits. The assistance visits by MG Miller and MG Ryder, discussed briefly above, confirmed the instincts of the Commander, CJTF-7, and provided solid recommendations for improving procedures. MG Miller's assessment set forth what had to be done to synchronize intelligence efforts, and provided different techniques in interrogation and analysis. MG Ryder provided processes for more efficient and effective chain of custody of, and accountability for, detainees. MG Taguba's and MG Fay's investigative reports confirmed that abuses occurred and assigned specific responsibility for the actions. The DAIG report provided insights across doctrine, organizations, training, materiel, leadership, personnel and facilities (DOTMLPF) and on capability and standards shortfalls. I found that the assistance visits by senior leaders with experience in detention and interrogation operations, subject matter experts, and mobile training teams were extremely helpful in validating needed procedures and increasing the effectiveness of interrogation and detention operations. The investigative reports and DAIG findings will be used to fix deficiencies that have been found in current operations.

d. (U) Doctrine.

(1) (U) Doctrine is meant to be a guideline to focus efforts in a specific area. Doctrine is the culmination of years of experience, Doctrine allows leaders at all levels to adapt to the different environments and situations that their units may encounter. When prosecuting hostilities, doctrine does not replace the inherent responsibilities of commanders to execute their missions, care for the safety and security of their Soldiers, train their Soldiers and their organizations to be competent and confident in their assigned duties and responsibilities, or uphold the rule of law and legal authority such as the Geneva Convention. An overarching doctrine allows commanders the latitude to develop tactics, techniques, and procedures, as well as unit standard operating procedures, to focus Soldier and unit operations. Commander policies and directives often supplement or emphasize specific items that the commander wants to ensure are clearly understood within their command.

(2) (U) Basic Army and Joint doctrine for detention and interrogation operations served as a guideline for operations in OIF. Doctrine did not cause the abuses at Abu Ghraib. Had Army

doctrine and training been followed, the abuses at Abu Ghraib would not have occurred. Several areas, however, need to be updated, refined or expanded: roles, responsibilities and relationships between MP and MI personnel; the concept, structure, and organization of a JIDC; the transition to and organization of a JTF structure and in particular, the intelligence organization within the JTF headquarters.

(a)(U) Roles, responsibilities and relationships between MP and MI personnel. The various investigations indicate that the delineation of responsibilities for interrogations between the military intelligence and military police may not have been understood by some Soldiers and some leaders. At Abu Ghraib, non-violent and non-sexual abuses may have occurred as a result of confusion in three areas of apparent MI/MP overlap: use of dogs during interrogations, nudity, and implementation of sleep deprivation. Doctrinal manuals prescribe responsibilities for military intelligence and military police personnel at detention facilities. These manuals do not address command or support relationships. Subordinate units of the military intelligence brigade of a Corps are normally tasked with running the Corps Interrogation Facility (CIF). Centralized EPW collection and holding areas, as well as detention centers, are the responsibility of the Military Police with staff oversight by the Provost Marshal. FM 34-52, Intelligence Interrogation, does state that in the screening process of EPWs, MPs and MI Soldiers should coordinate roles.

(b)(U) Relationships between MP and MI personnel and leadership responsibilities at a detention facility of this magnitude need to be more prescriptive. Doctrine establishes the need for coordination and designates detention operations as a military police responsibility. Responsibility for interrogation of detainees remains with the military intelligence community. Doctrine for Interrogation operations states that MPs can enable, in coordination with MI personnel, a more successful interrogation. Exact procedures for how MP Soldiers assist with informing interrogators about detainees or assist with enabling interrogations can be left to interpretation. Our doctrinal manuals are clear on humane treatment of detainees and compliance with the Geneva Conventions by MI, MP and all U.S. Forces. The current version of FM 34-52, Intelligence Interrogation, is under revision to incorporate lessons learned in ongoing theaters of operations. Lessons learned have also resulted in changes to programs of instruction by military police and military intelligence proponents. My assessment is that the ongoing revision of Intelligence Interrogation manuals will assist in clarification of roles and responsibilities. At Abu Ghraib, doctrinal issues did not preclude on-site leaders from taking appropriate action to execute their missions.

(c)(U) The Joint Interrogation and Debriefing Center. The JIDC was formed at Abu Ghraib by personnel from a number of organizations, creating an ad hoc relationship. Further, the establishment of the JIDC at Abu Ghraib, coupled with implementing the new Tiger Team approach to interrogations (where an interrogator, analyst, and linguist operate as a team) were new to Abu Ghraib personnel and demanded creation of a detailed standard operating procedure (SOP). A SOP was initially developed and published in October 2003 by MI personnel at the facility. Joint doctrine needs to expand on the operation and organization for a JIDC at centralized detention facilities. A template for a JIDC needs to be developed, to include identifying Joint and other agency resources with strategic interrogation expertise, to provide insight for combatant commanders in specific areas of operation.

(d)(U) Joint doctrine and policy should also address the roles of military personnel and other agencies in collocated detention and interrogation facilities. All detainees must be in-processed, medically screened, accounted for, and properly documented when interned in a military facility. This did not happen at Abu Ghraib.

(3) (U) Transition to and Organization of JTF Structure and its Intelligence Architecture. The intelligence architecture for the missions tasked to the CJTF-7 was inadequate due to the expanded mission and continuation of hostilities in theater. Several reports stated that lack of manning provided significant challenges due to the increased mission work load and the environment. Certainly, the V Corps Headquarters was not trained, manned or equipped to assume the role of a CJTF. Although the mission was initially considered to be SASO, in fact hostilities continued. CI/HUMINT capabilities in current force structure, among all services, needs a holistic review. The Army has significantly reduced tactical interrogators since Desert Shield/Desert Storm. Creation of the Defense HUMINT Service and worldwide demands for these skills has depleted the number of experienced interrogators that may be needed in the future joint operational environment. The HUMINT management organization within the Intelligence Staff of a JTF needs to be institutionalized and resourced. Specifically, work needs to be done to institutionalize the personnel and equipment needs for future command and control headquarters to include the JIATF and C2X cells within a JTF intelligence staff.

(4) (U) In addition, the ongoing review by the Army and Joint Forces Command to create JTF capable headquarters and Standing Joint Task Force Headquarters organic to combatant commands should be expedited and resourced. Such efforts may have helped transition V Corps to the CJTF-7 staff more rapidly by assigning a Standing Joint Task Force to the CJTF-7. Similarly, the Army's initiative to develop stand alone command and control headquarters, currently known as Units of Employment, that are JTF-capable would have greatly facilitated the transition of the V Corps staff to the new organization.

e. (U) Policy and Procedures

(1) (U) Detention Operations. At first, at Abu Ghraib and elsewhere in Iraq, the handling of detainees, appropriately documenting their capture, and identifying and accounting for them, were all dysfunctional processes, using little or no automation tools. The assistance visits by MG Miller and MG Ryder revealed the need to adhere to established policies and guidance, discipline the process, properly segregate detainees, and use better automation techniques to account for detainees and to provide timely information.

(2) (U) Interrogation Techniques Policy. A review of different theaters' interrogation technique policies reveals the need for clear guidance for interrogation techniques at both the tactical and strategic levels, especially where multiple agencies are involved in interrogation operations. The basic Field Manuals provide guidance for Soldiers conducting interrogations at the tactical level. Different techniques and different authorities currently exist for other agencies. When Army Soldiers and other agency personnel operate in the same areas, guidelines become blurred. The future joint operational environment presents a potential for a mix of lawful and unlawful combatants and a variety of different categories of detainees. Techniques used during initial battlefield interrogations as opposed to at a central detention facility differ in terms of tactical versus more strategic level information collection. The experience, maturity, and source of interrogators at each of these locations may also dictate a change in techniques. In each

theater, commanders were seeking guidance and information on the applicability of the articles of the Geneva Conventions to specific population sets and on what techniques could be used to improve intelligence production and remain within the limits of lawful authorities.

(a)(U) At Abu Ghraib, the lack of consistent policy and command oversight regarding interrogation techniques, coupled with changing policies, contributed to the confusion concerning which techniques could be used, which required higher level approval, and what limits applied to permitted techniques. Initially, CJTF-7 had no theater-specific guidance other than the basic Field Manuals which govern Intelligence Interrogations and Internment and Resettlement operations. Policies for interrogation techniques including policies for Counter-Resistance Techniques, were provided for different theaters of operation—namely Guantanamo, Afghanistan, and Iraq. Some interrogators conducting operations at Abu Ghraib had experience in different theaters and used their experiences to develop procedures at Abu Ghraib. An example of this is the SOP for the JIDC created by personnel of the 519th MI Battalion.

(b)(U) When policies, SOPs, or doctrine were available, Soldiers were inconsistently following them. In addition, in some units, training on standard procedures or mission tasks was inadequate. In my assessment, I do not believe that multiple policies resulted in the violent or sexual abuses discovered at Abu Ghraib. However, confusion over policies contributed to some of the non-violent and non-sexual abuses. There is a need, therefore, to further refine interrogation techniques and limits of authority at the tactical versus the strategic level, and between Soldiers and other agency personnel.

(3) (U) Use of Military Detention Centers by Other Agencies. In joint military detention centers, service members should never be put in a position that potentially puts them at risk for non-compliance with the Geneva Conventions or Laws of Land Warfare. At Abu Ghraib, detainees were accepted from other agencies and services without proper in-processing, accountability, and documentation. These detainees were referred to as "ghost detainees." Proper procedures must be followed, including, segregating detainees of military intelligence value and properly accounting and caring for detainees incarcerated at military detention centers. The number of ghost detainees temporarily held at Abu Ghraib, and the audit trail of personnel responsible for capturing, medically screening, safeguarding and properly interrogating the "ghost detainees," cannot be determined.

f. (U) Training. The need for additional training during the mobilization phase or in-country on unit and specific individual tasks was clearly an issue in the reports and assessments. Some military police units found themselves conducting detention operations which was not a normal unit mission essential task, and those units needed additional training to properly accomplish the missions they were given. The collocation and mixture of other agency and civilian personnel conducting detention and interrogation operations became confusing for junior leaders and Soldiers not normally accustomed to working with other organizations. Collective training to standard by MP and MI units in combined scenarios as rigorous as the situations faced in OIF is needed to prepare for the future.

In addition, V Corps personnel, to include commanders and staff, were not trained to execute a JTF mission. The transition from major combat operations to a headquarters focused on SASO and support to the Coalition Provisional Authority was a major transition which the unit did not have time to train or prepare. Most importantly, we must continue to place rigor and

values in our training regimen. Our values are non-negotiable for members of our profession. They are what a professional military force represents to the world. As addressed before, leaders need rigorous training to be able to adapt to this level of complexity.

g. (U) Materiel. Priorities for logistical support remained with the operational units who were conducting combat operations and providing force protection and security of U.S. and coalition forces. Creating an intelligence organization to provide tactical through strategic intelligence in a seamless manner and the dramatic increase in detention operations demanded communications, computers, and a network to support operations. The concept of a Joint Logistics Command should be further examined using lessons learned from OIF/OEF. Automation equipment needed to provide seamless connectivity of intelligence information from tactical through strategic levels, and enable an Intelligence Fusion Center in a JTF should be documented and embedded in JTF capable headquarters. Equipment currently undergoing research and development and commercial off—the-shelf solutions which enable CI/HUMINT operations and enable Soldiers to serve as sensors and collectors should be rapidly pursued. The process of accounting for detainees, their equipment, and their personal property, and documenting their intelligence value, should be automated from the tactical level to the centralized detention facilities.

h. (U) Leader Development. The OIF environment demanded adaptive, confident, and competent leadership at all echelons. Leaders must set the example and be at the critical centers of gravity for their respective operations. Leaders set the example in a values-based profession. The risk to Soldiers and the security of all personnel demanded continued leader involvement in operations, planning, after-action reviews, and clear dissemination of lessons learned, to adapt to the dynamics of the counter-insurgency. Successful leaders were involved in their operations and were at the tip of the spear during critical periods. Leadership failure was seen when leaders did not take charge, failed to provide appropriate guidance, and did not conduct continual training. In some cases, leaders failed to accept responsibility or apply good judgment in executing assigned responsibilities. This latter fact is evident in the lack of a coordinated defense at Abu Ghraib, inconsistent training and standards, and lack of discipline by Soldiers. Commanders and leaders at all levels remain responsible for execution of their mission and the welfare of their Soldiers, In Iraq, leaders had to adapt to a new complex operational environment. Some of our leaders adapted faster than others. We must continue to put rigor in our leader and unit training. Leaders must be trained for certainty and educated for uncertainty. The ability to know how to think rather than what to think is critical in the future Joint Operational Environment. Specific leader and Soldier failures in the 800th MP Brigade and the 205th MI Brigade are identified in the investigative reports by MG Taguba and MG Fay. As discussed above, my review of echelons above brigade revealed that CJTF-7 leaders were not directly involved in the abuses at Abu Ghraib. Their actions and inaction did indirectly contribute to the non-sexual and non-violent abuses.

i. (U) Facilities. Facilities and quality of life for Soldiers and detainees were representative of the conditions throughout the AOR initially. Only when the logistics system became responsive to the needs of units and Soldiers, contracting mechanisms were put in place to support operations, and the transportation system matured to move supplies, were improvements seen in facilities and quality of life. The conditions at Abu Ghraib were representative of the conditions found throughout the country during post Phase III, Decisive Operations. The slow process of developing the logistics system and providing secure lines of

communication directly impeded Soldier security and quality of life.

10. (U) Concluding Findings and Recommendations

a. (U) SUMMARY AS SENIOR INVESTIGATING OFFICER. I derived these findings and recommendations from the observations and assessments discussed in sections 2-9, from the interviews I conducted, and from the documents I have reviewed. Furthermore, I support the recommendations of the Fay and Taguba Reports concerning individual culpability for actions that violated U.S. criminal law (including the Uniform Code of Military Justice (UCMJ)) or international law, or that was inhumane or coercive without lawful justification. The personnel who committed these acts did not act in accordance with the discipline and values that the U.S. Army represents. Leaders who had direct responsibilities for the actions of these individuals failed to adequately exercise their responsibilities in the execution of this mission.

b. (U) RESPONSIBILITY ABOVE 205th MI BRIGADE

(1) (U)Findings:

(a) (U) I find that the chain of command above the 205th MI Brigade was not directly involved in any of the abuses that occurred at Abu Ghraib.

(b) (U) I find that the chain of command above the 2OSthMI Brigade promulgated policy memoranda that, inadvertently, left room for interpretation and may have indirectly led to some of the non-violent and non-sexual abuse incidents.

(c) (U) I find that LTG Sanchez, and his DCG, MG Wojdakowski, failed to ensure proper staff oversight of detention and interrogation operations. As previously stated, MG Wojdakowski had direct oversight of two new Brigade Commanders. Further, staff elements of the CJTF-7 reacted inadequately to some of the Indications and Warnings discussed above. However, in light of the operational environment, and CJTF-7's under-resourcing and unplanned missions, and the Commander's consistent need to prioritize efforts, I find that the CJTF-7 Commander and staff performed above expectations, in the over-all scheme of OIF.

(d) (U) I find that the TACON relationship of the 800th MP Brigade to the CJTF-7 created a dysfunctional relationship for proper oversight and effective detention operations in the Iraqi Theater of Operations (ff0). In addition, the relationship between leaders and staff of the 205th MI Brigade and 800th MP Brigade was ineffective as they failed to effect proper coordination of roles and responsibilities for detention and interrogation operations.

(e) (U) I find that a number of causes outside of the control of CJTF-7 also contributed to the abuses at Abu Ghraib. These are discussed in Section 8 and include, individuals' criminal propensity; Soldier knowledge of interrogation techniques permitted in GTMO and Afghanistan and failure to distinguish between those environments and Iraq; interaction with OGA and other agency interrogators who did not follow the same rules as U.S. Forces; integration of some contractors without training, qualifications, and certification; under-resourcing of personnel in both the 800th MP BDE (including the inability to replace personnel leaving theater) and in the 205th MI Brigade, specifically in the interrogator, analyst, and linguist fields.

(2) (U) Recommendations:

(a) (U) That CJTF-7 designate a single staff proponent for Detention and Interrogation Operations. The grade of this officer should be commensurate with the level of responsibilities of the particular operation. Further, that the Army in concert with JFCOM should review the concept and clarify responsibilities for a single staff position for Detention and Interrogation operations as part of a JTF capable organization.

(b) (U) That CJTF-7 in concert with CENTCOM publish clear guidance that applies to all units and agencies on roles and responsibilities for Detention and Interrogation Operations, and publish clear guidance on the limits of interrogation authority for interrogation techniques as pertains to the detainee population in the ITO.

(c) (U) That CENTCOM review command relationship and responsibilities for the 800th MP Brigade with CJTF-7 in the conduct of detention operations in the ITO.

(d) (U) That the CJTF-7 Inspector General be designated the staff proponent to rapidly investigate ICRC allegations. That the CJTF-7 Inspector General periodically conduct unscheduled inspections of detention and interrogation operations providing direct feedback to the commander.

c. (U) DOCTRINE

(1) (U) Finding: Army and Joint doctrine did not directly contribute to the abuses found at Abu Ghraib. Abuses would not have occurred had doctrine been followed. Nonetheless, certain areas need to updated, expanded or refined.

(2) (U) Recommendations:

(a) (U) That JFCOM in concert with the Army update Joint and Army publications to clearly address the concept, organization and operations of a Joint Interrogation and Debriefing Center in a future joint operational environment.

(b) (U) That the Army update interrogation operations doctrine to clarify responsibilities for interrogation techniques at both tactical and strategic levels. The ongoing revision and update of FM 34-52, Intelligence Interrogations, should clarify the roles and responsibilities of MP and MI units at centralized detention facilities.

(c)(U) That DOD assess the impact of current policies on Detention and Interrogation Operations. That DOD review the limits of authority for interrogation techniques and publish guidance that applies to all services and agencies.

d. (U) V CORPS TRANSITION TO CJTF

(1) (U)Findings:

(a)(U) V Corps was never adequately resourced as a CJTF. The challenge of transitioning from V Corps HQ5 to CJTF-7 without adequate personnel, equipment, and intelligence architecture, severely degraded the commander and staff during transition. Personnel shortages documented in the JMD continued to preclude operational capabilities.

(b)(U) Command and control headquarters that can perform as a Joint Task Force in a joint operational environment will be the norm for the future. This fact warrants action by supporting commands and services to resource and train JTF capable headquarters for success.

(2) (U) Recommendations:

(a)(U) That the Army expedite the development and transition of Corps-level command and control headquarters into JTF-capable organizations.

(b)(U) That the Army in concert with JFCOM institutionalize and resource the personnel and equipment needs of future JTF-capable headquarters, including the intelligence architecture of such headquarters.

e. (U) INTELLIGENCE ARCHITECTURE and INTELLIGENCE PERSONNEL RESOURCES

(I) (U)Findings:

(a)(U) Demands on the HUMINT capabilities in a counter-insurgency and in the future joint operational environment will continue to tax tactical and strategic assets. An Intelligence Fusion Center, a Joint Inter-agency Task Force and a JC2X are essential to provide seamless tactical through strategic level intelligence in a JTF headquarters.

(b)(U) Future land forces, especially the Army, need trained and experienced tactical HUMINT personnel to operate in the future Joint Operational Environment,

(2) (U) Recommendations:

(a) (U) That the Army conduct a holistic review of the CIIHUMINT intelligence force structure and prioritize needs for the future joint operational environment. The review should consider the personnel, equipment and resources needed to provide a seamless intelligence capability from the tactical to the strategic level to support the combatant commander.

(b) (U) That the Army align and train HUMINT assets geographically to leverage language skills and knowledge of culture.

(c) (U) That land forces, particularly MI and MP personnel, conduct rigorous collective training to replicate the complex environment experienced in OIF and in likely future areas of conflict.

f. (U) FACILITIES

(1) (U) finding: Abu Ghraib detention facility was inadequate for safe and secure detention and interrogation operations. CJTF-7 lacked viable alternatives due to the depleted infrastructure in Iraq.

(2) (U) Recommendation: That the Army review the concept of detainee contingency facilities that can be rapidly deployed and established to safeguard and secure detainees, while providing necessary facilities to conduct screening and interrogations (similar to the concept of the Force Provider or Red Horse contingency facilities, where pre-fabricated buildings can be set up quickly). Adopting this recommendation would provide commanders an option for rapidly deploying and establishing detention facilities.

g. (U) OTHER GOVERNMENT AGENCIES

(1) (U) Findings:

(a) (U) Working alongside non-military organizations/agencies to jointly execute missions for our Nation, proved to be complex and demanding on military units at the tactical level. There was at least the perception that non-DOD agencies had different rules regarding interrogation and detention operations. Policies and specific limits of authority need review to ensure applicability to all organizations operating in the designated theater of operations

(b) (U) Seamless sharing of operational intelligence was hindered by lack of a fusion center that received, analyzed, and disseminated all intelligence collected by CJTF-7 units and other agencies/units outside of the CJTF-7 chain of command.

(c) (U) Proliferation of Interrogation and Counter-Resistance Technique memorandums, with specific categorization of unlawful combatants in various theaters of operations, and the inter-mingling of tactical, strategic, and other agency interrogators at the central detention facility of Abu Ghraib, provided a permissive and compromising climate for Soldiers.

(d) (U) Soldiers/Sailors/Airmen/Marines should never be put in a position that potentially puts them at risk for non-compliance with the Geneva Conventions or Laws of Land Warfare

(2) (U) Recommendations:

(a)(U) That DOD review inter-agency policies to ensure that all parties in a specific theater of operations are required to adhere to the same guidance and rules in the use of military Interrogation and Detention Facilities, including limits of authority for interrogation techniques.

(b)(U) That CENTCOM publish guidance for compliance by all agencies/organizations utilizing military detention facilities in the Iraqi theater of operation.

(c)(U) That DOD review the responsibilities for interrogations by other agencies and other agencies responsibilities to the combatant commander to provide intelligence information and support.

(d)(U) That DOD assess the impact of current policies and guidance on unlawful combatants in the conduct of Detention and Interrogation Operations. And, that DOD review the limits of authority for use of interrogation techniques and publish guidance that is applicable to all parties using military facilities.

h. (U) LEADERSHIP and SUCCESSES

(1) (U) Findings:

(a) (U) Leaders throughout Operation Iraqi Freedom were confronted with a complex operational environment. The speed at which leaders at all echelons adapted to this environment varied based on level of training, maturity in command, and ability to see the battlefield. The adaptability of leaders in future operational environments will be critical.

(b) (U) In Operation Iraqi Freedom, as the intelligence architecture matured and became properly equipped and organized, and close working relationships with all intelligence agencies and other OIF forces developed, there were clear successes in obtaining intelligence.

(c) (U) HUMINT management and Intelligence Fusion were essential to enable success in this complex operational environment.

(2) (U) Recommendations.

(a) (U) That rigorous leader training in our institutions, at home stations, and at the Army's Training Centers (Joint Readiness Training Center, National Training Center, Combat Maneuver Training Center, and Battle Command Training Program) continue.

(b) (U) That DOD/CENTCOM and the senior leaders of all services recognize and provide a vote of confidence to our military's leaders and Soldiers executing the OIF mission and supporting the Iraqi people.

DEPARTMENT OF THE ARMY
THE INSPECTOR GENERAL

Detainee Operations Inspection

21 July 2004

DEPARTMENT OF THE ARMY
WASHINGTON DC 20310

JUL 2 1 2004

MEMORANDUM FOR CHIEF OF STAFF, ARMY

SUBJECT: Department of the Army Inspector General Inspection Report on Detainee Operations

I approve the Department of the Army Inspector General Inspection Report on Detainee Operations dated 21 July 2004.

I direct:

a. As an exception to policy, the unclassified portion of this report be released, without redactions, through posting on the Army website.

b. Findings and recommendations concerning Central Command be forwarded through the Joint Staff to Central Command for consideration.

c. The Director of the Army Staff task the appropriate Army Staffs and major Army commands with implementing the recommendations specified in the inspection report and then track their compliance.

d. The Department of the Army Inspector General disseminate the inspection report to the Army leadership.

R. L. Brownlee
Acting Secretary of the Army

FOREWORD

This inspection report responds to the Acting Secretary of the Army's 10 February 2004 directive to conduct a functional analysis of the Army's conduct of detainee and interrogation operations to identify any capability shortfalls with respect to internment, enemy prisoner of war, detention operations, and interrogation procedures and recommend appropriate resolutions or changes if required.

Based on this inspection:

-- the overwhelming majority of our leaders and Soldiers understand the requirement to treat detainees humanely and are doing so.

-- we were unable to identify system failures that resulted in incidents of abuse. These incidents of abuse resulted from the failure of individuals to follow known standards of discipline and Army Values and, in some cases, the failure of a few leaders to enforce those standards of discipline.

-- the current operational environment demands that we adapt; our Soldiers are adapting; so we must also adapt our doctrine, organization, and training.

We examined the two key components of detainee operations: the capture, security and humane treatment of the detainees; and the conduct of interrogation operations in order to gain useful intelligence. While we did not find any systemic failures that directly led to the abusive situations we reviewed, we have made recommendations to improve the effectiveness of detainee operations.

We found that Soldiers are conducting operations under demanding, stressful, and dangerous conditions against an enemy who does not follow the Geneva Conventions. They are in an environment that puts a tremendous demand on human intelligence, particularly, at the tactical level where contact with the enemy and the people are most intense. They do understand their duty to treat detainees humanely and in accordance with laws of land warfare. These Soldiers understand their obligation to report incidents of abuse when they do occur, and they do so. Our leaders have been developed, trained and educated to adapt to the environment in which they find themselves. They understand their tasks, conditions and standards. The conditions of the current operations have caused them to adapt their tactics, techniques and procedures within their capabilities to accommodate this operational environment.

Expanding our doctrine to provide commanders flexibility and adaptability within well-defined principles will better enable them to conduct these operations. Our training and education systems at the individual, unit, and institutional levels must continue to be thorough and realistically simulate the intensity of the environment in which we now operate.

While the primary purpose of this inspection was not to examine specific incidents of abuse, we did analyze reported incidents to determine their root or fundamental causes. To provide a context for the incidents, we noted that an estimated 50,000 individuals were detained for at least some period of time by U.S. Forces during the conduct of OPERATION ENDURING FREEDOM and OPERATION IRAQI FREEDOM. U.S. Forces' contact with the local populace at checkpoints, on patrols, and in other situations increases the number of contacts well in excess of this 50,000 estimate. As of 9 June 2004, there were 94 cases of confirmed or possible abuse of any type, which include, theft, physical assault, sexual assault, and death.

The abuses that have occurred are not representative of policy, doctrine, or Soldier training. These abuses should be viewed as what they are - unauthorized actions taken by a few individuals, and in some cases, coupled with the failure of a few leaders to provide adequate supervision and leadership. These actions, while regrettable, are aberrations when compared to the actions of fellow Soldiers who are serving with distinction.

FOREWORD

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Table of Contents

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Executive Summary

Detainee Operations

1. **Background:** On 10 February 2004, the Acting Secretary of the Army directed the Department of the Army Inspector General (DAIG) to conduct an assessment of detainee operations in Afghanistan and Iraq. In order to satisfy this directive, the DAIG inspected internment, enemy prisoner of war, detention operations, and interrogation procedures in Afghanistan and Iraq. The inspection focused on the adequacy of Doctrine, Organization, Training, Materiel, Leadership, Personnel, and Facilities (DOTMLPF), standards, force structure, and policy in support of these types of operations.

This inspection was not an investigation of any specific incidents or units but rather a comprehensive review of how the Army conducts detainee operations in Afghanistan and Iraq.

The DAIG did not inspect the U.S. military corrections system or operations at the Guantanamo Bay Naval Base during this inspection. Central Intelligence Agency (CIA) and Defense HUMINT Services (DHS) operations were not inspected.

2. **Purpose:** Conduct a functional analysis of the Army's internment, enemy prisoner of war, detention operations, and interrogation procedures, policies, and practices based on current Department of Defense and Army policies and doctrine. The inspection is to identify any capability and systemic shortfalls with respect to internment, enemy prisoner of war, detention operations, and interrogation procedures and recommend appropriate resolutions or changes if required.

3. **Concept:** Two teams conducted inspections of 26 locations in Iraq, Afghanistan, and the Continental United States (CONUS). The CONUS team consisted of seven personnel, including augmentees, and visited 10 locations while the OCONUS team consisted of nine personnel, including augmentees, and inspected 16 locations. We interviewed and surveyed over 650 leaders and Soldiers spanning the ranks from Private to Major General. We also reviewed 103 reports of allegations of abuse from Criminal Investigation Division (CID) and 22 unit investigations that covered the period from September 2002 to June 2004.

4. **Objectives:** The DAIG Team had four objectives for the inspection:

a. Assess the adequacy of DOTMLPF of Army Forces for internment, enemy prisoner of war, detention operations, and interrogation procedures.

b. Determine the standards for Army Forces charged with internment, enemy prisoner of war, detention operations and interrogation procedures (e.g., size, equipment, standardization, and training).

c. Assess current and future organizations and structures for Army Forces responsible for internment, enemy prisoner of war, detention operations and interrogation procedures.

d. Identify and recommend any changes in policy related to internment, enemy prisoner of war, detention operations and interrogation procedures.

5. **Synopsis:**

In the areas that we inspected, we found that the Army is accomplishing its mission both in the capture, care, and custody of detainees and in its interrogation operations. The overwhelming majority of our leaders and Soldiers understand and adhere to the requirement to treat detainees humanely and consistent with the laws of land warfare. Time and again these Soldiers, while under the stress of combat operations and prolonged insurgency operations, conduct themselves in a professional and exemplary manner.

The abuses that have occurred in both Afghanistan and Iraq are not representative of policy, doctrine, or Soldier training. These abuses were unauthorized actions taken by a few individuals, coupled with the failure of a few leaders to provide adequate monitoring, supervision, and leadership over those Soldiers. These abuses, while regrettable, are aberrations when compared to their comrades in arms who are serving with distinction.

The functional analysis of the Army's internment, enemy prisoner of war, detention operations, and interrogation procedures, policies, and practices can be broken down into two main functions: (1) capture, care, and control of detainees, and (2) interrogation operations.

We determined that despite the demands of the current operating environment against an enemy who does not abide by the Geneva Conventions, our commanders have adjusted to the reality of the battlefield and, are effectively conducting detainee operations while ensuring the humane treatment of detainees. The significant findings regarding the capture, care, and control of detainees are:

- All interviewed and observed commanders, leaders, and Soldiers treated detainees humanely and emphasized the importance of the humane treatment of detainees.
- In the cases the DAIG reviewed, all detainee abuse occurred when one or more individuals failed to adhere to basic standards of discipline, training, or Army Values; in some cases abuse was accompanied by leadership failure at the tactical level.
- Of all facilities inspected, only Abu Ghraib was determined to be undesirable for housing detainees because it is located near an urban population and is under frequent hostile fire, placing Soldiers and detainees at risk.

We determined that the nature of the environment caused a demand for tactical human intelligence. The demands resulted in a need for more interrogators at the tactical level and better training for Military Intelligence officers. The significant findings regarding interrogation are:

- Tactical commanders and leaders adapted their tactics, techniques, and procedures, and held detainees longer than doctrinally recommended due to the demand for timely, tactical intelligence.
- Doctrine does not clearly specify the interdependent, and yet independent, roles, missions, and responsibilities of Military Police and Military Intelligence units in the establishment and operation of interrogation facilities.
- Military Intelligence units are not resourced with sufficient interrogators and interpreters, to conduct timely detainee screenings and interrogations in the current

operating environment, resulting in a backlog of interrogations and the potential loss of intelligence.

- Tactical Military Intelligence Officers are not adequately trained to manage the full spectrum of the collection and analysis of human intelligence.
- Officially approved CJTF-7 and CJTF-180 policies and the early CJTF-180 practices generally met legal obligations under U.S. law, treaty obligations and policy, if executed carefully, by trained soldiers, under the full range of safeguards. The DAIG Team found that policies were not clear and contained ambiguities. The DAIG Team found implementation, training, and oversight of these policies was inconsistent; the Team concluded, however, based on a review of cases through 9 June 2004 that no confirmed instance of detainee abuse was caused by the approved policies.

We reviewed detainee operations through systems (Policy and Doctrine, Organizational Structures, Training and Education, and Leadership and Discipline) that influence how those operations are conducted, and have identified findings and recommendations in each. While these findings are not critical, the implementation of the corresponding recommendations will better enable our commanders to conduct detainee operations now and into the foreseeable future, decrease the possibility of abuse, and ensure we continue to treat detainees humanely.

The findings and observations from this inspection are separated into the following three chapters: Chapter 3 - Capture, Care, and Control of Detainees, Chapter 4 - Interrogation Operations, and Chapter 5 - Other Observations. A summary of the Capture, Care, and Control of Detainees and the Interrogation Operation findings is provided below.

Capture, Care, and Control of Detainees

Army forces are successfully conducting detainee operations to include the capture, care, and control of detainees. Commanders and leaders emphasized the importance of humane treatment of detainees. We observed that leaders and Soldiers treat detainees humanely and understand their obligation to report abuse. In those instances where detainee abuse occurred, individuals failed to adhere to basic standards of discipline, training, or Army Values; in some cases individual misconduct was accompanied by leadership failure to maintain fundamental unit discipline, failure to provide proper leader supervision of and guidance to their Soldiers, or failure to institute proper control processes.

We found through our interviews and observations conducted between 7 March 2004 and 5 April 2004 that leaders and Soldiers in Afghanistan and Iraq were determined to do what was legally and morally right for their fellow Soldiers and the detainees under their care. We found numerous examples of military professionalism, ingrained Army Values, and moral courage in both leaders and Soldiers. These leaders and Soldiers were self-disciplined and demonstrated an ability to maintain composure during times of great stress and danger. With the nature of the threat in both Afghanistan and Iraq, Soldiers are placed in extremely dangerous positions on a daily basis. They face the daily risks of being attacked by detainees, contracting communicable diseases from sick detainees, being taunted or spat upon, having urine or feces thrown upon them, and having to treat a detainee humanely who just attacked their unit or killed a fellow Soldier. Despite these challenges, the vast majority of Soldiers and other U.S. Military personnel continued to do their duty to care for detainees in a fair and humane manner.

Our review of the detainee abuse allegations attempted to identify underlying causes and contributing factors that resulted in abusive situations. We examined these from the perspective

of the Policy and Doctrine, Organizational Structures, Training and Education, and Leadership and Discipline systems. We also examined them in terms of location on the battlefield and sought to determine if there was a horizontal, cross-cutting system failure that resulted in a single case of abuse or was common to all of them. Based on this inspection, we were unable to identify system failures that resulted in incidents of abuse. These incidents of abuse resulted from the failure of individuals to follow known standards of discipline and Army Values and, in some cases, the failure of a few leaders to enforce those standards of discipline. We also found that our policies, doctrine, and training are being continually adapted to address the existing operational environment regarding detainee operations. Commanders adjusted existing doctrinal procedures to accommodate the realities of the battlefield. We expect our leaders to do this and they did. The Army must continue to educate for uncertain environments and develop our leaders to adapt quickly to conditions they confront on the battlefield.

Using a data cut-off of 9 June 2004 we reviewed 103 summaries of Army CID reports of investigation and 22 unit investigation summaries conducted by the chain of command involving detainee death or allegations of abuse. These 125 reports are in various stages of completion. 31 cases have been determined that no abuse occurred; 71 cases are closed; and 54 cases are open or undetermined. Of note, the CID investigates every occurrence of a detainee death regardless of circumstances.

Recognizing that the facts and circumstances as currently known in ongoing cases may not be all-inclusive, and that additional facts and circumstances could change the categorization of a case, the Team placed each report in a category for the purposes of this inspection to understand the overall numbers and the facts currently known, and to examine for trends or systemic issues. This evaluation of allegations of abuse reports is not intended to influence commanders in the independent exercise of their responsibilities under the Uniform Code of Military Justice (UCMJ) or other administrative disciplinary actions. As an Inspector General inspection, this report does not focus on individual conduct, but on systems and policies.

This review indicates that as of 9 June 2004, 48% (45 of 94) of the alleged incidents of abuse occurred at the point of capture, where Soldiers have the least amount of control of the environment. For this inspection, the DAIG Team interpreted point of capture events as detainee operations occurring at battalion level and below, before detainees are evacuated to doctrinal division forward or central collecting points (CPs). This allowed the DAIG Team to analyze and make a determination to where and what level of possible abuse occurred. The point of capture is the location where most contact with detainees occurs under the most uncertain, dangerous, and frequently violent circumstances.

This review further indicates that as of 9 June 2004, 22% (21 of 94) of the alleged incidents of abuse occurred at Internment/Resettlement (I/R) facilities. This includes the highly publicized incident at Abu Ghraib. Those alleged abuse situations at I/R facilities are attributed to individual failure to abide by known standards and/or individual failure compounded by a leadership failure to enforce known standards, provide proper supervision, and stop potentially abusive situations from occurring. As of 9 June 2004, 20%, (19 of 94) of the alleged incidents of abuse occurred at CPs. For the remaining 10% (9 of 94) of the alleged incidents of abuse, a location could not be determined based on the CID case summaries.

*Note For the purpose of this inspection, we defined abuse as wrongful death, assault, sexual assault, and theft.

The Army estimates that over 50,000 detainees have been captured or processed. While even one case of abuse is unacceptable, we conclude that given the volume of detainees and the potential for abuse in these demanding circumstances, the overwhelming majority of our Soldiers and leaders are conducting these operations with due regard for the detainees right to be treated humanely and properly.

Detainee abuse does not occur when individual Soldiers remain disciplined, follow known procedures, and understand their duty obligation to report abusive behavior. Detainee abuse does not occur when leaders of those Soldiers who deal with detainees enforce basic standards of humane treatment, provide oversight and supervision of detainee operations, and take corrective action when they see potentially abusive situations developing. Our site visits, interviews, sensing sessions, and observations indicate that the vast majority of Soldiers and leaders, particularly at the tactical level, understand their responsibility to treat detainees humanely and their duty obligation to report infractions.

We inspected I/R facilities at Bagram, Baghdad, and Camp Bucca and found only Abu Ghraib overcrowded, located near a densely populated urban area, on a dangerous main supply route, and subject to frequent hostile enemy fire from enemy mortars or rockets. The physical design of the camps within the prison was not optimal for the mission: towers were not properly placed to support overlapping fields of fire and cover blind spots; entrance/egress routes were hampered by make-shift gates; and sally ports were not used correctly. The supply of fresh water was difficult to maintain and the food quality was sub-standard. Detainees did not have access to bunkers or shelters with overhead cover to protect them from hostile enemy mortar or rocket fire from outside the walls of Abu Ghraib.

Interrogation Operations

The need for timely, tactical human intelligence is critical for successful military operations particularly in the current environment. Commanders recognized this and adapted by holding detainees longer at the point of capture and collecting points to gain and exploit intelligence. Commanders and interrogators also conducted tactical questioning to gain immediate battlefield intelligence. Commanders and leaders must set the conditions for success, and commanders, leaders, and Soldiers must adapt to the ever changing environment in order to be successful.

Of the interviewed point of capture battalion and company leaders, 61% (25 of 41) stated their units established CPs and held detainees at their locations from 12 hours up to 30 days. The primary reason units held detainees at these locations was to conduct screenings and interrogations closer to the point of capture. The result of holding detainees for longer timeframes at all locations was increased requirements in facility infrastructure, medical care, preventive medicine, trained personnel, logistics, and security. Organic unit personnel at these locations did not have the required institutional training and were therefore unaware of or unable to comply fully with Army policies in areas such as detainee processing, confinement operations, security, preventive medicine, and interrogation.

Doctrine does not clearly and distinctly address the relationship between the MP operating I/R facilities and the Military Intelligence (MI) personnel conducting intelligence exploitation at those facilities. Neither MP nor MI doctrine specifically defines the interdependent, yet independent, roles, missions, and responsibilities of the two in detainee operations. MP doctrine states MI may collocate with MP at detention sites to conduct interrogations, and coordination should be made to establish operating procedures. MP doctrine does not,

however, address approved and prohibited MI procedures in an MP-operated facility. It also does not clearly establish the role of MPs in the interrogation process. Conversely, MI doctrine does not clearly explain MP internment procedures or the role of MI personnel within an internment setting. Contrary to MP doctrine, FM 34-52, Intelligence Interrogation, 28 September 1992, implies an active role for MPs in the interrogation process: "Screeners coordinate with MP holding area guards on their role in the screening process. The guards are told where the screening will take place, how EPWs and detainees are to be brought there from the holding area, and what types of behavior on their part will facilitate the screenings." Subordination of the MP custody and control mission to the MI need for intelligence can create settings in which unsanctioned behavior, including detainee abuse, could occur. Failure of MP and MI personnel to understand each other's specific missions and duties could undermine the effectiveness of safeguards associated with interrogation techniques and procedures.

Doctrine that addresses the establishment and operation of interrogations contains inconsistent guidance on terminology, structure, and function of these facilities. At the time of the inspection there were facilities in OPERATION ENDURING FREEDOM and OPERATION IRAQI FREEDOM that conducted intelligence exploitation as Joint Interrogation Facilities and as a Joint Interrogation and Debriefing Center. The intelligence sections of each were uniquely structured to meet mission requirements.

Shortfalls in numbers of interrogators and interpreters, and the distribution of these assets within the battlespace, hampered human intelligence (HUMINT) collection efforts. Valuable intelligence—timely, complete, clear, and accurate—may have been lost as a result. Interrogators were not available in sufficient numbers to efficiently conduct screening and interrogations of the large numbers of detainees at collecting points (CPs) and internment/resettlement (I/R) facilities, nor were there enough to man sufficient numbers of Tactical Human Intelligence Teams (THTs) for intelligence exploitation at points of capture. Interpreters, especially those Category II personnel authorized to participate in interrogations, were also in short supply. Units offset the shortage of interrogators with contract interrogators. While these contract interrogators provide a valuable service, we must ensure they are trained in military interrogation techniques and policy.

Due to the demand for immediate tactical intelligence, tactical intelligence officers were conducting interrogations of detainees without thorough training on the management of HUMINT analysis and collection techniques. They were not adequately trained to manage the full spectrum of HUMINT assets being used in the current operating environment. The need for these officers to understand the management of the full spectrum of HUMINT operations is a key for successful HUMINT exploitation in the current operating environment.

Current interrogation doctrine includes 17 interrogation approach techniques. Doctrine recognizes additional techniques may be applied. Doctrine emphasizes that every technique must be humane and be consistent with legal obligations. Commanders in both OEF and OIF adopted additional interrogation approach technique policies. Officially approved CJTF-180 and CJTF -7 generally met legal obligations under U.S. law, treaties and policy, if executed carefully, by trained soldiers, under the full range of safeguards. The DAIG Team found that some interrogators were not trained on the additional techniques in either formal school or unit training programs. Some inspected units did not have the correct command policy in effect at the time of inspection. Based on a review of CID case summaries as of 9 June 2004, the team was unable to establish any direct link between the proper use of an approved approach technique or techniques and a confirmed case of detainee abuse.

6. **Conclusion:** The Army's leaders and Soldiers are effectively conducting detainee operations and providing for the care and security of detainees in an intense operational environment. Based on this inspection, we were unable to identify system failures that resulted in incidents of abuse. This report offers 52 recommendations that are designed to improve the ability of the Army to accomplish the key tasks of detainee operations: keep the enemy off the battlefield in a secure and humane manner, and gain intelligence in accordance with Army standards.

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Chapter 1

Background and Inspection Concept

1. **Background:** On 10 February 2004, the Acting Secretary of the Army directed the Department of the Army Inspector General (DAIG) to conduct an assessment of detainee operations in Afghanistan and Iraq. In order to satisfy the Acting Secretary of the Army's directive, the DAIG inspected internment, enemy prisoner of war, detention operations, and interrogation procedures in Iraq and Afghanistan. The inspection focused on the adequacy of Doctrine, Organization, Training, Materiel, Leadership, Personnel, and Facilities (DOTMLPF), standards, force structure, and policy.

2. **Inspection Concept:** The detailed concept for this inspection is as follows:

a. **Purpose:** The purpose of this inspection was to conduct a functional analysis of detainee operations based on current Department of Defense (DoD) and Army policy and doctrine.

b. **Objectives:**

(1) Assess the adequacy of DOTMLPF of Army Forces for internment, enemy prisoner of war, detention operations, and interrogation procedures.

(2) Determine the standards for Army Forces charged with internment, enemy prisoner of war, detention operations and interrogation procedures (e.g., size, equipment, standardization, and training).

(3) Assess current and future organizations and structures for Army Forces responsible for internment, enemy prisoner of war, detention operations and interrogation procedures.

(4) Identify and recommend any changes in policy related to internment, enemy prisoner of war, detention operations and interrogation procedures.

c. **Scope:** Two teams conducted inspections of 25 locations in Iraq, Afghanistan, and the Continental United States (CONUS). The CONUS team consisted of seven personnel, including augmentees, and visited seven locations while the OCONUS team consisted of nine personnel, including augmentees, and inspected 16 locations. We interviewed and surveyed over 650 leaders and Soldiers spanning the ranks from Private to Major General. We also reviewed 103 reports of allegations of abuse from Criminal Investigation Division (CID) and 22 unit investigations that cover the period of September 2002 to June 2004.

d. **Focus:** The inspection focused on the functional analysis of the Army's internment, enemy prisoner of war, and detention policies, practices, and procedures as the Army executes its role as the DoD Executive Agent for Enemy Prisoners of War and Detention Program. Numerous DoD Policies, Army Regulations, and Army Field Manuals provided the guiding tenets for this inspection.

e. **Task Organization:** Two teams from the DAIG Inspections Division, with augmentation from the Office of the Provost Marshal General (OPMG), Office of the Judge Advocate General (OTJAG), Office of the Surgeon General (OTSG), U.S. Army Maneuver Support Center

(USAMANSCEN), U.S. Army Criminal Investigation Command (USACIC), U.S. Army Special Operations Command (USASOC), and the U.S. Army Intelligence Center (USAIC) conducted the inspection by traveling to 25 locations in CONUS and OCONUS. The composition of these teams was as follows:

Inspector General

CONUS	OCONUS
Team Chief IG	Team Chief IG
Detailed IG	Operation Officer IG
Detailed IG	Detailed IG
Assistant IG	Detailed IG
Expert from OTSG	Expert from USASOC
Expert from OPMG	Expert from OTJAG
Expert from USACIC (Assistant IG)	Expert from USAIC
	Expert from USAMANSCEN (Assistant IG)
	Expert from OPMG

f. **Inspection Process:**

(1) Preparation Phase: Research and Training (February - March 2004)

(2) Execution Phase: On-Site Inspections (March - April 2004)

(3) Completion Phase: Final Report Preparation (April - June 2004)

g. **Inspection Locations and Schedule:** See Appendix C.

h. **Inspection Approach:** The Inspectors General (IG) for Combined Forces Land Component Command (CFLCC), Combined Joint Task Force-7 (CJTF-7), Combined Joint Task Force-180 (CJTF-180), and local IGs served as coordinating agents for all DAIG inspection activities at those locations. These IGs were telephonically and electronically notified by DAIG with the Notification Memorandum and Detailed Inspection Plan that was sent to all affected Commanders/IGs on 20 February 2004.

i. **Other Reports:** This report mentions the Ryder Report, Miller Report, and Taguba Investigation throughout its inspection results. These two reports and investigation deal with the following: the Ryder Report is an assessment of detention and corrections operations in Iraq; the Miller Report is a classified assessment of the Department of Defense's counterterrorism interrogation and detention operations in Iraq; and the Taguba Investigation is a classified investigation under Army Regulation 15-6 into the 800th Military Police (MP) Brigade's detention and internment operations.

j. **Definitions:** The DAIG used the following definitions throughout the report.

(1) The DAIG defined the term "detainee operations" as the range of actions taken by Soldiers beginning at the point of capture, the movement of detainees through division forward and central collecting points (CPs), to internment at internment/resettlement (I/R) facilities, and release. This includes the administrative and medical processing of detainees, medical treatment of detainees, sanitary conditions at I/R facilities and CPs, and interrogation procedures. The term "detainee operations" does not apply to confined U.S. Military personnel.

(2) Army Regulation (AR) 190-8, Enemy Prisoners of War, Retained Personnel, Civilian Internees and Other Detainees, 1 October 1997, defines the term detainee as "any person captured or otherwise detained by an armed force." The DAIG uses the term as defined by AR 190-8 in this report. The term "detainee" includes enemy prisoners of war (EPWs), retained persons (RP), civilian internees (CIs), and other detainees (ODs). When making a differentiation between the different classifications of detainees, the report will specifically mention EPWs, RPs, CIs, or ODs. The report will also point out the use of non-doctrinal terms sometimes used as detainee classifications.

(3) The battlespace of OPERATION ENDURING FREEDOM (OEF) and OPERATION IRAQI FREEDOM (OIF) included an enemy that deployed asymmetrically with adaptive tactics; a battlespace in which there was not always a clear forward line of troops, massing of forces, or an identifiable rear area to which detainees could be rapidly evacuated. The battlespace of OEF and OIF was non-linear with combat and stability operations taking place simultaneously throughout the areas of operation. Combatants included both uniformed and non-uniformed state and non-state sponsored forces who fought using conventional and non-conventional methods to include terrorist actions against both military and civilian targets. Detainees were, and continue to be, more than compliant civilian internees and enemy prisoners of war. They are primarily a noncompliant hostile population that requires more intensive screening, interrogation and segregation. The Army is in a new and unique operational environment stemming from the need for immediate tactical level intelligence coupled with the significant numbers of non-traditional combatants/detainees encountered.

(4) We define a problem as systemic if it is widespread and presents a pattern. We attempted through observations, sensing sessions, interviews, site visits, surveys, and reviews of documents, other reports, and investigations to identify failures in the systems that comprise detainee operations.

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Chapter 2

Inspection Methodology

The Department of the Army Inspector General (DAIG) Team developed a baseline approach to the inspection that focused on gathering information and data from five primary domains: interviews, sensing sessions, document reviews, surveys of commanders, leaders, and Soldiers, and site visits. This approach allowed the Team to glean perceptions and attitudes about detainee operations from selected individuals and populations; to assess detainee operations in doctrinal manuals, unit policies, unit Standing Operating Procedures (SOPs); and to determine compliance with Department of Defense (DoD) and Army policies. The Team visited U.S. Armed Forces-controlled internment/resettlement (I/R) facilities and division central and forward collecting points (CPs), as well as units conducting patrol missions, to gather overall trends and observations on detainee operations from point of capture to the processing conducted at U.S. Armed Forces-controlled I/R facilities.

This baseline methodology afforded the Team a standard, systematic approach to conducting an inspection at each location, which proved essential since the DAIG Team conducted split operations with two teams that traveled separately to continental United States (CONUS) and outside the continental United States (OCONUS) locations. The Team had to tailor their trips to look at units that had already returned from OPERATION ENDURING FREEDOM (OEF) and OPERATION IRAQI FREEDOM (OIF) as well as those units currently deployed.

The methodology established a three-phase plan for executing the inspection.

a. **Phase 1: Preparation.** This phase included travel planning, pre-deployment training, administrative requirements, a review of documents the Team requested in advance from the unit IGs, pre-inspection visits to the National Training Center (NTC) at Fort Irwin and the Joint Readiness Training Center (JRTC) at Fort Polk, and development of a detailed inspection plan.

b. **Phase 2: Execution.** This phase outlined the physical execution of the itinerary developed by the local IG in accordance with the Detailed Inspection Plan. Each visit began with an inbrief to the unit's senior leadership and ended with an outbrief. The DAIG Team conducted interviews, sensing sessions, and a survey of Commanders, leaders and Soldiers currently in the area of responsibility (AOR) and those who recently returned from OEF and OIF to determine detainee operations tactics, techniques, and procedures from point of capture to arrival at the CPs; inspected CPs from receipt of detainees to the transfer of detainees to U.S. Armed Forces-controlled I/R facilities; inspected U.S. Armed Forces-controlled I/R facilities and operations; and reviewed policies, plans, records, programs, Standard Operating Procedures (SOPs), and other related documents.

c. **Phase 3: Completion.** The DAIG Team returned to home station and conducted post-trip data analyses of the information gathered. The Team then crafted detailed trip reports of the visit that captured the critical information gleaned from the trips. These trip reports formed the basis from which the Team developed the findings outlined in the report. Additionally, team members cross-walked information and traveled to the MI and MP schools for coordination and confirmation of information used in the findings.

The following section outlines the baseline methodology in detail to include the specific requirements for interviews and sensing sessions based upon the type of unit visited.

a. **Inspection Methodology.** The local IG served as the coordinating agent for all DAIG inspection activities. The coordinating agent worked with his or her respective DAIG Team point of contact (POC) to develop an itinerary for a four-day inspection for CONUS units and a 30-day period for OCONUS. The coordinating agent and DAIG Team POC fine-tuned the itinerary to maximize the Team's ability to meet the inspection's baseline requirements.

b. **Personnel Interviewed:**

(1) OCONUS

(a) The Team conducted interviews at CFLCC, CJTF-7, CJTF-180, U.S. Armed Forces-controlled I/R facilities, and division CPs. The Team interviewed selected leaders from CFLCC/CJTF/division/brigade/battalion staffs and company level personnel. Individual interviews occurred in the interviewee's office or in a similar location free from interruptions and telephone calls. The coordinating agent scheduled these interviews to last no more than 1.5 hours. The coordinating agent also considered geographical dispersion and travel times between events. The interviews were conducted by one or two DAIG Team members with the unit interviewee.

(b) The DAIG Team conducted sensing sessions at each U.S. Armed Forces-controlled I/R facility, division CPs, and at the company level, one for junior enlisted (Private through Specialist, but not including Corporals) and one for junior noncommissioned officers (Sergeant and Staff Sergeant). Units provided eight to twelve Soldiers per session. Each sensing session required a classroom or similar facility that was removed from the unit's normal work location. The area was relatively quiet and free from interruptions and telephone calls. In addition, the room needed no less than 14 chairs or desks formed in a circle or square. The coordinating agent scheduled 1.5-hour time blocks for each sensing session. The sensing sessions were conducted by two DAIG Team members with the unit Soldiers.

(c) The coordinating agent adjusted the interview schedule, in coordination with the Team, based upon the availability of personnel. The Team recognized that only full-time manning personnel might be available in Reserve Component units.

(d) The matrix below was a strawman that was finalized by the DAIG Team POC and the local IG for the OCONUS inspection.

Interviewee/ Sensing Session Requirements	CFLCC	CJTF	DIV COLL Point	BDE COLL Point	Co	MP BDE /BN	US Military Controlled/ Oversight Det Fac
SJA			1			1	1
G2/S2 (for HUMINT purposes)	1	1	1	1		1	1
S1 (if involved with detainee processing)						1	1

SURGEON/MED OFF	1	1	1	1		1	1
PMO	1	1	1				
CHAPLAIN			1	1		1	1
ENGINEER/S4		1	1	1		1	1
CDR/OIC			1	1	1	1	1
1SG/NCOIC			1	1	1	1	1
S3						1	
INTERROGATOR (depending where they are located)			3	3			3
GUARD (E1-4) SENSING SESSION			1 EA (8-12 SOLDIERS)	1 EA (8-12 SOLDIERS)			1 EA (8-12 SOLDIERS)
GUARD (E5-6) SENSING SESSION			1 EA (8-12 SOLDIERS)	1 EA (8-12 SOLDIERS)			1 EA (8-12 SOLDIERS)
GUARD (NCOIC)			1	1			1
SECURITY FORCE (E1-4) SENSING SESSION							1 EA (8-12 SOLDIERS)
SECURITY FORCE (E5-6) SENSING SESSION							1 EA (8-12 SOLDIERS)
SECURITY FORCE NCOIC							1
INFANTRY BDE XO				1			
INFANTRY BN XO				1			
INFANTRY Co CDR/1SG				1			
PREVENTIVE MED INSP			1	1			1
COLL PT MP PLT LDR			1	1			
COLL PT MP PLT SGT			1	1			
UNIT PLT LDR INVOLVED WITH CAPTURE OF PERSONNEL					2		

UNI PLT SGT INVOLVED WITH CAPTURE OF PERSONNEL					2		
UNIT SOLDIERS INVOLVED WITH CAPTURE OF PERSONNEL (E1-4) SENSING SESSION					2 EA (8-12 SOLDI ERS) PER COLLE CTING POINT		
UNIT SOLDIERS INVOLVED WITH CAPTURE OF PERSONNEL (E5-6) SENSING SESSION					2 EA (8-12 SOLDI ERS) PER COLLE CTING POINT		

(2) CONUS

(a) The Team conducted interviews of division, brigade, battalion, and company level personnel. The Team interviewed selected leaders from each of these type units. Individual interviews occurred in the interviewee's office or in a similar location that was free from interruptions and telephone calls. The coordinating agent scheduled these interviews to last no more than 1.5 hours. The coordinating agent considered geographical dispersion and travel times between events. The interviews were conducted by one or two Team members with the unit interviewee.

(b) The DAIG Team conducted sensing sessions with collecting point and I/R facility guards and with Soldiers who captured personnel during OEF and OIF. Sensing sessions included one for junior enlisted (Private through Specialist, but not including Corporals) and one for junior noncommissioned officers (Sergeant and Staff Sergeant). Units provided eight to twelve Soldiers per session. Each sensing session required a classroom or similar facility that was removed from the unit's normal work location. The area was relatively quiet and free from interruptions and telephone calls. In addition, the room needed no less than 14 chairs or desks formed in a circle or square. The coordinating agent scheduled 1.5-hour time blocks for each sensing session. The sensing sessions were conducted by two Team members with the unit Soldiers.

(c) The coordinating agent adjusted the inter view schedule, in coordination with the Team, based upon the availability of personnel. The Team recognized that only full-time manning personnel might be available in Reserve Component units.

(d) The matrix below was a strawman that was finalized by the DAIG Team POC and the local IG for the CONUS inspection.

Interviewee/Sensing Session Requirements	DIV/SEP BDE	BDE	BN	Co
INFANTRY CDR			1	1
INFANTRY CSM/1SG			1	1
INFANTRY XO		1		
MP CDR/XO	1		1	
MP S4	1		1	
PMO	1			
COLL PT GUARDS (E1-4) SENSING SESSION				1 EA (8-12 SOLDIERS)
COLL PT GUARDS (E5-6) SENSING SESSION				1 EA (8-12 SOLDIERS)
GUARD (NCOIC)				1
DSA/BSA CDR (if coll pt was is in DSA/BSA)			2	
COLL PT MP PLT LDR				1
COLL PT MP PLT SGT				1
UNIT PLT LDR INVOLVED WITH CAPTURE OF PERSONNEL			2	
UNIT PLT SGT INVOLVED WITH CAPTURE OF PERSONNEL			2	
UNIT SOLDIERS INVOLVED WITH CAPTURE OF PERSONNEL (E1-4) SENSING SESSION				2 EA (8-12 SOLDIERS)
UNIT SOLDIERS INVOLVED WITH CAPTURE OF PERSONNEL (E5-6) SENSING SESSION				2 EA (8-12 SOLDIERS)
CHAPLAIN	1	1	1	

d. **Administrative Support Requirements.** The DAIG Team conducted this inspection with minimal disruption to ongoing unit missions. The Team required special arrangements from the field Inspectors General (IGs), including assistance with country clearances, travel in the AOR, in-country travel, sleeping arrangements, convoy security arrangements, body armor, weapons and ammunition, communications, scheduling of inbriefs and outbriefs, interviews and sensing sessions, and an appropriate work space for up to nine personnel conducting DAIG business.

e. **Documents Reviewed In Advance (OCONUS Only):**

(1) All inspections related to detainee operations, including command products, Inspector General products, Criminal Investigative Division(CID), legal, etc.

(2) All case histories of punishment (judicial and non-judicial) relating to detainee abuse.

(3) Past and current Rules of Engagement (ROE).

f. **Documents Reviewed on Site (OCONUS Only):**

(1) Unit TACSOPs relating to detainee operations (e.g., 5Ss and T, collecting point procedures, and inventorying EPW belongings).

(2) U.S. Armed Forces-controlled I/R facility SOPs.

(3) I/R BDE/BN/CO unit manning documentation.

(4) DD Form 2745 (EPW Capture Tag) log.

(5) DD Form 629 (Receipt for Prisoner or Detained Person) log.

(6) DA Form 4137 (Receipt for Evidence/Property Custody Document) log.

(7) DD Form 2708 (Receipt of Inmate/Detained Person) log.

(8) DD Form 1594 (Duty Logs).

(9) U.S. Armed Forces-controlled I/R facilities reporting system database.

(10) Facility maintenance and repair documentation.

(11) Facility security SOP.

(12) Detainee in/out-processing documentation.

g. **Documents Reviewed During Inspections (CONUS Only):**

(1) Unit Tactical Standing Operating Procedures (TACSOP) relating to detainee operations (e.g., 5Ss and T, collecting point procedures, and inventorying EPW belongings).

(2) U.S. Armed Forces-controlled I/R facility SOPs.

(3) I/R Brigade (BDE)/Battalion (BN)/Company (Co) unit manning documentation.

h. **Inspection Itineraries.** DAIG requested each coordinating agent develop a draft itinerary that met the requirements listed in paragraph b. DAIG requested the coordinating agent include the necessary travel time between scheduled locations. The DAIG Team POC and the coordinating agent developed an itinerary that allows the DAIG Team to meet the objectives listed in Chapter 1 paragraph 2b. The DAIG Team conducted an inbrief with the senior commander/representative at each location.

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Chapter 3

Capture, Care, and Control of Detainees

1. **Summary of Findings:** Army forces are successfully conducting detainee operations to include the capture, care, and control of detainees. Commanders and leaders emphasized the importance of humane treatment of detainees and, currently, leaders and Soldiers treat detainees humanely and understand their obligation to report abuse. In those instances where detainee abuse occurred, individuals failed to adhere to basic standards of discipline, training, or Army Values; in some cases individual misconduct was accompanied by leadership failure to maintain fundamental unit discipline, failure to provide proper leader supervision of and guidance to their Soldiers, or failure to institute proper control processes.

For the purpose of this inspection, we defined abuse as wrongful death, assault, battery, sexual assault, sexual battery, or theft. As of 9 June 2004 we had reviewed 103 summaries of Criminal Investigative Division (CID) reports of investigation and 22 unit investigation summaries conducted by the chain of command involving detainee death or alleged abuse. These 125 reports are in various stages of completion. No abuse was determined to have occurred in 31 cases; 71 cases are closed; and 54 cases are open or undetermined. Of note, the CID investigates every occurrence of a detainee death regardless of circumstances. While recognizing that any abuse incident is one too many, we conducted a review and categorization of the summary reports of the 125 investigations. Based on our review and analysis of reports and case summaries of investigations and our observations and interviews conducted throughout this inspection, we could not identify a systemic cause for the abuse incidents. The DAIG uses the term "systemic" specifically to describe a problem if it is widespread and presents a pattern. As defined by the DAIG in this report, a systemic issue may be found either horizontally across many various types of units, or vertically through many command levels or within systems. The DAIG determined that incidents where detainees were allegedly mistreated occurred as isolated events. In a few incidents, higher ranking individuals up to Lieutenant Colonel were involved; however, the chain of command took action when an allegation of detainee abuse was reported.

Abu Ghraib had problems with deteriorating infrastructure that impacted the clean, safe, and secure working environment for Soldiers and living conditions for detainees. Poor food quality and food distribution, lack of laundry capability, and inadequate personal hygiene facilities affected the detainees' living conditions. Overcrowding, frequent enemy hostile fire, and lack of in-depth force protection measures also put Soldiers and detainees at risk.

2. **Findings:**

a. **Finding 1:**

(1) Finding: All interviewed and observed commanders, leaders, and Soldiers treated detainees humanely and emphasized the importance of the humane treatment of detainees.

(2) Standard: See Appendix E.

(3) Inspection Results: The DAIG Team conducted numerous interviews and sensing sessions with leaders and Soldiers that revealed most leaders and Soldiers have treated detainees humanely and would report detainee abuse if they became aware of it.

For OPERATION ENDURING FREEDOM(OEF), Chairman Joint Chiefs of Staff(CJCS) Message dated 211933Z JAN 02, stated that Al Qaida and Taliban would be treated humanely and, to the extent appropriate and consistent with military necessity, in a manner consistent with the principles of the Geneva Conventions. Therefore, most detainees were classified as civilian internees (CIs) (sub-classified for OEF by the following non-doctrinal terms: Persons Under U.S. Control (PUC), Enemy Combatant (EC), and Low-level Enemy Combatant (LLEC)). Interviews, sensing sessions, and document reviews revealed that most Soldiers were aware of their requirement to treat detainees humanely. In most cases, the present level of treatment exceeded the Common Article 3 standard of treatment. Notwithstanding, while detainee abuse had occurred in OEF in the past, the DAIG Team observed that units currently conducting detainee operations missions treated detainees humanely.

Many noncommissioned officers (NCOs) stated very clearly that the humane treatment of detainees was paramount to the success of the mission. Another group of junior enlisted Soldiers stated that they received substantial training on detainee treatment. They went on to specifically mention that they were taught to treat detainees with dignity and respect. In another sensing session, the NCOs stated that the minimum standard for treating detainees is protection, respect, and humane treatment. Some went on to say that violations are not tolerated by the command or fellow Soldiers.

Consistent with these statements, the DAIG Team that visited Iraq and Afghanistan discovered no incidents of abuse that had not been reported through command channels; all incidents were already under investigation. The DAIG Team that visited units recently returning from Iraq did receive a total of 5 new allegations of potential abuse that occurred prior to January 2004. The DAIG Team immediately turned these over to the chain of command and Army Criminal Investigation Division (CID). There is no evidence of the cover-up of current detainee abuse by U.S. Soldiers. This is consistent with the results of the teams' sensing sessions; all currently deployed Soldiers were aware of their responsibility to report abuse and appeared to be willing and able to report any potential abuse.

In OIF, U.S. Forces detained the full spectrum of classes of detainees, but most were classified as EPWs or CIs. Presently, CIs make up the vast majority of the U.S.-controlled detainee population. EPWs are entitled to all the protections in the Geneva Convention Relative to the Treatment of Prisoners of War (GPW), and CIs are entitled to relevant protections in the Geneva Convention Relative to the Protection of Civilian Persons in Time of War (GC). The GPW and GC provide detailed levels and standards of treatment for EPWs and CIs that include treatment during armed conflict and occupation. Most leaders and Soldiers treated EPWs and CIs humanely and consistent with the Geneva Conventions (GPW and GC).

The Army estimates that over 50,000 detainees have been captured or processed. While even one case of abuse is unacceptable, we conclude that given the volume of detainees and the potential for abuse in these demanding circumstances, the overwhelming majority of our Soldiers and leaders are conducting these operations with due regard for the detainees right to be treated humanely and properly.

Detainee abuse does not occur when individual Soldiers remain disciplined, follow known procedures and understand their duty obligation to report abusive behavior. Detainee

abuse does not occur when leaders of those Soldiers who deal with detainees enforce basic standards of humane treatment, provide oversight and supervision of detainee operations and take corrective action when they see potentially abusive situations developing. Our site visits, interviews, sensing sessions and observations indicate that the vast majority of Soldiers and leaders, particularly at the tactical level, understand their responsibility to treat detainees humanely and their duty obligation to report infractions.

The GC and GPW require that copies of the GC be posted in the detainees' language in facilities that contain EPWs and/or CIs. Only 25% (4 of 16) facilities inspected maintained copies of the Geneva Conventions in the detainees' language. No facilities in Afghanistan complied with this Geneva requirement, while only 4 facilities in Iraq were compliant. Other specific details of treatment outlined in the GPW and GC are covered elsewhere in this report.

The DAIG Team observed that units made efforts to comply with the DoD requirement to treat the detainees consistent with the Geneva Conventions. Some of the improvements being made by units and resourceful individuals include: increased training for key noncommissioned officers (NCOs) and small unit leaders; developing standing operating procedures (SOPs); and requesting copies of the Geneva Conventions in the detainees' language for posting.

In general, the Miller Report recognized that detainees should be secured in a humane environment and that greater involvement by judge advocates was required. The DAIG Team did not observe a dedicated judge advocate for interrogation operations, but did note that the MI brigades, assigned to duty at Abu Ghraib, were each assigned at least 1 brigade judge advocate. The Ryder Report stated EPWs and CIs should receive the full protections of the Geneva Conventions unless the denial of these protections was due to specifically articulated military necessity.

The Taguba Investigation observed that many Soldiers and units upheld the Army Values. The Taguba Investigation also detailed numerous incidents where U.S. Soldiers abused detainees, which the investigation characterized as "systemic." As used in the Taguba Investigation, the term "systemic" deals with a subset of the security and interrogation operations at only one interment /resettlement facility and is not theater-wide. However, MG Taguba testified before the Senate Armed Services Committee on 11 May 04, narrowing the extent of the term "systemic" by stating that these particular abuses were individual actions not committed at the direction of the chain of command and that the resulting photos were taken with personal cameras. Additionally, the Taguba Investigation recommended detention facilities make several changes that would help ensure compliance with the Geneva Conventions. As stated above, the DAIG uses the term "systemic" specifically to describe a problem if it is widespread and presents a pattern. As defined by the DAIG in this report, a systemic issue may be found either horizontally across many various types of units, or vertically through many command levels from squad through division or higher level. Based on our review and analysis of reports and case summaries of investigations and our observations and interviews conducted throughout this inspection, we could not identify a systemic cause for the abuse incidents.

(4) Recommendation: CJTF-7 and CJTF-180 continue to emphasize compliance with the requirements regarding the humane treatment of detainees.

Recommendation: Commanders continue to stress the importance of humane treatment of detainees and continue to supervise and train Soldiers on their responsibility to treat detainees humanely and their responsibility to report abuse.

b. **Finding 2:**

(1) Finding: In the cases the DAIG reviewed, all detainee abuse occurred when one or more individuals failed to adhere to basic standards of discipline, training, or Army Values; in some cases abuse was accompanied by leadership failure at the tactical level.

(2) Standard: See Appendix E.

(3) Inspection Results: As of 9 June 2004, there were 125 reported cases of detainee abuse (to include death, assault, or indecent assault) that either had been, or were, under investigation.

For the purpose of this inspection, we defined abuse as wrongful death, assault, sexual assault, or theft. As of 9 June 2004 we had reviewed 103 summaries of Criminal Investigation Division (CID) reports of investigation and 22 unit investigation summaries conducted by the chain of command involving detainee death or alleged abuse. These 125 reports are in various stages of completion. No abuse was determined to have occurred in 31 cases; 71 cases are closed; and 54 cases are open or undetermined. Of note, the CID investigates every occurrence of a detainee death regardless of circumstances.

Recognizing that the facts and circumstances as currently known in ongoing cases may not be all inclusive, and that additional facts and circumstances could change the categorization of a case, the Team placed each report in a category for the purposes of this inspection to understand the overall numbers and the facts currently known, and to examine for a trend or systemic issue. This evaluation of alleged abuse reports is not intended to, nor should it, influence commanders in the independent exercise of their responsibilities under the Uniform Code of Military Justice (UCMJ) or other administrative disciplinary actions. As an Inspector General inspection, this report does not focus on individual conduct, but on systems and policies.

We separated these 125 cases into two categories:
(1) no abuse occurred
(2) confirmed or possible abuse

In the first category of no abuse occurring, we further separate the reports into deaths (to include death from natural causes and justified homicide as determined by courts martial) and other instances (to include cases where there was insufficient evidence to determine whether abuse occurred or where the leadership determined, through courts martial or investigation, that no abuse occurred). There were a total of 19 natural deaths and justified homicides, and 12 instances of insufficient evidence or determined that no abuse occurred. Deaths occurred at the following locations: 15 at I/R facilities; 1 at Central Collecting Points (CPs); 1 at Forward CPs; and 2 at the point of capture (POC) for a total of 19. Other instances where it was determined that no abuse occurred were at the following locations: 2 at I/R facilities; 1 at Central CPs; 2 at Forward CPs; 5 at the POC; and 2 at locations which could not be determined or did not fall into doctrinal categories, for a total of 12.

In the second category of confirmed or possible abuse, we further separated the reports into wrongful deaths, deaths with undetermined causes, and other alleged abuse (e.g., assault, sexual assault, or theft). There were a total of 20 deaths and 74 incidents of other alleged abuse. Deaths occurred at the following locations: 10 at I/R facilities; 0 at Central CPs; 5 at

Forward CPs; and 5 at the POC, for a total of 20. Other instances of alleged abuse occurred at the following locations: 11 at I/R facilities; 3 at Central CPs; 11 at Forward CPs; 40 at the POC; and 9 at locations which could not be determined or did not fall into doctrinal categories, for a total of 74.

This review indicates that as of 9 June 2004, 48% (45 of 94) of the alleged incidents of abuse occurred at the point of capture. For this inspection, the DAIG Team interpreted point of capture events as detainee operations occurring at battalion level and below, before detainees are evacuated to doctrinal division forward or central collecting points (CPs). This allowed the DAIG Team to analyze and make a determination to where and what level of possible abuse occurred. The point of capture is the location where most contact with detainees occurs under the most uncertain, dangerous and frequently violent circumstances. During the period of April-August 2003 when units were most heavily engaged in combat operations, 56% (29 of 52) of point of capture incidents were reported. Even during this period of high intensity combat operations, Soldiers and leaders identified incidents that they believe to be abuse and the command took action when reported. Most of the allegations of abuse that occurred at the point of capture were the result of actions by a Soldier or Soldiers who failed to maintain their self discipline, integrity, and military bearing, when dealing with the recently captured detainees. There are a few incidents that clearly show criminal activity by an individual or individuals with disregard of their responsibility as a Soldier.

This review further indicates that as of 9 June 2004, 22% (21 of 94) of the alleged incidents of abuse occurred at I/R facilities. This includes the highly publicized incident at Abu Ghraib. Those alleged abuse situations at the I/R facilities are attributed to: individual failure to abide by known standards and/or individual failure compounded by a leadership failure to enforce known standards, provide proper supervision and stop potentially abusive situations from occurring.

While recognizing that any abuse incident is one too many, through a review of the summary reports of the 125 investigations and categorizing them, the DAIG did not identify a systemic cause for the abuse incidents. The DAIG uses the term "systemic" specifically to describe a problem if it is widespread and presents a pattern. As defined by the DAIG in this report, a systemic issue may be found either horizontally across many various types of units, or vertically through many command levels from squad through division or higher level. The DAIG determined that incidents where detainees were allegedly mistreated occurred as isolated events. In a few incidents, higher ranking individuals up to Lieutenant Colonel were involved; however, the chain of command took action when an allegation of detainee abuse was reported.

Recognizing that the facts and circumstances as currently known in ongoing cases may not be all inclusive, and that additional facts and circumstances could change the categorization of a case, the Team placed each report in a category for the purposes of this inspection to understand the overall numbers and the facts currently known, and to examine for a trend or systemic issue. This evaluation of alleged abuse reports is not intended to influence commanders in the independent exercise of their responsibilities under the Uniform Code of Military Justice (UCMJ) or other administrative disciplinary actions.

The DAIG Team that visited Iraq and Afghanistan found no incidents of abuse that had not already been reported through command channels; all incidents were already under investigation. The DAIG Team that visited units recently returning from Iraq did receive a total of 5 new allegations of potential abuse that occurred prior to January 2004. In each of these cases, CID and the chain of command were notified of the allegations. There is no evidence of

any cover-up of current detainee abuse by U.S. Soldiers. This is consistent with the results of the teams' sensing sessions that all currently deployed Soldiers were aware of their responsibility to report abuse and appeared to be willing and able to report it.

In studying the actual abuse investigations, the incidents may be broken down into 2 broad categories. The first category will be referred to as isolated abuse, and the second as progressive abuse. The first are those incidents that appear to be a one-time occurrence. In other words, these are incidents where individual Soldiers took inappropriate actions upon the capture of detainees or while holding or interrogating them. The second category of detainee abuse, referred to as progressive abuse because these usually develop from an isolated incident into a more progressive abuse.

There is substantial research on the behavior of guards in prisons and Enemy Prisoner of War (EPW)/Prisoner of War (POW) camps, in addition to the Department of Defense (DoD) experience of running simulated prisoner of war resistance training. Research indicates that regardless of how good the training and oversight, some inappropriate behavior will occur. (For example, one of the seminal studies of prisoner/guard behavior is Haney, C., Banks, C., & Zimbardo, P., A Study of Prisoners and Guards in a Simulated Prison, the Office of Naval Research, 1973. For a more recent review, along with significant commentary, see Philip Zimbardo, A Situationalist Perspective on the Psychology of Evil: Understand How Good People are Transformed into Perpetrators, a chapter in Arthur Miller (Ed.) The social psychology of good and evil: Understanding our capacity for kindness and cruelty. New York: Guilford, 2004. Also worth reviewing are Stanley Milgram's studies, starting with Obedience to authority, New York: Harper & Row, 1974.) Because of this, the DoD simulated prisoner of war resistance training that prepares service members to resist exploitation, requires intensive oversight to prevent the abuse of Soldiers by other Soldiers.

Contributing factors to the first category of abuse include poor training (common in the cases the DAIG Team reviewed), poor individual discipline, novel situations (to include the stressors involved in combat operations), and a lack of control processes (specific oversight mechanisms). Commander's addressed the first category of abuse through counseling, administrative action, and UCMJ (up to and including courts-martial).

Below are 4 examples of this first category of detainee abuse from the 125 reported allegations referenced in the first paragraph of the inspection results above.

– One incident occurred at an internment/resettlement (I/R) facility where a Master Sergeant and her 3 subordinates attempted to beat several detainees as they arrived at the camp. Other Soldiers, not in her chain of command, prevented much of the potential abuse and then reported the Master Sergeant to the chain of command who took corrective action. All 4 Soldiers were administratively separated from the Army; 3 of these Soldiers also received nonjudicial punishment.

– In another incident a Specialist was threatening detainees by stating he would shoot them. A guard observed him making these threats and immediately turned the Specialist in to his chain of command. The commander took quick action, administering an Article 15, to prevent a recurrence.

– Another example occurred in an internment facility where a Specialist and a Staff Sergeant began to punish a detainee by using excessive force. Another Soldier from a different company joined them. The Platoon Sergeant discovered the incident and immediately relieved

both of the Soldiers in his platoon and pressed charges against all 3. All 3 received field-grade Article 15 punishments.

– Another illustrative incident occurred when an interrogator struck a detainee on the head during questioning. The International Committee of the Red Cross, via the mayor of the detainee's compound, discovered this after the fact. Once he was made aware of the incident, the Soldier's commander investigated and ultimately issued a field-grade Article 15. The commander then required 2 Soldiers to be present during every interrogation.

In these examples, abuse was discovered immediately by the command, and corrective actions were taken to prevent a recurrence. One comment made by a Noncommissioned officer (NCO) from a unit that did not have any abuse cases was that multiple levels of NCO oversight ensured compliance with the Rules of Engagement (ROE), and the team leaders and Platoon Sergeant maintained strict standards for all Military Police (MP). One interrogator NCO stated that in his unit there would be a number of people in the room during interrogations to ensure that Soldiers did not violate the Interrogation ROE.

The psychological research on abuse (see above) suggests that in similar situations, such as prisons, when some relatively minor abusive behavior occurs and corrective action is not taken, there is an escalation of violence. If there is uncorrected abuse and more people become involved, there is a diffusion of responsibility making it easier for individuals to commit abuse. The research further suggests that a moral disengagement occurs which allows individuals to rationalize and justify their behavior. (See Bandura, A., Moral Disengagement in the Perpetration of Inhumanities, Personality and Social Psychology Review, 1999.)

In at least 11 of the 125 incidents reviewed by the DAIG Team, immediate corrective action was not taken by the chain of command. The reasons for this leadership failure included either a lack of fundamental unit discipline, ambiguous command and control over the facility or individuals involved, ambiguous guidance from command on the treatment of detainees, no control processes in place to provide oversight and notify the command of the incident, or, in very few cases, leader complicity at the Lieutenant Colonel level and below in the actions. This led to the second category of detainee abuse, referred to as progressive abuse because these usually develop from an isolated incident into a more progressive abuse.

Here are 5 examples of this second category from the 125 reported allegations referenced in the first paragraph of the inspection results above, where actions were not taken until more generalized abuse had occurred.

– The incidents involving Tier 1A at Abu Ghraib began no later than October and continued until December 2003. The degradation of the detainees by the guard force appears to have started out with smaller, less-intensive types of abuse and humiliation, and increased to physical assault and injury. There were no formal control processes, such as a routine inspection of Tier 1A during the night hours or electronic monitoring, in place to easily identify abuse and bring it to the attention of the command. Eventually, a Soldier who knew it was wrong was made aware of the abuse and reported it to CID. Charges were preferred on 20 March 2004 against 6 reserve MP Soldiers for detainee abuse, and further investigation continues.

– In a different incident that resulted in a death, 2 Warrant Officers appeared to exhibit a pattern of abusive interrogations. A detainee, who was overweight and in poor physical health, died during an interrogation. The CID investigation contained sworn statements indicating that

physical beatings at this site were common during this time and alleged that the two Warrant Officers routinely slapped and beat the detainees they were questioning. There were no control processes in place to review the interrogation techniques used in this facility. There was apparently no oversight on the behavior of the interrogators, and, although many of the guard personnel were aware of the techniques being used, the abusive behavior was not reported. There was a perception among the guard personnel that this type of behavior by the interrogators was condoned by their chain of command. Both Warrant Officers received a General Officer Memorandum of Reprimand and further disposition of the case is under review.

– In another incident a platoon detained 2 individuals, later released them on a bridge, and made them jump into a river below. One of the detainees drowned. Sworn statements indicated the platoon "as a whole" had previously discussed having detainees jump off the bridge, and the planned action apparently had the support of the Platoon Sergeant. There is no evidence to support any previous incidents by this platoon, but these discussions are indicators that junior leader deficiencies at the platoon level contributed to the death of a detainee. CID continues to investigate this incident.

– There was an incident involving a Sergeant First Class (SFC) telling his subordinates to, "rough them up," referring to 2 detainees in custody. This occurred in the middle of the night without any oversight and at a division collecting point operated by an infantry unit. There are indications that this SFC had given similar guidance earlier. Several of the SFC's subordinates actually performed most of the subsequent beating. There is no evidence that the SFC had abused detainees previously. This incident was adjudicated by both Special and Summary Courts-Martial, with the SFC receiving a reduction to Staff Sergeant (SSG) and a punitive censure. One SSG was reduced to a Specialist and received 30 days confinement; another SSG pled guilty to one specification of violation of a lawful general order and was reduced to the grade of Sergeant. Finally, a Specialist was found guilty at a summary court-martial and his punishment included forfeiture of $1092 and hard labor without confinement for 45 days.

– One final example is an incident where a Soldier had been talking extensively with others in his unit about wanting to kill an Iraqi. This Soldier later shot and killed an Iraqi detainee who was flexi-cuffed and may have tripped while walking away from the Soldier. This incident is currently under investigation.

Although elimination of all abuse is the goal of the DoD Law of War Training several factors prevent the complete elimination of detainee abuse. These include:

a. The psychological process that increases the likelihood of abusive behavior when one person has complete control over another is a major factor. This is the same process that occurs in prisons, in EPW/POW camps, and in DoD resistance training. Even in well-trained and screened populations, it is a constant threat. This threat can be minimized through individual and unit training on proper procedures and standards of behavior and by leader supervision of actual operations.

b. Poor training in the handling of detainees increases the risk of abuse. Although most personnel interviewed had some training in the Law of Land Warfare, many did not have training specific to detainee handling. It was often the case that individuals conducting interrogations were not school-trained as interrogators.

c. Ambiguous instructions concerning the handling of detainees also greatly increase the risk of abuse. Some Soldiers believed their command encouraged behavior at the harsher end

of the acceptable range of behavior in the treatment of detainees. This can very quickly lead to abusive behavior, even if it is not the intent of the command. The Taguba Investigation makes clear that the 800th MP (I/R) Brigade leadership did not properly communicate to its Soldiers the requirements for the treatment of detainees. In order to mitigate the risk of abuse, commanders must give clear, unambiguous guidance, make sure that Soldiers understand the guidance, supervise Soldiers' operations, and then hold their Soldier's accountable for meeting standards.

d. Criminal behavior among a small percentage of Soldiers.

e. Combat operations, as a new experience for many Soldiers, combined with the above, may lead to Soldiers justifying abusive behavior as a result of their exposure to danger. This leads to a moral disengagement where Soldiers do not take responsibility for their actions.

f. Poor unit discipline, which is a function of poor leader supervision, allows abusive behavior an opportunity to occur. Again, the Taguba Investigation identified a serious lack of discipline among the units involved in detainee abuse.

The last 3 of these factors can be best prevented by making sure Soldiers understand the standards of behavior expected of them, and by leaders who maintain unit and individual discipline and exercise appropriate supervision of Soldiers.

Almost all of the abuse cases studied by the DAIG Team were isolated events. The Soldiers' chain of command, when notified of the allegation of abuse, took appropriate action and prevented further abusive behavior. The DAIG Team found that most abuse incidents were isolated events that, when discovered, were immediately corrected by commanders at battalion level and lower.

Those cases where corrective action did not occur, usually because the chain of command was not aware of the abuse, resulted in a continuation of abuse or a progression from talking about abuse to actually committing abuse. Factors that influenced this progression of abuse and responsive actions taken by units to mitigate these factors were:

a. Poor oversight and poor control mechanisms to inspect and check on Soldiers' behavior decreased the likelihood that abuse would be discovered by command. This led to a breakdown in the command and control of Soldiers interacting with detainees. One NCOIC stated that the chain of command did not visit his location very often, and that when they began to receive enemy fire, he did not see the Commander or Command Sergeant Major (CSM). In response, over time, several units developed standing operating procedures that incorporated specific control mechanisms, such as requiring a certain number of personnel to be present during interrogations, having all Soldiers sign a document outlining acceptable behavior, and tasking independent officers to monitor all detainee operations, with the ability to observe anything, anytime, within their facility.

b. A command climate that encourages behavior at the harsher end of the acceptable range of behavior towards detainees may unintentionally, increase the likelihood of abuse. One officer interviewed stated that there is often a "do what it takes" mindset. This appeared to be more prevalent in the early days of the war in Iraq. Among other responses, the CJTF-7 Rules for Detainee Operations, published 30 November 2003, states, "Treat all persons with dignity and respect." In addition, on 12 October 2003, CJTF-7 published a memorandum stating all interrogations would be, "applied in a humane and lawful manner with sufficient oversight by

trained investigators or interrogators. Interrogators and supervisory personnel will ensure uniform, careful, and safe conduct of interrogations."

c. In the few cases involving the progression to more serious abuse by Soldiers, tolerance of inappropriate behavior by any level of the chain of command, even if minor, led to an increase in the frequency and intensity of abuse. In a few cases, the perception, accurate or not, that Other Governmental Agencies(OGA) conducted interrogations using harsher methods than allowed by Army Regulation, led to a belief that higher levels of command condoned such methods. As noted in paragraph b above, CJTF-7 began to publish specific guidance that emphasized the humane treatment of detainees. At the time of the DAIG Team's visit to the theater, leaders and Soldiers uniformly understood the need to treat detainees humanely.

It is evident there were Soldiers who knew the right thing to do and reported abuse when they discovered it. Soldiers who believed that abusive behavior was not acceptable reported almost all of the abuse incidents. Some of these Soldiers stopped other Soldiers from hurting detainees, demonstrating moral courage in the face of peer pressure. Others reported serious abuse when it involved their comrades and leaders. This finding on abuse focused on a very small percentage of Soldiers who may have committed abusive behavior, and not on the vast majority that, even under the stress of combat and poor living conditions, and presented with sometimes resistant and hostile detainees, have treated all within their care humanely.

(4) Root Cause: Detainee abuse was an individual failure to uphold Army Values and in some cases involved a breakdown in the leadership supervision of Soldiers' behavior.

(5) Recommendation: Commanders enforce the basic fundamental discipline standards of Soldiers, provide training, and immediately correct inappropriate behavior of Soldiers towards detainees to ensure the proper treatment of detainees.

Recommendation: Commanders assess the quality of leadership in units and replace those leaders who do not enforce discipline and hold Soldiers accountable.

Recommendation: TRADOC develop and implement a train-the-trainer package that strongly emphasizes leaders' responsibilities to have adequate supervision and control processes in place to ensure the proper treatment of detainees.

Recommendation: TRADOC integrate training into all Professional Military Education that strongly emphasizes leaders' responsibilities to have adequate supervision and control processes in place to ensure the proper treatment of detainees.

Recommendation: The G3 require pre-deployment training include a strong emphasis on leaders' responsibilities to have adequate supervision and control processes in place to ensure proper treatment of, and prevent abuse of, detainees.

c. **Finding 3:**

(1) Finding: Of all facilities inspected, only Abu Ghraib was determined to be undesirable for housing detainees because it is located near an urban population and is under frequent hostile fire, placing Soldiers and detainees at risk.

(2) Standard: See Appendix E.

(3) Inspection Results: Abu Ghraib was overcrowded, located near a densely populated urban area and on a dangerous main supply route, and subject to frequent hostile enemy fire from enemy mortars or rockets. The facility was located approximately 20 miles west of Baghdad. The entire encampment of Abu Ghraib was quite large, covering 280 acres. This facility has had up to 10,000 persons interned there and was considered the most notorious landmark in all of Iraq, made so by the previous regime under Saddam Hussein.

Abu Ghraib consisted of three distinct separate facilities: the hard site prison complex, Camp Vigilant, and Camp Ganci. Except for Tier 1, the rest of the hard site prison complex (Tiers 2 through 7) was under complete control of Iraqi prison guards under supervision of the Coalition Provisional Authority. Criminals were housed there who had committed crimes against other Iraqis. Camp Vigilant was under complete U.S. Armed Forces control. It was the least populated facility of the three at Abu Ghraib, housing several hundred detainees.

The facility employs over 1500 Soldiers and civilians and there is no Post Exchange (PX) within the walls of Abu Ghraib. This was one of the major complaints from Soldiers. Routine trips for PX runs did not occur because of the danger in traveling to Camp Victory on the main supply route. Soldiers complained that they could not get necessary clothing and uniform items when needed.

On 19 March 2004, the official detainee headcount in Camps Ganci and Vigilant was 5967 detainees under U.S. control. This number frequently fluctuated because of releases, transfers, or additional captures of detainees. Including the hard site, there were 7490 detainees on this date. Only one internment/resettlement (I/R) Military Police battalion was charged with managing, operating, and maintaining security of Camps Ganci and Vigilant. By doctrine an I/R battalion should support the following ratios: up to 4,000 EPWs/CIs; 8,000 dislocated civilians; or 1,500 U.S. Armed Forces prisoners. The Taguba Investigation also addressed the problems of under-manning at Abu Ghraib.

Abu Ghraib also did not have sufficient protection measures in place to protect the detainees from hostile fire. Abu Ghraib was frequently under mortar and small arms fire. Detainees suffered casualties in the past due to enemy hostile fire. Detainees at Camps Vigilant and Ganci did not have access to protective bunkers or shelters, placing them at great risk.

Camp Ganci was overcrowded with a population of over 5000 detainees at the time of the DAIG inspection. Camp Ganci was designed and built as an Enemy Prisoner of War (EPW) camp, and the camp living environment was not conducive to a criminal or high security population. The population of the camp alone made security and control inherently difficult and dangerous. There were 8 compounds in Camp Ganci, and the capacity for each compound was 500. During the inspection, the average population was from 600 to 700 detainees per compound.

Camp Ganci's 8 compounds inside of Abu Ghraib had similar problems with the guard towers and perimeter triple-standard concertina wire that the old compounds at Camp Bucca suffered. The overcrowding and cramped conditions at Camp Ganci, and the fact that the distance between each compound was only 30 to 40 feet, compounded the safety and security concerns for Soldiers. Detainee rioting had occurred in the past. Lighting at Camp Ganci was poor, especially at compound 6, according to interviewed Soldiers. The physical design of the camps within the facility was not optimal for the mission. The towers, for example, provided limited visibility due to numerous blind spots. Towers supporting Camp Ganci were not placed

reasonably well, as they should have been, with good fiel ds of fire. Some towers faced each other, and there were some identified blind spots throughout the compounds according to interviewed Soldiers. Entrance and egress to the compounds were hampered by cumbersome, makeshift gates made of concertina wire and wood that dragged across the ground. This made rapid access very difficult. Sally ports were used primarily as gates or "slow down" barriers.

The Single Channel Ground/Air Radio System (SINCGARS) system used at Abu Ghraib, when operable, was maintained inside the compound for communication with units outside the compound and the roving patrols. Because many units were using the same frequency, crossed radio traffic was common between roving patrols, other outside units, and the Tactical Operations Center (TOC) inside the compound. The facility NCOIC at Abu Ghraib stated there was also a shortfall in radios, which hampered communications and security within the compound. In some instances, the guards in the towers had communication with the TOC, but not with the roving guards on the ground. So, in order to communicate with a tower, the roving guards would have to yell up to them. The guards would also have to yell up to the towers when they wanted to pass information to the TOC. Due to the ineffective communication systems at Abu Ghraib and Camp Bucca, Soldiers took it upon themselves to purchase handheld commercial radios to communicate within the camps. Because these radios are unsecured, they pose a communications security (COMSEC) problem; frequencies can be easily monitored by outside forces using the same commercially available radios. The commercial radios were also unable to communicate with the military issue radios.

During sensing sessions, NCOs at Abu Ghraib stated there were no standardized procedures for searching Iraqis entering the compound. The DAIG Team's findings are consistent with the Ryder Report that stated, "The lack of policy and standard operating procedures results in inconsistent application of basic security protocols. Visitation is a serious opportunity to introduce security and safety hazards."

Refuse and litter were seen within one of the Ganci compounds. It could not be determined if the trash was actually refuse that had migrated to the surface from an old landfill site on which Camp Ganci was built. There was approximately one portable latrine per 25 detainees, and there was a contract in place to clean the latrines. There was, however, a bad smell throughout the area from sewage because disinfectant chemicals were not replaced in the latrines. According to sensing sessions, there were only 12 showerheads in each Ganci compound for 600 to 700 detainees. The detainees showered every other day, but the guards ran all 600 to 700 detainees through the process in 2 hours. The lack of laundry capabilities or services for the detainees was similar to the situation at Camp Bucca. Detainees had tubs and soap, but there was no accountability on where the tubs were and how many there were. The unit submitted a contract request to start a laundry service for detainees.

The supply of fresh water was difficult to maintain at the required levels for drinking and personal hygiene for both Soldiers and detainees. According to interviews, Abu Ghraib received fresh water from a Baghdad city water main that frequently broke down. A 3-day supply (200K gallons) was required to be on-hand. The day before the DAIG Team arrived, the reserve water supply was down to 50K gallons. Rationing of fresh water was not uncommon for Soldiers and detainees according to leaders and Soldiers from interviews and sensing sessions.

Food quality for detainees was a serious issue at Abu Ghraib. Spoiled and contaminated food (rodent droppings and dirt) had been delivered by the contractor for the detainees in the past. Units at Abu Ghraib had to use unit stocks of Meals, Ready to Eat

(MREs) to distribute to detainees instead. The unit was working with the contracting officer to remedy the substandard work of the contractor.

Other problems observed included problems with the existing power generators and lack of ventilation for the detainees.

There were planned and ongoing projects at Abu Ghraib. The new Entry Control Point (ECP) was recently completed. This will allow 200 visitations of detainee family members a day and will provide a stand-off of 100 meters for force protection. The project included a new parking lot. Another ongoing project was the new reception center. Besides the ECP and reception center, other projects planned include: perimeter fencing around Abu Ghraib; completion of Camp Avalanche (recently renamed Camp Redemption), a new facility with a capacity of 3000 detainees; and future plans to upgrade Camps Ganci and Vigilant. Both the Taguba Investigation and Ryder Report mentioned the need for structural improvements and renovations at various facilities. The Taguba Investigation stated the need for structural improvements, including enhancements of perimeter lighting, additional chain link fencing, staking down of all concertina wire, hard site development, and expansion of Abu Ghraib. One recommendation of the Ryder Report included renovation of all available cells at Abu Ghraib to facilitate consolidation and separation of the different categories of detainees. The Ryder Report also recommended modification of the Abu Ghraib master plan that allowed expansion and increased detainee capacity by means of renovation. All of the improvements mentioned in the Taguba Investigation and Ryder Report are needed at Abu Ghraib if U.S. Forces continue to use it as an I/R facility. However, because of its location in a densely populated urban area and the frequent hostile fire, the DAIG Team found that the facility should be phased out as an I/R facility, with Camp Bucca becoming the primary I/R facility in Iraq.

Abu Ghraib will be the central facility for the Iraqi Prison System after transition to the interim government. However, Abu Ghraib's location near an urban and hostile environment goes against doctrine for setting up I/R facilities. The area lends itself to poor and dangerous living and working conditions. In contrast, Camp Bucca in southern Iraq is isolated from local Iraqi populations, not frequently attacked, and is close to vital supply lines and logistical support (Navistar in Kuwait). Camp Bucca has room to expand if necessary and is already used as an overflow facility for Abu Ghraib. At the time of the DAIG visit, the detainee population of Camp Bucca was just over 1700. The new compounds at Camp Bucca (1 through 6) have a capacity for 4500 detainees. If the old compounds (7 through 11) are renovated in the same manner as the new compounds, Camp Bucca could reasonably expand the population capacity by several thousand if needed. Once the Camp Bucca expansion is completed and the "Iraqi on Iraqi "criminal population at Camp Ganci are segregated from other detainees, a phase out of Abu Ghraib as an I/R facility and complete turnover to the interim Iraqi government can take place.

(4) Root Cause: Units operating the Abu Ghraib facility were overwhelmed by the frequent hostile fire, the overcrowded conditions, and the deteriorating infrastructure.

(5) Recommendation: CJTF-7 expand Camp Bucca as an internment/resettlement facility in order to transfer detainees from Camps Ganci and Vigilant, and phase out U.S. Armed Forces detainee operations at Abu Ghraib completely.

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Chapter 4

Interrogation Operations

1. **Summary of Findings:** Commanders recognized the need for timely, tactical human intelligence and adapted to the environment by keeping detainees longer at the point of capture and collecting points to gain and exploit intelligence. Commanders and interrogators conducted tactical questioning to gain immediate battlefield intelligence. Holding detainees longer than 72 hours increased requirements for facility infrastructure, medical care, preventive medicine, trained personnel, logistics, and security.

Doctrine does not clearly and distinctly address the relationship between the Military Police (MP) operating I/R facilities and the Military Intelligence (MI) personnel conducting intelligence exploitation at those facilities. Neither MP nor MI doctrine specifically defines the distinct but interdependent roles and responsibilities of the two in detainee operations. MP doctrine states MI may collocate with MP at detention sites to conduct interrogations, and coordination should be made to establish operating procedures. MP doctrine does not, however, address approved and prohibited MI procedures in an MP-operated facility. It also does not clearly establish the role of MPs in the interrogation process. Conversely, MI doctrine does not clearly explain MP internment procedures or the role of MI personnel within an internment setting.

There is no DoD or Army policy that addresses the establishment and operation of interrogation facilities, including Joint Interrogation Facilities (JIFs) and Joint Interrogation and Debriefing Centers (JIDCs). Doctrine provided in two field manuals (FMs) dealing with military intelligence, FM 34-52 and FM 3-31, Joint Force Land Component Commander Handbook (JFLCC), 13 December 2001, contains inconsistent guidance on terminology, structure, and function of these facilities.

Shortfalls in numbers of interrogators and interpreters, and the distribution of these assets within the battlespace, hampered human intelligence (HUMINT) collection efforts. Valuable intelligence—timely, complete, clear, and accurate—may have been lost as a result. Interrogators were not available in sufficient numbers to efficiently conduct screening and interrogations of the large numbers of detainees at collecting points (CPs) and internment/resettlement (I/R) facilities, nor were there enough to man sufficient numbers of Tactical Human Intelligence Teams (THTs) for intelligence exploitation at points of capture. Interpreters, especially those Category II personnel authorized to participate in interrogations, were also in short supply.

Interviewed MI leaders and Soldiers indicated that G2s and S2s were conducting interrogations of detainees without the proper training on the management of HUMINT analysis and collection techniques. They were not adequately trained to manage the full spectrum of HUMINT assets being used in the current operating environment. The need for these officers to understand the management of HUMINT operations is critical to successful HUMINT exploitation in the current operating environment.

Army doctrine found in Field Manual (FM) 34-52, Intelligence Interrogation, 28 September 1992, lists 17 accepted interrogations approach techniques. It states that those approach techniques are not inclusive of all possible or accepted techniques. The DAIG Team reviewed interrogation approach techniques policy for both OEF and OIF and determined that

CJTF-180 and CJTF-7 included additional interrogation approach techniques not found FM 34-52. The DAIG Team found that officially approved CJTF-7 and CJTF-180 policies and the early CJTF-180 practices generally met legal obligations under Geneva Convention Relevant to Prisoners of War (GPW), the Geneva Convention Relative to the Protection of Civilian Persons in Time of War (GC), the UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), the U.S. Torture statute, 18 USC §§2034, 2034A, if executed carefully, by trained soldiers, under the full range of safeguards. The DAIG Team found that some interrogators may not have received formal instruction from the U.S. Army Military Intelligence Center on interrogation approach techniques not contained in FM 34-52. Additionally, the DAIG Team found that while commands published interrogation approach policy, some subordinate units were unaware of the current version of those policies. Content of unit interrogator training programs varied among units in both OEF and OIF. However, no confirmed instance involving the application of approved approach techniques resulted in an instance of detainee abuse.

2. **Findings:**

a. **Finding 4:**

(1) Finding: Tactical commanders and leaders adapted to the environment and held detainees longer than doctrinally recommended due to the demand for timely, tactical intelligence.

(2) Standard: See Appendix E.

(3) Inspection Results: In OPERATION ENDURING FREEDOM (OEF) and OPERATION IRAQI FREEDOM (OIF), company through division units held detainees longer than the doctrinal timeframes. By doctrine, companies and battalions are to evacuate detainees as quickly as possible to a division forward collecting point (CP). Interviewed point of capture battalion and company leaders stated 61% (25 of 41) of their units established CPs and held detainees at their locations from 12 hours up to 30 days. Of the geographically remote inspected companies and battalions, 3 of 3, established CP s at their locations. By doctrine, division forward CPs are located at maneuver brigades and can hold detainees for up to 12 hours before evacuating to division central CPs.

All interviewed leaders from 11 division forward CPs stated their facilities held detainees from 24 hours up to 54 days. By doctrine, division central CPs are located near the division support area (DSA) and can hold detainees for up to 24 hours before evacuating to the corps holding area (CHA) or internment/resettlement (I/R) facility. All interviewed leaders from 4 central CPs stated their facilities held detainees from 72 hours up to 45 days.

The primary reason units held detainees at these locations was to conduct screenings and interrogations closer to the point of capture. The result of holding detainees for longer timeframes at all locations was increased requirements in facility infrastructure, medical care, preventive medicine, trained personnel, logistics, and security. Organic unit personnel at these locations did not have the required institutional training and were therefore unaware of, or unable, to comply with Army policies in areas such as detainee processing, confinement operations, security, preventive medicine, and interrogation.

Current detainee doctrine is written to apply to a linear battlefield with an identifiable combat zone and rear area, and with the presumption that detainees at the point of capture will

normally be enemy prisoners of war (EPWs). EPWs are to be humanely evacuated from the combat zone to internment facilities (normally located in the corps communication zone (COMMZ)). Evacuation is accomplished as quickly as possible for the safety of the EPWs and to ensure operations of the maneuver unit are not hampered. Doctrine assumes EPWs are normally captured forward in the combat zone by company and battalion-sized units. While doctrine does provide for interrogations to be conducted at forward locations, it limits the time detainees should be held at these sites.

By doctrine, EPWs are evacuated from companies and battalions to a division forward CP located in the brigade area of operations. A forward CP is normally a guarded, roped-off area (concertina or razor tape) or a secure fixed facility, with potable water, a latrine, and a trench or cover for protection from indirect fire. A division MP company commander plans for a platoon to operate the forward CP and process EPWs using the STRESS method (search, tag, report, evacuate, segregate, and safeguard). The MP company medical section provides medical support. Additional medical support can be requested by the brigade medical officer from the forward support battalion (FSB). EPWs doctrinally do not remain at a forward CP for more than 12 hours before being escorted to the division central CP.

By doctrine, the division central CP is established near the division support area (DSA). The central CP is larger than the forward CP, contains some type of tentage or uses an existing shelter/structure to protect detainees from the elements. The central CP may have multiple water and latrine sites. A division MP company operates the CP and continues to process EPWs using the STRESS method. The MP company medical section provides medical support. Units within the DSA provide support as stated in the division operations order. EPWs do not remain at a central CP for more than 24 hours before being escorted to the CHA.

By doctrine, a CHA is usually located near a base or base cluster in the corps rear area with one CHA to support each division conducting operations. Normal hold time at the CHA is 72 hours, but the CHA must be prepared to hold EPWs for extended periods until they are evacuated to an internment facility or until hostilities end. A CHA is a semi-permanent facility. The capture rate and captive categories determine the size of the CHA, and it should be divided into two or more compounds for segregation, security, and ease of control. The CHA has areas designated for EPW reception, processing, storage and accountability of detainee property, interrogation, medical facilities, showers, and protection from direct and indirect fire. A corps MP platoon or corps MP company operates a CHA and may be augmented with additional MPs. Support agreements can be arranged between MP headquarters and a base or base cluster where the CHA is located. Class I through Class IX supplies are requested through logistics channels and Class VIII through medical channels.

Doctrine does not address the unique characteristics of OIF and OEF, specifically operations in non-linear battlespaces and large numbers of detainees whose status is not readily identifiable as combatants, criminals, or innocents. In OIF and OEF, units held detainees at division CPs longer than doctrinal timeframes and established CPs at companies and battalions. Commanders held detainees at forward locations to facilitate more effective initial screenings (to determine detainees' status and disposition) and to obtain more timely intelligence than would be obtained from interrogations at I/R facilities. Interviews and sensing sessions with leaders and Soldiers indicated a common perception at the unit level that once a detainee was evacuated, interrogations conducted at higher echelon facilities did not return tactical intelligence to the capturing unit. Furthermore, commanders and MI personnel perceived additional value in holding detainees at CPs where they can be segregated and intelligence is less likely to be compromised. Detainees held at CPs were also available for

follow-up interrogations and clarifications of details based on the tactical exploitation of intelligence previously provided. Finally, interrogators at CPs are familiar with the unique local characteristics that enable more effective intelligence exploitation, i.e., religious affiliation, tribal affiliation, and regional politics.

Doctrine does not address how to effectively screen and interrogate large numbers of captured persons of undetermined status. Unlike EPWs, detained persons in OIF and OEF did not have a clear status upon capture. Capturing units were attempting to screen persons close to the point of capture to confer status in a timely manner. By doing so, they could quickly release innocent persons with no intelligence value who would otherwise burden the detention system, or detain combatants or persons of potential intelligence value for continued exploitation. In situations where effective screening couldn't be accomplished at the point of capture, companies and battalions established collecting points and held detainees instead of evacuating them to higher echelons. The time detainees were held at company and battalion locations varied from 12 hours up to 30 days based on the number of detainees and the availability of interrogators.

A result of holding detainees at CPs was company, battalion, brigade and divisional units were being required to meet the standards of CHAs without the organic resources (trained personnel, materials, equipment, and facilities) to do so. The DAIG Team found most personnel, especially at battalion and brigade CPs, did not have the training to perform the humanitarian, security, and administrative requirements for extended holding times. Because most personnel were not trained in detention operations they were unaware of Army doctrinal requirements, policies, and procedures that address the specific responsibilities for confinement, security, preventive medicine, and interrogation. The DAIG Team found most CP operations were conducted using standing operating procedures (SOPs) developed by previous units; internal tactics, techniques, and procedures; common sense; and basic soldier skills and knowledge.

Holding detainees for longer periods of time at CPs increases the infrastructure requirements from those needed for mobile, temporary holding areas to the more substantial demands of semi-permanent facilities. CPs have to provide increased internal and external security to physically contain the detainees. Considerations have to be made for areas designated for detainee reception, processing, storage and accountability of detainee property, interrogation, medical care, latrines, and protection from direct and indirect fire. The medical requirements for the care of detainees increase (e.g., trained personnel, supplies, and equipment), as do the requirements for preventive medicine (e.g., showers, sundry packs, pest control, and facility inspections). Units have increased requirements for logistics (e.g., Class I, Class II (shotguns, restraints, communications, and uniforms), Class III, Class V (non-lethal ammunition), and security (e.g., permanent external guard force and quick reaction force).

Detainee doctrine does not address operations in a non-linear battlespace. Doctrine was written for operations on a linear battlefield on which EPWs were to be quickly evacuated to corps holding areas or I/R facilities. Commanders in OIF and OEF were holding detainees closer to the point of capture to expedite intelligence exploitation. The result of holding detainees forward of I/R facilities was that companies, battalions, brigades and divisions were being required to meet higher standards of detainee humanitarian care when these units are not organically resourced with the trained personnel, materials or equipment to operate semi-permanent facilities. The DAIG Team found that battalions, brigades or divisions operating CPs are not trained or resourced to run semi-permanent collection/holding facilities, and no units are fully compliant with Army policy. The DAIG Team also found that the inspected units were

treating detainees humanely and in accordance with the provisions of the Geneva Conventions. Units continue to physically improve the facilities of the CPs and obtain external support for personnel and resources.

Although the Ryder Report cited changes are required in doctrine and organizational structure related to detention and correction operations, it did not go into specific details. The report did note the wide variance of standards and approaches at collecting points and recommended assessing the tactical feasibility of decreasing the number of collection points.

(4) Root Cause: Units did not comply with doctrine that requires the quick evacuation of detainees to internment facilities. Units held detainees at CPs closer to the point of capture for longer periods of time to conduct more effective interrogation and intelligence exploitation.

(5) Recommendation: TRADOC revise doctrine to address the criteria for establishing and operating collecting points to enable commanders to more effectively conduct intelligence exploitation in a non-linear battlespace.

b. **Finding 5:**

(1) Finding: Doctrine does not clearly specify the interdependent, and yet independent, roles, missions, and responsibilities of Military Police and Military Intelligence units in the establishment and operation of interrogation facilities.

(2) Standard: See Appendix E.

(3) Inspection Results: Doctrine does not provide clear guidance on the relationship between Military Police (MP), responsible for the safekeeping of detainees, and Military Intelligence (MI), responsible for intelligence collection. Neither MP nor MI doctrine clearly defines the distinct but interdependent roles, missions, and responsibilities of the two in detainee operations. MP doctrine states MI may collocate with MP at detention sites to conduct interrogations, and coordination should be made to establish operating procedures. MP doctrine does not, however, address approved and prohibited MI procedures in an MP-operated facility. It also does not clearly establish the role of MPs in the interrogation process. Conversely, MI doctrine does not clearly explain MP internment procedures or the role of MI personnel in an internment setting. Subordination of the MP custody and control mission to the MI need for intelligence can create settings in which unsanctioned behavior, including detainee abuse, could occur. Failure of MP and MI personnel to understand each other's specific missions and duties could undermine the effectiveness of safeguards associated with interrogation techniques and procedures. Failure of MP and MI personnel to understand each other's specific missions and duties could undermine the effectiveness of safeguards associated with interrogation techniques and procedures.

MP doctrine explicitly outlines MP roles and responsibilities in operating collecting points (CPs), corps holding areas (CHAs) and internment/resettlement (I/R) facilities. MP doctrine identifies the priorities of detainee operations as the custody and control of detainees and the security of the facility. MP doctrine states detainees may be interrogated at CPs, CHAs and I/R facilities operated by MPs to facilitate the collection of intelligence information. It highlights the need for coordination between MP and MI to establish operating procedures. MPs are responsible for passively detecting and reporting significant information. MPs can assist MI screeners by identifying captives who may have information that supports Priority Intelligence Requirements (PIRs). MPs can acquire important information through observation and insight

even though they are not trained intelligence specialists. MP interaction with detainees is limited, however, to contact necessary for the management of a safe and secure living environment and for security escort functions during detainee movement. Thus, active participation by MPs in the intelligence exploitation process is not within the doctrinal scope of the MP mission.

MI doctrine clearly states MPs command and operate CPs and CHAs, but it does not address operational authority for I/R facilities. MI doctrine specifies MPs conduct detainee receipt, escort, transport, and administrative processing functions, including document handling and property disposition. MI doctrine in FM 34-52, contrary to MP doctrine in FM 3-19.1, contains a passage that implies an active role for MPs in the screening/interrogation process: "Screeners coordinate with MP holding area guards on their role in the screening process. The guards are told where the screening will take place, how EPWs and detainees are to be brought there from the holding area, and what types of behavior on their part will facilitate the screenings." The implication in FM 34-52 that MPs would have an active role in the screening process is in conflict with MP doctrine that states MPs maintain a passive role in both the screening and interrogation processes. This passage could cause confusion with MI personnel as to the role of MPs in screenings and interrogations. The Ryder Report addressed the issue of MPs maintaining a passive role in interrogations, stating that, "Military police, though adept at passive collection of intelligence within a facility, do not participate in Military Intelligence supervised interrogation sessions." The report further states that the active participation of MPs in interrogations could be a source of potential problems: "Such actions generally run counter to the smooth operation of a detention facility, attempting to maintain its population in a compliant and docile state." The Ryder Report recommends establishing "procedures that define the role of military police soldiers securing the compound, clearly separating the actions of the guards from those of the military intelligence personnel."

Additionally, two intelligence oriented field manuals, FM 34-52, Intelligence Interrogation (discussed above), and FM 3-31, Joint Force Land Component Commander Handbook (JFLCC), contain inconsistent guidance on terminology, structure, and function of interrogation facilities. Neither field manual address the relationship of MI and MP personnel within those facilities. FM 34-52 describes a Theater Interrogation Facility (TIF). FM 3-31 describes a Joint Interrogation Facility (JIF) and Joint Interrogation and Debriefing Center (JIDC). Interrogation facilities in OEF and OIF identified themselves as JIFs and JIDCs. Commanders and leaders structured the organization and command relationships within these JIFs and JIDCs to meet the unique requirements of their operating environments.

The DAIG Team determined MP and MI doctrine did not sufficiently address the interdependent roles of MP and MI personnel in detainee operations in OEF and OIF. Doctrine needs to be updated to clearly specify the roles and responsibilities of MPs in the intelligence exploitation of detainees. It should also clearly specify the roles and responsibilities of MI personnel within MP-operated internment facilities. For example, MP and MI doctrine should address and clarify: (1) command and control relationship of MP and MI personnel within internment facilities; (2) MPs' passive or active role in the collection of intelligence; (3) interrogation techniques and the maintenance of good order within the detention facility; (4) detainee transfer procedures between MP and MI to conduct interrogations, including specific information related to the safety and well-being of the detainee; and (5) locations for conducting interrogations within I/R or other facilities.

(4) Root Cause: Current doctrine does not adequately address or prepare MP or MI units for collaboratively conducting detainee operations and provides inconsistent guidance on terminology, structure, and function of interrogation facilities.

(5) Recommendation: TRADOC develop a single document for detainee operations that identifies the interdependent and independent roles of the Military Police custody mission and the Military Intelligence interrogation mission.

Recommendation: TRADOC establish doctrine to clearly define the organizational structures, command relationships, and roles and responsibilities of personnel operating interrogation facilities.

Recommendation: The Provost Marshal General revise, and the G2 establish, policy to clearly define the organizational structures, command relationships, and roles and responsibilities of personnel operating interrogation facilities.

Recommendation: The G3 direct the incorporation of integrated Military Police and Military Intelligence detainee operations into field training exercises, home station and mobilization site training, and combat training center rotations.

c. **Finding 6:**

(1) Finding: Military Intelligence units are not resourced with sufficient interrogators and interpreters, to conduct timely detainee screenings and interrogations in the current operating environment, resulting in a backlog of interrogations and the potential loss of intelligence.

(2) Standard: See Appendix E.

(3) Inspection Results: Shortfalls in numbers of interrogators (Military Occupational Specialty (MOS) 97E and 351E)) and interpreters, and the distribution of these assets within the battlespace, hampered human intelligence (HUMINT) collection efforts. Valuable intelligence—timely, complete, clear, and accurate—may have been lost as a result. Interrogators were not available in sufficient numbers to efficiently conduct screening and interrogations of the large numbers of detainees at collecting points (CPs) and internment/resettlement (I/R) facilities, nor were there enough to man adequate numbers of Tactical Human Intelligence (HUMINT) Teams (THTs) for intelligence exploitation at points of capture. Interpreters, especially those Category II personnel authorized to participate in interrogations, were also in short supply. Interrogations were conducted at locations throughout the battlespace by trained military interrogators, contract interrogators, and, in some forward locations, by leaders and Soldiers with no training in military interrogation tactics, techniques, and procedures. Interrogations observed by DAIG Team members were conducted in accordance with Army policy and doctrine. Policy and doctrine clearly reinforce and fully comply with the provisions of the laws of land warfare, and all Army interrogators are trained extensively on approved and prohibited interrogation techniques.

The quantity and distribution of military interrogators were insufficient to conduct timely intelligence exploitation of non-compliant detainees in the current operational environment. 78% (18 of 23) of interviewed S2s and G2s stated the shortage of interrogators at points of capture and company and battalion CPs resulted in untrained combat leaders and Soldiers conducting screenings and field interrogations. 89% (17 of 19) of interviewed military interrogators cited a shortage of interrogators, resulting in backlogs of interrogations at I/R

facilities. Military interrogators at Abu Ghraib stated there were detainees that had been in custody for as long as 90 days before being interrogated for the first time.

In OEF and OIF, the total number of interrogators varied by unit and location. Each division (1ID, 1AD, 4ID, 1st CAV, 82nd ABN, and 101st ABN) deployed with an MI battalion that was resourced with interrogators. The 519th MI BN of the XVIII ABN Corps, and the 202nd MI BN, echelons above corps, deployed with interrogators. The 30th and 39th Army National Guard (ARNG) Separate Brigades were resourced with interrogators. All of the above units supplemented interrogators with counterintelligence Soldiers (MOS 97B and 351B) to increase interrogation capabilities. The 205th MI Brigade, V Corps; 504th MI Brigade, III Corps; and the 902nd MI Group had no interrogators and therefore conducted all interrogations using counterintelligence Soldiers. The number of interrogators in the above units varied from 4 in the ARNG Separate Brigades to 16 in some divisions, to approximately 60 in the 519th MI BN. Military interrogators in OIF were supplemented by 31 contract interrogators. (12 contract interrogators have re-deployed for personal reasons since the blanket purchase agreement (contract) was issued 14 August 2003). CJTF-180 was preparing to hire contract interrogators for OEF at the time of the inspection.

Because detainees have varying degrees of intelligence value, there is no doctrinal formula to determine the recommended ratio of interrogators and interpreters to detainees. All detainees require initial screening after capture to determine their status and potential intelligence value. The requirement for interrogation of each detainee is unique and ba sed on potential intelligence yield, the characteristics of the detainee, and the information requirements of the unit. Some detainees may only require a single screening to determine their status and be released, while others will be screened, determined to be of intelligence value, and subsequently interrogated a few times, several times over many weeks, or numerous times over many months. The ratio of interrogators to detainees varied at each facility. At Abu Ghraib there were 120 interrogators for 1500 detainees determined to be of intelligence value; at Brassfield-Mora there were 2 interrogators for 50 such detainees; and at Bagram there were 12 interrogators for 192 detainees of intelligence value.

Category II Arabic, Pashtu, and Dari interpreters--interpreters with U.S. citizenship, but no security clearances-- were also identified as shortages throughout OEF and OIF. As crucial players in every aspect of operations, skilled interpreters were in high demand. The quality of intelligence derived from an interrogation can depend greatly on the ability of the interpreter to work effectively with the interrogator. An effective interpreter must not only convey the accurate meaning of language, he/she must be able to express the implied message in the demeanor of the interrogator. To function together as a successful team requires specific, individualized training prior to employment in the field, as well as time working together to maximize their effectiveness. Category II interpreters should be deployed in sufficient numbers to support the commander's intelligence gathering requirements.

Detainee operations in a non-linear battlespace presented a unique challenge, requiring screening operations to be placed closer to points of capture. Using properly trained HUMINT soldiers to screen detainees in the immediate vicinity of the point of capture reduces the number of innocents detained, produces more timely intelligence, and increases the quality of evidence collection and documentation for use in future judicial proceedings. One senior MI officer indicated that his division only had the manpower to utilize THTs at points of capture approximately 10% of the time. Failure to position trained HUMINT Soldiers close to points of capture puts a burden on units farther up the chain of custody and delayed the collection of timely intelligence. The backlog of unscreened detainees quickly overwhelmed the internment

system in OIF, where I/R facilities were unprepared to deal with such large numbers of detainees. This slowed the process of intelligence exploitation and prevented the timely release of detainees who were apprehended and later found to have no intelligence value and to be of no threat to Coalition Forces.

If performed by trained interrogators, front-line interrogations offer other advantages. Recently captured persons are less likely to resist the interrogator. They also have not yet entered the general detainee population where they can conspire with others to resist interrogation techniques. In untrained hands, however, these advantages can be lost. To satisfy the need to acquire intelligence as soon as possible following capture, some officers and noncommissioned officers (NCOs) with no training in interrogation techniques began conducting their own interrogation sessions. Inexperienced and untrained persons using unproven interrogation techniques often yield poor intelligence and can harden detainees against future questioning by trained interrogators. The potential for abuse increases when interrogations are conducted in an emotionally-charged environment by untrained personnel who are unfamiliar with the approved interrogation approach techniques. The quality of these interrogations was further eroded by the absence of Category II interpreters. Category I interpreters—local nationals without security clearances—were the only interpreters available in forward locations, and there was no way to guarantee the accuracy or trustworthiness of their work.

The Military Intelligence (MI) School has internally resourced a mobile training team (MTT) to offset the shortage of interrogators in the field. The MTT trains non-MI personnel in the skills and knowledge required to perform basic questioning techniques and operations in order to enhance ongoing HUMINT collection missions at the tactical level. Tactical questioning (TQ) is a critical element of small unit operations. Tactical Questioning (TQ) is defined as the questioning of the local population (noncombatants and enemy prisoners of war (EPWs)/detainees) for information of immediate tactical value. Through TQ, the handling of detainees, and the handling of captured documents, Soldiers serve as the commander's eyes and ears. The information that the Soldiers report as a result of TQ is passed up the chain of command and forms a vital part of planning and operations. The TQ MTT has trained approximately 4000 Soldiers as of March 2004.

Current military interrogation procedures as published in FM 34-52, Intelligence Interrogations, 28 September 1992, and taught at the U.S. Army Intelligence Center, Fort Huachuca, remain valid. Interrogation approach techniques, themselves, are addressed in Finding 9. Military interrogators receive 16.5 weeks of intensive training on interrogation procedures and techniques at the Army's Human Intelligence Collector Course. This training includes collection priority, screening, planning and preparation, approaches, questioning, and termination of interrogations. A total of 192 hours of direct and indirect training on the laws of land warfare emphasizes compliance of all military interrogation techniques with the Geneva Conventions and Army policy. Prohibited activities are covered in detail and reinforced in interrogation operation exercises.

Interrogation approach techniques policies were issued for OEF and OIF. The CJTF-7 Commander issued initial interrogation approach techniques policy on 14 September 2003, and amended the interrogation approach techniques policy on 12 October 2003 and 13 May 2004. The CJTF-180 Commander issued approved interrogation approach techniques policy on 16 March 2004.

The DAIG Team observed 2 detainee facilities using digital video recording devices, 1 in Afghanistan and 1 in Iraq. Because interrogations are confrontational, a monitored video

recording of the process can be an effective check against breaches of the laws of land warfare and Army policy. It further protects the interrogator against allegations of mistreatment by detainees and provides a permanent record of the encounter that can be reviewed to improve the accuracy of intelligence collection. All facilities conducting interrogations would benefit from routine use of video recording equipment.

In summary, the DAIG Team found the quantity and distribution of military interrogators were insufficient to conduct timely intelligence exploitation of non-compliant detainees in OEF and OIF. Military interrogators observed in OEF and OIF were performing interrogations of detainees in accordance with doctrine.

(4) Root Cause: The shortages of interrogators and interpreters at all echelons caused commanders and other leaders to use untrained personnel to conduct interrogations of detainees. Insufficient numbers of Category II interpreters, especially those with experience working with interrogators, further hampered interrogation operations.

(5) Recommendation: TRADOC and G2 ensure documentation of unit organizations meet interrogator personnel manning requirements, authorizations, and capabilities in order to provide commanders with timely intelligence.

Recommendation: The CFLCC contracting officer representative ensure enough Category II interpreters are hired to support timely intelligence exploitation of detainees.

d. **Finding 7:**

(1) Finding: Tactical Military Intelligence officers are not adequately trained on how to manage the full spectrum of the collection and analysis of human intelligence.

(2) Standard: See Appendix E.

(3) Inspection Results: Interviewed Military Intelligence (MI) leaders and Soldiers indicated that G2s and S2s were conducting interrogations of detainees without the proper training on the management of Human Intelligence (HUMINT) analysis and collection techniques. They were not adequately trained to manage the full spectrum of HUMINT assets being used in the current operating environment. The counterintelligence team leaders (TL) interviewed expressed a wish that all G2s and S2s were trained on how to manage the collection and analysis of HUMINT. The need for these officers to understand the management of HUMINT operations is the key for successful HUMINT exploitation in the current operating environment. Battalion commanders, company commanders, and platoon leaders were interrogating detainees at the point of capture according to counterintelligence TLs interviewed. They complained about this practice because these leaders were not properly trained in interrogation techniques and quite possibly jeopardized the intelligence gathering process to acquire timely intelligence from detainees. Counterintelligence TLs were told on several occasions by these leaders that they had the interrogations under control and did not require their Military Intelligence (MI) assistance.

Currently, MI officers only receive a general overview of HUMINT during their Professional Military Education (PME) courses. During the Military Intelligence Officer Basic Course (MIOBC), MI officers receive a 9 day Intelligence Battlefield Operating System (IBOS) block of instruction which includes a 6-hour block on: review/reinforcement of counterintelligence/human intelligence principles; counterintelligence organizations; Subversion

& Espionage Directed Against U.S. Army & Deliberate Security Violations (SAEDA); and the role of the tactical human intelligence teams (THTs). Furthermore, the MIOBC students receive approximately an hour block of instruction from their Stability and Support Operations (SASO) instructor on displaced civilians/refugees on the battlefield.

MI Captain Career Course (MICCC) officers receive a one-hour block of instruction in their intelligence support to brigade operations (ISBO) on imagery intelligence (IMINT), counterintelligence/human intelligence, and signals intelligence (SIGINT). Additionally, during practical exercises the students receive 40 hours of Stability and Support Operations (SASO) training, 32 hours of threat training, and 2 hours of crime link training from their instructor. Also, during intelligence, surveillance, and reconnaissance planning the basic principles of counterintelligence/HUMINT are reinforced during practical exercises (30 minutes in length) that addresses IMINT, counterintelligence/HUMINT, and SIGINT being used on the battlefield to collect intelligence information. During the Intelligence Support Course to division, corps, and joint officers, there is one day of counterintelligence/HUMINT training. This training includes an overview, specific training, and a practical exercise for counterintelligence/HUMINT. Additionally, the 35E series (Counterintelligence Officer) course conducts counterintelligence/HUMINT training for 8 hours, and the Strategic Intelligence Officer Course conducts counterintelligence /HUMINT training for 5 hours.

Interviewed career course captains with experience in OPERATION ENDURING FREEDOM (OEF) and OPERATION IRAQI FREEDOM (OIF) from the Military Intelligence school stated their home station training on detainee operations was limited and concentrated on EPWs or compliant detainee populations. These officers stated the training they received at the MI Basic Course did not provide them with enough training to prepare them to conduct detainee or human intelligence gathering operations.

The G2, in coordination with TRADOC, has created a G2X/S2X Battle Staff Course to begin in July 2004 for MI officers. The G2X/S2X Battle Staff Course will prepare a G2X/S2X staff of a deploying Army division with the capability to synchronize, coordinate, manage and de-conflict counterintelligence and HUMINT sources within the division's area of responsibility (AOR). The G2X/S2X program of instruction (POI) will be tailored for a staff operating within a Joint or multi-national (Coalition) environment which will focus on real world missions, Army-centric, and counterintelligence/HUMINT tool-specific training. The G2X/S2X curriculum is based upon the counterintelligence/HUMINT critical tasks and incorporates J2X/G2X/S2X emerging doctrine/methodology and lessons learned. This course will be hands-on and application based. The G2X/S2X Battle Staff Course provides the critical knowledge and skills required to enable the G2X staff to successfully synchronize and monitor asset management to place sources against the combatant commander's target in support of the mission.

The G2, in coordination with the MI School, is currently revising Field Manual (FM) 34-52, Intelligence Interrogation, 28 September 1992. Additionally, the G2 is spearheading a coordinated effort with TRADOC and the U.S. Army Military Police School to synchronize between the 3 disciplines of intelligence, surveillance, and reconnaissance, particularly in the area of detainee handling and internment/resettlement facility management.

Interviewed and sensed leaders and Soldiers stated that the Law or War training they received prior to deployment did not differentiate between the different classifications of detainees causing confusion concerning the levels of treatment. Even though this confusion existed, the vast majority of leaders and Soldiers treated detainees humanely.

TRADOC, in coordination with the Office of the Judge Advocate General, is currently determining the feasibility of increasing or adjusting Law of War training in the proponent schools to include procedures for handling civilian internees and other non-uniformed personnel on the battlefield.

(4) Root Cause: The MI School is not adequately training the management of HUMINT to tactical MI officers. The MI School has no functional training course available to teach the management of HUMINT.

(5) Recommendation: TRADOC continue the integration of the G2X/S2X Battle Staff Course for all Military Intelligence officers assigned to G2X/S2X positions.

Recommendation: TRADOC integrate additional training on the collection and analysis of HUMINT into the Military Intelligence Officer Basic Course program of instruction.

e. **Finding 8:**

(1) Finding: The DAIG Team found that officially approved CJTF-7 and CJTF-180 policies and the early CJTF-180 practices generally met legal obligations under U.S. law, treaty obligations and policy, if executed carefully, by trained soldiers, under the full range of safeguards. The DAIG Team found that policies were not clear and contained ambiguities. The DAIG Team found implementation, training, and oversight of these policies was inconsistent; the Team concluded, however, based on a review of cases through 9 June 2004 that no confirmed instance of detainee abuse resulted from the approved policies.

(2) Standard: See Appendix E.

(3) Inspection Results: Interrogation approach techniques policy is identified by several different titles by the different commands of OEF and OIF. For the purpose of standardization of this report those titles will be referred to collectively as interrogation approach techniques policy.

Army doctrine found in Field Manual (FM) 34-52, Intelligence Interrogation, 28 September 1992, lists 17 accepted interrogations approach techniques. It states that those approach techniques are not inclusive of all possible or accepted techniques. The DAIG Team reviewed interrogation approach techniques policy for both OEF and OIF and determined that CJTF-180 and CJTF-7 included additional interrogation approach techniques not found FM 34-52. The DAIG Team found that officially approved CJTF-7 and CJTF-180 policies and the early CJTF-180 practices generally met legal obligations under Geneva Convention Relevant to Prisoners of War (GPW), the Geneva Convention Relative to the Protection of Civilian Persons in Time of War (GC), the UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), the U.S. Torture statute, 18 USC §§2034, 2034A, if executed carefully, by trained soldiers, under the full range of safeguards. The DAIG Team found that some interrogators may not have received formal instruction from the U.S. Army Military Intelligence Center on interrogation approach techniques not contained in FM 34-52. Additionally, the DAIG Team found that while commands published interrogation approach policy, some subordinate units were unaware of the current version of those policies. Content of unit interrogator training programs varied among units in both OEF and OIF. However, no confirmed instance involving the application of approved approach techniques resulted in an instance of detainee abuse.

The 17 approved interrogation approach techniques listed in FM 34-52 are direct, incentive, emotional love, emotional hate, fear-up (harsh), fear-up (mild), fear-down, pride and ego-up, pride and ego-down, futility, we know all, file and dossier, establish your identity, repetition, rapid fire, silent, and change of scene. Approach techniques can be used individually or in combination as part of a cohesive, logical interrogation plan. These approach techniques are found in the current training curriculum at the Military Intelligence School. The FM states these approach techniques are "not new nor are all the possible or acceptable techniques discussed. Everything the interrogator says and does must be in concert with the GWS [Geneva Convention For the Amelioration of the Wounded and Sick in Armed Forces in the Field], GPW, GC and UCMJ [Uniform Code of Military Justice]." The FM further states, "Almost any ruse or deception is usable as long as the provisions of the GPW are not violated." Techniques considered to be physical or mental torture and coercion are expressly prohibited, including electric shock, any form of beating, mock execution, and abnormal sleep deprivation.

The FM gives commanders additional guidance in analyzing additional techniques. On page 1-9 it states: "When using interrogation techniques, certain applications of approaches and techniques may approach the line between lawful actions and unlawful actions. It may often be difficult to determine where lawful actions end and unlawful actions begin. In attempting to determine if a contemplated approach or technique would be considered unlawful, consider these two tests: Given all the surrounding facts and circumstances, would a reasonable person in the place of the person being interrogated believe that his rights, as guaranteed under both international and U.S. law, are being violated or withheld if he fails to cooperate. If your contemplated actions were perpetrated by an enemy against U.S. PWs [Prisoners of War], you would believe such actions violate international or U.S. law. If you answer yes to either of these tests, do not engage in the contemplated action. If a doubt still remains as to the legality of the proposed action, seek a legal opinion from your servicing judge advocate."

The FM lists four primary factors that must be considered when selecting interrogation approach techniques:

(1) The person under interrogation's mental or physical state,
(2) The person under interrogation's background and experience,
(3) The objective of the interrogation, and
(4) The interrogator's background and abilities.

The DAIG Team found some interrogation approach techniques approved for use at Guantanamo Bay were used in development of policies in OEF and OIF. As interrogation policy was developed for Joint Task Force (JTF) Guantanamo, the Commander, U.S. Southern Command requested additional approach techniques to be approved. A Working Group on Detainee Interrogations in the Global War on Terrorism was convened. This group was required to recommend legal and effective interrogation approach techniques for collection of strategic intelligence from detainees interned at Guantanamo Bay. The working group collected information on 39 existing or proposed interrogation tactics, techniques and procedures from the U.S. Central Command (CENTCOM) and U.S. Southern Command in a 6 March 2003 report. It recommended approval of 26 interrogation approaches.

A memorandum on 16 April 2003, entitled "Counter-Resistance Techniques" approved 26 specific techniques for use only by JTF Guantanamo. It required the use of 7 enumerated safeguards in all interrogations. The memorandum stated that the use of any additional interrogation techniques required additional approval. The instructions noted that the intent in

all interrogations was to use "the least intrusive method, always applied in a humane and lawful manner with sufficient oversight by trained investigators or interrogators."

Both CJTF-180 and CJTF-7 developed interrogation policies for intelligence exploitation operations in OEF and OIF. All policies contained additional interrogation approach techniques other than those identified in FM 34-52. The DAIG Team identified this occurred for three reasons: (1) Drafters referenced the JTF Guantanamo policy memorandum as a basis for development for their policy; (2) In two instances, published policy made reference to the 8 May 1987 version of FM 34-52 which listed a technique that was later removed from the 28 September 1992 revision; and (3) Some intelligence personnel believed that additional interrogation techniques would assist in more effective intelligence exploitation of a non-compliant or hardened detainee population. Both OEF and OIF included safeguards in their policy, although they differed from each other and from the 16 April 2003 memorandum applicable to JTF Guantanamo. Reliance on the Guantanamo policy appears to contradict the terms of the memorandum itself which explicitly states it was applicable to interrogations of unlawful combatants at JTF Guantanamo and failed to take into account that different standards applied to JTF Guantanamo, CJTF-180 and CJTF-7.

The DAIG Team found that CJTF-7 issued a series of evolving policy statements, while CJTF-180 only issued one policy. The DAIG Team, however, found evidence of practices that had been in effect in Afghanistan since at least early 2003. The DAIG Team reviewed the officially approved interrogation approach technique policies for both CJTF-7 and CJTF-180, and the record of practices in use in CJTF-180 prior to adoption of a formal policy. The changes in policies and practices, over time, reflect the struggle that commanders faced in developing approach techniques policies that were both effective and complied generally with legal obligations applicable to the theater. In Iraq, in particular, the commander was faced with a group of detainees that ranged from Enemy Prisoners of War (EPW's), to security internees (SI's) to unlawful combatants. In both theaters, commanders were operating under combat conditions, facing the death and wounding of scores of U.S. soldiers, civilians and other non-combatants on a daily basis. Their decisions and decision-making process must be viewed against this backdrop.

The DAIG Team found that officially approved CJTF-7 and CJTF-180 policies and the early CJTF-180 practices generally met legal obligations under U.S. law, treaty obligations and policy, if executed carefully, by trained soldiers, under the full range of safeguards. The approved policies, however, presented significant risk if not executed in strictest compliance with their own safeguards. In this light, the caution noted in FM 34-52 (above) appears applicable, "It may often be difficult to determine where lawful actions end and unlawful actions begin." In a high-stress, high pressure combat environment, soldiers and subordinate leaders require clear, unambiguous guidance well within established parameters that they did not have in the policies we reviewed.

The DAIG Team found that the established policies were not clear and contained ambiguity. The absence of clarity could have been mitigated by additional training, detailed planning and brief-backs, detailed case-by-case legal analysis and other command and staff execution safeguards. In the absence of the safeguards, however, the commands could have embarked on high risk interrogation operations without adequate preparation or safeguards. Contributing to the ambiguity were command policies that included both approved techniques and security and safety provisions. While some security provisions provide a secondary benefit to an interrogation, it is not proper to use the security provision solely for the purpose of causing this secondary benefit in the interrogation. Both the CJTF-180 and CJTF-7 policies and the

known CJTF-180 practices prior to their first published policy, imprudently mixed discussion of security provisions into interrogation techniques. This added to the possible confusion regarding whether a particular action was truly a security provision or an interrogation technique. While the language of the approved policies could be viewed as a careful attempt to draw the line between lawful and unlawful conduct, the published instructions left considerable room for misapplication, particularly under high-stress combat conditions.

Application of the additional techniques involving higher risk of violations required additional training for interrogators. Formal school training at the U.S. Army Intelligence Center and School (USAICS) for both MOS 97E, Enlisted Human Intelligence Collector, and 351E, Warrant Officer Human Intelligence Collection Technician, provides instruction on the interrogation approach techniques identified in FM 34-52. The DAIG Team identified that interrogators only received training on doctrinal approach techniques listed in FM 34-52 from the USAICS, however, some interrogators may have received training on the additional approach techniques at the unit level. Interviewed intelligence personnel stated they were also trained on the additional approaches through mobile training teams. In some organizations, the team found a comprehensive unit training program; in others, the team found no formal or standardized interrogator training program. Inadequately trained interrogators present an increased risk that the approach technique will be improperly applied. The team found no indication that a lack of training resulted in an improper application of any particular technique or techniques; however, it remains critical that units applying any of the additional interrogation approach techniques have a comprehensive training program as a risk mitigation measure for those higher risk techniques.

The DAIG Team observed that although both CJTF-180 and CJTF-7 published interrogation approach technique policies, some inspected units were unaware of the correct command policy in effect at the time of inspection. The differences noted were omission of approved approach techniques and failure to note that a particular approach technique required higher command approval. The team was unable to determine if inspected units with incorrect versions of higher headquarters policy had requested authorization to use, or had used, any of the additional techniques. The unit policies did include safeguards consistent with the higher headquarters policy. As with other sensitive changes in unit mission orders, commanders should ensure that they have an effective feedback mechanism to ensure subordinate units receive, acknowledge and comply with changes in approved approach techniques.

Interviews and sworn statements from personnel in both CJTF-180 and CJTF-7 indicated that some of the approach techniques included in their policies, but not listed in FM 34-52, were used by some interrogators. The DAIG team found no indication of the frequency or consistency with which these additional approach techniques were employed. The DAIG Team conducted a review of 125 case summaries from the Criminal Investigation Division (CID) and unit investigations available as of 9 June 2004. Based on a review of case summaries, and despite the significant shortcomings noted in the command policies and practices, the team was unable to establish any direct link between the use of an approved approach technique or techniques and a confirmed case of detainee abuse.

(4) Root Cause: Commanders perceived interrogation approach techniques found in FM 34-52 were insufficient for effective intelligence exploitation of non-compliant detainees in OEF and OIF and published high risk policies that presented a significant risk of misapplication if not trained and executed carefully. Not all interrogators were trained on all approved approach techniques.

(5) Recommendation: TRADOC, in coordination with G2 and TJAG, revise doctrine to identify interrogation approach techniques that are acceptable, effective and legal for non-compliant detainees.

Recommendation: CJTF-7 and CJTF-180 ensure that standardized policy on interrogation approach techniques are received, understood, trained and enforced by all units.

Chapter 5

Other Observations

1. **Summary of Findings:** We examined seven key systems (Leadership and Discipline, Policy and Doctrine, Military Intelligence/Military Police Relationship, Organizational Structures, Facilities, Resources, and Training and Education) that influence how detainees are handled throughout the detention process, including interrogations. In the course of that examination we identified a number of observations that while not critical, require attention and resolution. None of the findings contributed directly to any specific case of abuse. The recommendations accompanying the 15 following findings are designed to improve our ability to properly conduct detainee operations.

2. **Findings:**

a. **Finding 9:**

(1) Finding: Interviewed leaders and Soldiers stated the unit's morale (71%) and command climate (68%) had steadily improved due to competent leadership, caring for Soldiers by leaders, and better working and living conditions as the theater matured.

(2) Standard: See Appendix E.

(3) Inspection Results: We attempted to determine the effect of stress and morale on detainee operations and conducted a Combat/Operational Stress Survey. We interviewed or sensed more than 650 leaders and Soldiers and received 603 of the surveys back. The DAIG Team found that 71% (428 of 603) of leaders and Soldiers surveyed stated the unit's morale, (71%, 428 of 603) and command climate (68%, 410 of 603) had steadily improved in OPERATION ENDURING FREEDOM (OEF) and OPERATION IRAQI FREEDOM (OIF). The survey results found that leaders and Soldiers perceived that morale and the command climate was good. The results of the survey, interviews, and sensing sessions showed that the morale and command climate improved due to competent leadership, caring for Soldiers by leaders, and better working and living conditions as the theater matured. The DAIG Team also found that most perceptions of morale and command climate varied widely between senior leaders, junior leaders, and Soldiers. The morale and command climate perception was higher for those interviewed and surveyed leaders and Soldiers who deployed prior to November 2003 and had redeployed from OEF/OIF than those that were still in country or arrived after the first of the year when living conditions started to improve.

The morale and command climate perceptions varied depending upon the difficulty of the unit's mission and its location. Soldiers conducting detainee operations in remote and dangerous locations complained of very poor to poor morale and command climate due to the lack of higher command involvement and the perception that their leaders did not care. These Soldiers stated that the leadership from higher commands hardly ever visited their locations, they were living in much worse conditions than other Soldiers, they suffered increased dangers, they were untrained to perform their mission, and the work schedule/lack of personnel depth caused them to "burn out."

Of the Soldiers who arrived in theater since November/December 2003 (61%, 194 of 318), expressed morale as good to excellent, while 51% (145 of 285) of Soldiers who deployed during the initial stages of OEF/OIF complained of poor morale, but also expressed that it seemed to get better with time.

Most Soldiers talked of how morale improved as living and working conditions improved. A majority of Soldiers mentioned the arrival of air conditioning, installation of Internet cafes, rest and recuperation (R&R) trips to Qatar, and environmental leave as some of the things that improved morale. Many engaged in Morale, Welfare, and Recreation (MWR) activities, such as weight lifting, basketball, softball, billiards, and ping-pong. Many enjoyed TV, hot meals, satellite phones, volleyball, and MWR bands in some locations. Soldiers were very pleased with how the leaders helped and listened to them more than they had before. The majority of Soldiers got more downtime or time off when possible. Most leaders expressed a need to continue to obtain more comfort items sooner to speed up improvements in living conditions as a measure to boost the morale.

The survey was given to every leader and Soldier that was interviewed and in sensing sessions both in theater and CONUS. The survey revealed that the majority of leaders and Soldiers agreed that unit members can depend, cooperate, and stand up for each other, which are factors of having good unit morale. In addition, leaders and Soldiers were told when they were doing a good job, were not embarrassed in front of peers, and were not assigned extra missions by leadership to look good for the chain of command, which are some indicators that there is a perception of a good command climate. Although the morale and command climate was poor under certain conditions, it steadily improved as living conditions in the theater improved over time.

(4) Recommendation: CFLCC, CJTF-7, and CJTF-180 continue to stress the importance of positive unit morale and command climate.

b. **Finding 10:**

(1) Finding: Detainee administration, internment, and intelligence exploitation policy and doctrine does not address detainee operations conducted in the current operating environment, which has a higher demand for human intelligence exploitation at the tactical level and the need for additional classifications of detainees.

(2) Standard: See Appendix E.

(3) Inspection Results:

POLICY

Although classified detainee operations policy has been issued to address individual situations at specific geographic locations, current published detainee operations policy in AR 190-8, Enemy Prisoners of War, Retained Personnel, Civilian Internees and Other Detainees, 1 October 1997, does not address additional definitions of detainee designations and related treatment requirements. In addition to enemy prisoners of war (EPWs) in OPERATION IRAQI FREEDOM (OIF) and compliant, non-hostile civilian internees (CIs) in OPERATION ENDURING

FREEDOM (OEF) and OIF, units were faced with capturing, transporting, segregating and controlling other categories of detainees, such as non-state combatants and non-compliant CIs. AR 190-8 also does not address the relationship between mission requirements for re-establishing a civilian prison system and detainee operations. Policy must address requirements for expanded employment of confinement expertise for managing detainee security, custody, and control challenges for a wider array of detainee designations. Policy must also address the confinement expert's role in standing up indigenous prison systems, enabling rapid segregation and transfer of criminal detainee populations from U.S. Forces to indigenous control.

The DAIG Team found the addition of new detainee administrative policy classifications of detainees resulted in inconsistent administrative procedures. Current doctrine, regulations, and policy are based on a linear battlefield and a largely compliant population, with the primary goal of removing individuals from the battlefield. In addition to EPWs and compliant, non-hostile CIs, units in OEF and OIF were confronted with capturing, transporting, processing, and confining other classifications of detainees, such as non-state combatants and non-compliant CIs. The nature of the environment in which we now conduct detainee operations requires a more specific classification of the detainees interned. Instead of compliant, non-hostile detainees, units are capturing and transporting non-state combatants, insurgents, criminals, and detainees who are either known or perceived security threats. Policy needs to be updated to address the management of detainees captured and detained primarily for intelligence exploitation, the potential security threat they may pose, or the pending reestablishment of indigenous prison systems.

Army Regulation (AR) 190-8, Enemy Prisoners of War, Retained Personnel, Civilian Internees and Other Detainees, 1 October 1997, accords appropriate legal status using four detainee classifications: EPW, Retained Personnel (RP), CI, and Other Detainees (OD). In OEF and OIF, various fragmentary orders, policy memorandums, and unit standing operating procedures utilized several variations on these classifications, including Enemy Combatants, Under-privileged Enemy Combatant, Security Internee, Criminal Detainee, Person Under U.S. Forces Control (PUC), and Low Level Enemy Combatant (LLEC). In accordance with AR 190-8, administrative and treatment requirements are based on the classification assigned to a particular detainee. For example, detainees are to be segregated in facilities according to their status. The development of classifications not correlated to one of the four terms defined in AR 190-8 resulted in confusing and ambiguous requirements for those charged with managing detainees and created the potential for inconsistent treatment. From points of capture to internment/resettlement (I/R) facilities, there are varying degrees of understanding as to which standards apply to the various classifications of detainees in OEF and OIF. Policy does not specifically address administrative responsibilities related to the timely release of detainees captured and detained primarily for intelligence exploitation and/or the potential security threat they may pose. Administrative processing of detainees by units in OEF and OIF was not standardized or fully compliant with policy and doctrine.

The time between capture and receipt of an Internment Serial Number (ISN) at an I/R facility far exceeded the time specified in policy and doctrine. Once the detainee reached an I/R facility, the required documentation received from collecting points (CPs) was often incomplete. The National Detainee Reporting Center (NDRC) did not receive all mandatory data elements, or in a timely manner, as detainee designation was often not determined until long after capture. From points of capture to corps holding areas, detainees are to be moved "as soon as practical"

depending on the condition of the detainee, the threat faced in moving them, and military necessity. The non-linear nature of the battlespace and missions dependent on human intelligence made administrative processing a secondary priority to intelligence exploitation of detainees. This had additional second- and third-order effects on accountability, security, and reporting requirements for detainees. Detaining individuals primarily for intelligence collection or because of their potential security threat, though necessary, presented units with situations not addressed by current policy and doctrine.

Administrative processing is further hampered by the absence of the Branch Prisoner of War Information Center (now called the Theater Detainee Reporting Center (TDRC)), the central agency in theater required by policy to manage information on all EPW, CI and RP and their personal property. This resulted in missing data on individual detainees, poor detainee and property accountability, and the inability of the NDRC to completely and accurately report all required data elements to the DoD, the Army, and other appropriate agencies. Inadequate property accountability could also result in claims against the U.S. government for losses incurred by detainees while in U.S. custody.

According to Department of Defense Directive (DoDD) 2310.1, DoD Program for Enemy Prisoners of War (EPOW) and Other Detainees, 18 August 1994, the transfer of detainees to or from the custody and control of U.S. Forces requires the approval of the Assistant Secretary of Defense for International Security Affairs (ASD(ISA)). In OEF, oversight of detainee operations policy was transferred from ASD(ISA) to the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict (ASD(SO/LIC)) in a memorandum dated 17 January 2002, SUBJECT: Responsibility for Detainees in Association with the Global War on Terrorism. In OIF, ASD(ISA) maintained transfer authority under DoDD 2310.1 for most detainees, but ASD(SO/LIC) had authority under the 17 January 2002 memorandum for specific classifications of detainees. Release decisions were made by commanders or review boards at multiple echelons of detention in OIF, from points of capture to the Detainee Release Board (DRB) developed by CJTF-7. The DAIG Team did not find evidence of ASD(ISA) oversight of release decisions in OIF.

Complex detainee release mechanisms contributed to overcrowding of I/R facilities. Multiple reviews were required to make release recommendations prior to approval by the release authority. Non-concurrence by area commanders, intelligence organizations or law enforcement agencies resulted in retention of larger numbers of detainees. Interviews with the CJTF-7 Chief Magistrate, Appeal & Review Board members, and Release Review Board members indicated they believed up to 80% of detainees being held for security and intelligence purposes might be eligible for release upon review of their cases with the other 20% either requiring continued detention due to security reasons or continued intelligence requirements. Interviews also indicated area commanders were reluctant to concur with some release decisions out of concern that potential combatants may be re-introduced into their areas of operation. The Ryder Report referenced the overcrowded conditions and recommended holding Iraqi magistrate proceedings at individual facilities, reducing the requirement to manage many detainees centrally. Release of those individuals locally would substantially reduce the detainee population and the related resources and manpower, and would improve the capability to manage the remaining population. The remaining detainee population would be made up of only those criminals awaiting the restoration of the Iraqi prison system, those who are under active or pending interrogation, or those being held for specific security reasons.

During interviews and sensing sessions, the DAIG Team noted all Active Component and Reserve Component leaders indicated that current detainee operations policy was not consistent with the requirements of ongoing operations in OEF and OIF. Detainee operations policy must reflect requirements of the Future Force for strategic and operational versatility—conducting combat and stability operations simultaneously—while operating in a joint environment. As Army Transformation continues, detainee operations policy should be appropriate for and responsive to the requirements of non-linear battlespaces. Policy should provide specific guidance for a wider array of detainees who have significantly varying security requirements. This will reduce confusion in relation to the applicability of these requirements to various categories of detainees.

The Ryder Report points to several areas where current policy is not sufficient for detainee operations. It stated that, ". . . more detailed instructions in areas such as discipline, instruments of restraint, and treatment of prisoners awaiting trial. . ." are needed. The report suggested that the 800th MP Brigade's challenges in adapting its organizational structure, training, and equipment resources to expand from a purely EPW operation to also managing Iraqi and third country national detainee populations can be attributed to a lack of policy guidance. The Taguba Investigation also points to a lack of sufficient policy and training on existing policy.

The DAIG Team concluded DoD-developed classifications of detainees were different from those found in AR 190-8 and led to inconsistent segregation of these groups as directed by policy. The lack of an adequate system-wide capacity for handling detainees, the lack of specific policy on adequacy of information/evidence collection, and the lack of an operating detainee release process at all echelons, along with the perceived need to conduct interrogations closer to the point of capture, caused units to retain detainees beyond doctrinal time periods and without properly segregating the various classifications of detainees. The decision by capturing units to hold and interrogate detainees also interfered with the policy requirements for accountability of detainees and their property within the system, leading to substantial delays in determining an individual's status and his/her subsequent disposition. Policy must address the appropriate, safe, secure, and humane custody of detainees, the specialized confinement skills required in a high-risk detainee I/R setting, and the need for timely intelligence exploitation of detainees in a non-linear battlespace. Lack of a TDRC contributed to units' failure to administratively process detainees in accordance with all regulations and policy, and the loss of theater-wide detainee and property accountability. Incomplete documentation and a cumbersome review process caused detainees to be held for extended periods of time and contributed to the overcrowding of I/R facilities.

DOCTRINE

Current doctrine was designed to quickly evacuate compliant, non-hostile enemy prisoners of war (EPWs) and CIs from point of capture to I/R facilities. It does not envision the demands of gaining immediate, tactical human intelligence, hence the requirement to detain and interrogate at lower levels. The nature of OEF and OIF battlespaces, coupled with the urgent need for human intelligence (HUMINT), compelled many units to adapt their tactics, techniques, and procedures (TTPs) for conducting detainee operations. While the necessary basic skill sets and organizational responsibilities contained in current detainee operations doctrine remain applicable, the procedural timelines for detainee processing and movement from the point of capture to the I/R facilities do not consider current operational needs. Also the unit task

organizations for detainee processing and movement are not properly resourced to meet many of the challenges faced in OEF and OIF.

During interviews and sensing sessions, the DAIG Team noted leaders and Soldiers indicated current detainee operations doctrine was not consistent with the requirements of ongoing operations. According to current doctrine, the swift flow of detainees to the rear is critical in getting them to trained interrogators for intelligence exploitation, and to secure them in I/R facilities designed and operated for long-term internment. Under present doctrine, combat units must rely on support elements from other units to perform many mission-related tasks (e.g., MPs to provide escort and guard functions, and Tactical Human Intelligence (HUMINT) Teams (THTs) to screen detainees at points of capture and forward collecting points (CPs)). While current doctrine is meant to relieve combat formations of the significant manpower and logistical requirements for managing detainees before they have a negative impact on combat effectiveness, it has failed to do so in OEF and OIF. Current doctrine does not address a non-linear battlespace where units at division level and below hold detainees for extended periods of time to provide commanders with intelligence for the conduct of effective tactical operations. Traditional task organizations are not properly resourced to meet the needs of this new operating paradigm.

Standing operating procedures (SOPs) for CPs and I/R facilities that were drafted by units prior to deployment (and in accordance with current doctrine) were found early on to be outdated based on the current operating environment for OEF and OIF. Soldiers were required to perform effectively in a variety of missions across a spectrum of operations. Units quickly found themselves taking on roles in detainee operations which were unanticipated. For example, the need for timely intelligence compelled officers and Noncommissioned officers (NCOs) in combat units to conduct tactical questioning even though none had been trained in proper interrogation TTPs. Manpower shortages at CPs and I/R facilities were satisfied by using in lieu of (ILO) units; most received little or no training in detainee operations.

The limitations of current doctrine meant that mission, enemy, terrain and weather, time, troops available, and civilian (METT-TC) considerations often drove the design and operations of division CPs and battalion and company CPs. This had negative second- and third-order effects on the accountability, intelligence exploitation, security, and safeguarding of detainees. Instead of capturing and rapidly transporting detainees to doctrinal CPs, battalions and companies were holding detainees for up to 30 days without the training, materiel, or infrastructure for doing so. The desire for timely intelligence, transportation and security concerns, and delays in administrative processing caused units at all echelons to retain detainees for periods of time that exceeded those recommended by doctrine. While adapting and operating outside of established doctrine is necessary and desirable, especially when current doctrine fails to meet the needs of ongoing operations, doing so carries with it a requirement to ensure that mission effectiveness is not hampered while ensuring safeguards are in place to prevent unsanctioned activities and meet other established requirements.

The DAIG Team observed and determined through interviews and sensing sessions that capture information was often incomplete when detainees were processed at detention locations. Capturing units lacked knowledge of procedures for information and evidence collection, critical for the accurate disposition of detainees. This was particularly apparent as OIF 2 units began deploying into theater and new commanders were faced with making release decisions based on insufficient information and documentation. The lack of required information

and specificity resulted in an administrative processing backlog at all echelons of internment. CPs and I/R facilities now require capturing units to have complete documentation prior to the transfer of a detainee into their custody.

Current interrogation doctrine for intelligence preparation of the battlefield and the composition and structure of interrogation assets does not adequately cover the current operational environment. Field Manual (FM) 34-52, Intelligence Interrogation, 28 September 1992, describes military interrogation approaches that remain valid, but the FM may not include all acceptable and effective techniques. Army interrogators receive 16.5 weeks of intensive training on interrogation procedures and techniques at the Human Intelligence Collection Course. This training includes collection priority, screening, planning and preparation, approaches, questioning, and termination of the interrogation. Specific instruction on the laws of land warfare emphasizes compliance of all Army interrogation TTPs with the Geneva Conventions and Army policy. All Army interrogators interviewed in OEF and OIF stated they were performing interrogations of detainees in accordance with policy and doctrine.

The Ryder Report and Taguba Investigation indicated deficiencies in detainee operations doctrine. The Ryder Report noted significant variances from doctrine and highlighted the need for changes in current doctrine to address the "significant paradigm shift" in detainee operations. The report, however, does not provide information on specific instances where doctrine needs to be revised. (The report did state, "the team will forward suggested doctrinal and organizational changes to the appropriate proponent schools for review and action.") The Taguba Investigation of the 800th MP Brigade found, "basic Army doctrine was not widely referenced or utilized to develop the accountability practices throughout the 800th MP Brigade's subordinate units." Procedures were "made up," with "reliance on, and guidance from, junior members of the unit who had civilian corrections experience." The relevance of current doctrine to present and future operations was beyond the scope of the Taguba Investigation. The DAIG Team found the statements made in these earlier reports to be consistent with the results of this inspection.

Findings from interviews, sensing sessions, and direct observations of AC and RC units consistently indicated that current doctrine fell short in preparing Soldiers to conduct detainee operations in the fluid and dynamic environment of OEF and OIF. Detainee operations doctrine needs to fulfill the requirement of the Future Force for strategic versatility—conducting combat and stability operations simultaneously—while operating in a joint environment with relative independence and at a high operational tempo. As Army Transformation continues, detainee operations doctrine needs to be appropriate for, and responsive to, the requirements of asymmetric battlespaces, the role of non-State belligerents, and modular force structures.

(4) Root Cause: Current doctrine and policy does not provide adequate guidance for detainee operations in OEF and OIF.

(5) Recommendation: TRADOC revise doctrine for the administrative processing of detainees to improve accountability, movement, and disposition in a non-linear battlespace. And further examine processes for capturing and validating lessons learned in order to rapidly modify doctrine and incorporate into training application for Soldiers and units.

Recommendation: The Provost Marshal General revise policy for the administrative processing of detainees to improve accountability, movement, and disposition in a non-linear battlespace

Recommendation: The Provost Marshal General, in coordination with the G2, update detainee policy to specifically address the administration, internment/resettlement, and intelligence exploitation in a non-linear battlespace, enabling commanders to better manage resources, ensure safe and secure custodial environments, and improve intelligence gathering.

c. **Finding 11:**

(1) Finding: Shortfalls in both the Military Police and Military Intelligence organizational structures resulted in the tactical unit commanders adjusting their tactics, techniques, and procedures to conduct detainee operations.

(2) Standard: See Appendix E.

(3) Inspection Results:

DOCTRINE

Doctrine indicates that Military Police (MP) units accept detainees from capturing units as far forward and as rapidly as possible. MPs operate divisional forward collecting points (CPs), divisional central CPs, and corps holding areas (CHA). MP units operating CPs and CHAs have the responsibilities to sustain, safeguard and ensure sick and wounded detainees receive medical treatment.

A platoon from the division MP company operates the forward CPs and should hold detainees for no more than 12 hours before transporting detainees to the central CP. The central CP should not hold detainees for more than 24 hours before transporting detainees to the CHA. Units will protect the detainees from enemy attacks and provide medical support, food, potable water, latrine facilities, and shelter. Detainee property is tagged with part C of Department of Defense (DD) Form 2745, Enemy Prisoner of War Capture Tag, and given to the escort guards. The MP leader will request transportation through logistic channels to transfer detainees from the forward CP to the central CP with the same procedures to transport the detainees to the CHA.

The CHA is operated by a platoon or company from a corps MP battalion and should not keep detainees for more than 72 hours. The decision to hold detainees longer is based on mission, enemy, terrain, time, troops available and civilian (METT-TC) considerations and the availability of forces. An MP platoon can guard 500 detainees, while an MP company can guard 2,000 detainees. As the population of the CHA increases, detainee evacuations to the internment/resettlement (I/R) facility also increase. Logistical requirements for food, water, medical care and sanitation must be considered. Locations for use by Military Intelligence (MI) interrogators need to be identified. The MP leader will request transportation through logistic channels to transport detainees from the CHA to the I/R facility.

The I/R facilities provide appropriate segregation, accountability, security, and support of detainees. An I/R facility is semi-permanent and normally consists of one to eight compounds,

with each compound capable of interning 500 detainees. The facility is operated by the HHC, MP battalion (I/R) (EPW/CI/DC) which provides command and control, administrative, and logistics functions to operate the facility. The battalion is capable of interning and supporting 4,000 enemy prisoner of war (EPWs) and civilian internees (CIs) or 8,000 dislocated civilians (DCs). An MP company (Guard) is assigned to provide guards for EPWs, CIs, and DCs, at the I/R facility. The company is capable of securing 2,000 EPWs, 2,000 CIs, or 4,000 DCs. The MP company (Escort Guard) provides supervision and security for evacuating and moving EPWs, CIs, DCs and other detained persons via vehicles, trains, aircraft, and road marches. The minimal security requirements for the facility include clear zones, guard towers, lights, sally ports, communications, and patrol roads. The MP and support personnel accepting detainees into the facility will search the detainee, conduct medical screening, perform administrative accountability, photograph and fingerprint as needed, account for personal property, and review records.

Doctrinally the first location an interrogation could take place is at the brigade. The interrogation teams are temporarily attached to the brigade from the division MI battalion interrogation section. The teams at the brigade level are strictly tactical and deal with information of immediate value. Interrogators are not usually assigned below the brigade level unless the combat situation requires limited tactical interrogation at battalion or company. Interrogations below brigade level are brief and concerned with information bearing directly on the combat mission of the capturing unit. This information is immediate tactical intelligence that is necessary for mission accomplishment and permits rapid reaction based on the information obtained.

In addition, MP personnel and MI interrogator teams at CPs and CHAs need to work closely together to determine which detainees, their personal belongings, and completed paperwork will offer intelligence information that would be useful to the command. The MI interrogators must support operations from brigade to theater level. Interrogators have to be highly mobile, and have communication equipment to report timely intelligence information to the supported commander.

Units conducting detainee operations in OPERATION ENDURING FREEDOM (OEF) and OPERATION IRAQI FREEDOM (OIF) adapted tactics, techniques, and procedures to make up for organizational shortfalls and to fill the void in doctrine resulting from the current operational environment.

OPERATION ENDURING FREEDOM

In OEF, units at point of capture processed their detainees at a non-doctrinal company CPs that held the detainees for up to 72 hours before releasing them or transporting them to higher headquarters. Detainees were held longer than 72 hours if required for intelligence purposes. Battalion Tactical Human Intelligence (HUMINT) Teams (THTs) sent to the company were extremely successful in gathering intelligence information from the detainees. If the THT was not available, the commander determined whether to detain or release a detainee after screening. MP personnel were not assigned to these company CPs, so the forward units had to provide their own guard force for the detainees. This additional duty took Soldiers away from performing their combat mission, which decreased the combat effectiveness of the unit. To process a detainee into the CP, the unit had to complete all required paperwork. The unit inventoried and tagged detainee personal property which would accompany the detainee when

he was repatriated or transferred to another location. The unit also tracked detainees with a Department of the Army (DA) Form 2708, Receipt of Inmate or Detained Person, when they were transferred to another location. The company CP provided detainees with food, water, shelter, and limited medical treatment.

The battalion CP held anywhere from 11 to 24 detainees for a period of 2 to 30 days. The battalions operating the CPs received sufficient information from the point of capture units to aid in their processing of the detainees. The interrogators examined all evidence before they began interrogating a detainee. When there was no THT present, commanders screened detainees for their intelligence value to determine if they should be released or transferred to the I/R facility. The determination to retain or release detainees at lower levels helped to ease the backlog of detainees requiring screening and questioning at higher locations. There were no MP personnel assigned to the battalions to support the battalion CPs. The battalions drew guards from their subordinate companies to act as a guard force for the detainees. This requirement to guard detainees diverted Soldiers from performing their combat mission and decreased the combat effectiveness of the unit. The unit leadership supervised its Soldiers to ensure detainees were protected, accounted for, and safeguarded. The unit provided detainees with; food, bottled water, shelter, and limited medical treatment. The unit evacuated detainees by air or tactical vehicles to higher level facilities.

The division central CP at Kandahar was operated by platoons from an MP Company. The MP personnel in-processed the detainees, inventoried their personal property on a DA Form 4137, Evidence/Property Custody Document, placed their items in bags (if they would fit) or large suitcases and other items. A copy of the inventory sheet was placed inside with the property (with the detainee internally generated identification number) and stored the property in a secure area. The detainees were physically searched, checked for injuries, digitally photographed, and if sick or wounded, evacuated to a medical treatment facility (MTF) for treatment. The central CP held anywhere from 23 to 40 detainees. Most detainees were repatriated or transferred within 72 hours of arrival at this location, however detainees could be held longer for intelligence exploitation. MP guards escorted detainees to the interrogators and remained in close proximity during the interrogation. Since the detainees did not leave the facility, there was no custodial transfer of detainees to interrogators. When an interrogator requested to screen detainee personal effects prior to the interrogation, the MP guard would have the interrogator sign for the items prior to releasing them. The unit provided detainees with food, bottled water, shelter, blanket, Qur-an, medical treatment and showers for personal hygiene. CP personnel transported detainees by air to the I/R facility.

Detainees were held at the Bagram I/R facility for an unspecified length of time. The facility could house up to 275 detainees and, at the time of the inspection, housed 175. The I/R facility was operated by an MP battalion. The MP battalion did not deploy with two of its organic MP companies, but was augmented with two Reserve Component (RC) MP companies, one company was an MP company (combat support) and the other was an MP company (guard), to aid them with the internment duties. Upon a detainee's arrival, the MPs in-processed the detainee's personal effects and accounted for the items on a DA Form 4137. The evidence custodian signed for the property and stored it in a secure area. The detainee was photographed, received a medical screening including height and weight, was issued a jumpsuit, showered and shaved, and then was photographed again. The MP guards escorted the detainee to the interrogators and remained in close proximity to the interrogation. Since the detainee did not leave the facility there was no custodial transfer of the detainee to the

interrogator. If the detainee was transferred outside the facility, a DD Form 2708, Receipt of Inmate or Detained Person, was completed and signed to maintain accountability. Upon return the detainee received a complete medical exam to check for injuries. When an interrogator requested to screen detainee's personal effects prior to the interrogation, the MP guard would have the interrogator sign for the items. The interrogators used the same screening sites they use for interrogations to review personal effects. One MI Officer felt there was a doctrinal shortcoming pertaining to interrogation operations. He felt there should be a standing operating procedure (SOP) for the operations of a joint interrogation facility (JIF) that is standard Army wide. MP personnel provided the detainees with food, bottled water and access to medical treatment. The detainees slept in cells, received blankets and had access to latrines and showers.

OPERATION IRAQI FREEDOM

Based on interviews and sensing sessions with leaders and Soldiers in Continental United States (CONUS)/Outside CONUS (OCONUS) the DAIG Team found 50% (13 of 26) of interviewed point of capture company leaders stated that their companies had established and operated non-doctrinal company CPs in OIF. These companies detained individuals during their cordon and search operations and raids. The remaining 50% of interviewed point of capture company leaders transported their detainees to the next higher collecting point. The companies held anywhere from 3 to 15 detainees for a period of 12 hours up to 3 days. This was longer than the recommended doctrinal standard of 12 hours. Doctrine also has the MP operating CPs to temporarily secure EPWs /CIs until they can be evacuated to the next higher echelon's holding area. MP personnel are not doctrinally assigned at the company level to collect or guard detainees. The capturing unit had the responsibility to guard their detainees for extended periods of time, which took the Soldiers away from performing their combat mission and adversely impacted the combat effectiveness of the unit. The company CPs were established to interrogate detainees closer to the point of capture prior to evacuating the detainee to the next higher level CP. The unit completed the required detainee paperwork at this location. The required paperwork included 2 sworn statements, the Coalition Provisional Authority Forces Apprehension Form, and DD Form 2745, Enemy Prisoner of War Capture Tag. The unit had to complete this process in order to evacuate the detainees to the next higher location. Units inventoried and bagged the detainees' personal property as part of the paperwork process. Of the interviewed company leaders that had established the company CPs, 62% (16 of 26) said they would interrogate the detainee to gather information while holding them at the company CP. This tactical questioning (TQ) was more than just asking the detainee basic questions (name, age, place of residence, etc); it was an attempt to gather intelligence that might aid the unit in locating other potential targets. In a few cases, when available, units had THTs to conduct initial intelligence screening of detainees. Another 15% (4 of 26) of interviewed company leaders that had established the company CPs, asked detainees basic questions to complete the paperwork. The remaining 23% (6 of 26) of interviewed company leaders that had established the company CPs said they did not conduct interrogations or question detainees at all. The unit leadership did not have the proper training in interrogation procedures and techniques to conduct effective interrogations. Without training, individual conducting interrogation could possibly jeopardize vital intelligence information instead of quickly processing and transporting detainees to an area with trained interrogators. The company CP provided detainees with; food, bottled water, limited shelter and limited medical treatment. The unit transported detainees to the battalion CP during re-supply assets operations for unit security.

Of the interviewed combat arms brigade/battalion leaders who performed cordon and search missions and raids 77% (10 of 13), operated their own non-doctrinal battalion CPs. The remaining three interviewed battalion/brigade leaders said they did not operate CPs but would transport the detainee to the division forward CP. Battalions held 12 to 20 detainees at their CPs for 12 hours up to 14 days, relying on their subordinate units to guard the detainees for extended periods of time. This guard requirement took Soldiers away from performing their combat mission and adversely impacted the combat effectiveness of their units. MP personnel are not doctrinally assigned at the company level to collect or guard detainees. The battalions required capturing units to complete all mandatory paperwork (sworn statements, Coalition Provisional Authority Forces Apprehension Form, and DD Form 2745) before accepting the detainees into their battalion CP. The interviewed combat arms brigade/battalion leaders (77%, 10 of 13) said TQ or interrogations of detainees were performed to gather tactical information if there were no trained interrogators at their location. Battalion commanders and S2s did their own interrogations of detainees to ease the backlog of detainees at CPs. Of these battalion commanders 18% (1 of 13) said they had a THT team at their location to conduct interrogation of detainees and 15% (2 of 13) said they did not question detainees. There were not enough interrogators to be pushed down to battalion level to conduct interrogations of detainees. Without trained interrogators at the battalion level and below, the units risked missing intelligence information by holding detainees, instead of quickly processing and transporting them to an area with trained interrogators. The battalion CPs provided detainees with; food, water, shelter, blankets, latrines, and limited medical treatment. Battalions transported the detainees to the division forward CP during re-supply operations.

Based on interviews with leaders in OCONUS/CONUS who said they operated division forward CPs located in a brigade area, the DAIG Team found 45% (5 of 11) were operated by non-MP units during the period of May 03 to April 04. Another 27% (3 of 11) of division MP platoons operating CPs required augmentation from 4 to 14 Soldiers from Infantry units to help them with this mission. The remaining 27% (3 of 11) of CPs were operated by MP platoons. The forward CPs held between 4 to 150 (150 detainees in one incident) detainees from 24 hours up to 54 days. The MP platoon provided trained MP personnel to handle, safeguard, and account for detainees. This included reviewing the point of capture unit's paperwork for each detainee, assigning detainees an internally generated detainee number, and a complete inventory of each detainee's personal belongings on a DA Form 4137. The personal belongings were bagged with the DA Form 4137 to include a matched internally generated detainee number and secured in an evidence room, separate cell, small footlocker, container, or tent. If the unit delivering detainees to the forward CP did not have the required paperwork (sworn statements, Coalition Provisional Authority Forces Apprehension Form, and DD Form 2745), the in-processing personnel would not accept the detainee into the CP until the unit completed the paperwork. The paperwork, to include evidence the unit brought in with the detainee, was a critical source of useful information the interrogator could use during their interrogations. The brigades were using their MI interrogators and contracted interpreters to interrogate detainees and gather tactical intelligence information for their units. Personnel operating CPs had different procedures in place for transferring a detainee to an interrogator. If the detainee was not leaving the CP then the guard did not have the interrogator sign for the detainee. When the interrogator was finished with the detainee he would return the detainee to the guard who would then return the detainee to the cell. However, if a detainee was taken outside the CP then the interrogator would sign for the detainee on a DD Form 2708 or DD Form 629, Receipt for Prisoner or Detained Person. Upon the detainee's return, the guards would sign for the

detainee and the medic or guard would check the detainee for marks or bruises and then annotate the marks or bruises if any, on an SF 600, Medical Record - Chronological Record of Medical Care. The DAIG Team did a sampling of detainee records to include the SF 600 and the team found no annotations of marks or bruises. The detainees were provided; food, bottled water, shelter, blankets, latrines, and medical treatment. The unit transported detainees to the division central CPs by either ground (wheeled convoy) or air (CH-47 helicopter).

Two of 4 division central CPs were operated by a platoon from the division MP company, which required augmentation of 7 to 15 Soldiers from Infantry or Engineer units to help them with this mission. The remaining two division central CPs were operated by platoons from a different division or from a company from the MP battalion (Corps). MP platoons provided trained personnel to handle, safeguard, account for, and input information into the Detainee Reporting System (DRS) and or Biometric Automated Tool Set (BATS) system. This included a review of point of capture paperwork for each detainee and an inventory of their personal belongings on DA Form 4137. Once the inventory was complete the evidence custodian locked the detainee's personal property in a separate room. The central CPs used both MI interrogators and contract interrogators and interpreters to interrogate detainees. The MP guards did not have the interrogator sign for the detainee if the interrogator was not departing the CP. Division central CP SOP required the guards to have the interrogators sign a DD Form 629 or DD Form 2708, and enter the information on their DA Form 1594, Daily Staff Journal or Duty Officer's Log, if the detainee departed the CP. Three Provost Marshals said Other Government Agencies (OGAs) did interrogate detainees, however, this required their approval, and the OGAs had to sign for the detainee. Upon their return they were examined and resigned for to regain custody of the detainee. The division central CP held anywhere between 70 to 200 detainees from 72 hours up to 45 days. The division central CP provided the detainees with food, bottled water, shelter, blankets, latrines, and medical treatment. The division central CP transported detainees by ground convoys or helicopter to I/R facilities.

I/R facilities were operated and controlled by MP battalions, MP companies, and in lieu of units (non-MP units). MP personnel processed the detainees into their facilities, which included checking the detainees against the roster for arrival, obtaining weight and height, issuing an Internment Serial Number (ISN), medical screening, inventorying, and tagging property, and review of paperwork (sworn statement, Coalition Provisional Authority Forces Apprehension Form, completed DD Form 2745 verifying that detainee data was entered into the DRS system, and amending and updating the database information as required. The detainee's personal property was annotated on DA Form 4137 and placed in a bag or a box with the detainee's ISN number. The property was then placed in a controlled access evidence room. Each detainee was issued a blanket, jumpsuit, shoes, and a Qur-an as part of their in-processing.

There was no specific length of time I/R facilities held detainees. The I/R facilities held anywhere from 1700 detainees up to a maximum of 7000 detainees depending on the facility. Inside each I/R facility were a series of compounds housing from 450 to 700 detainees each. The operations of I/R facilities and compounds were the responsibility of the MP (Combat Support) battalions who were sometimes not properly equipped with specific items necessary for detainee operations and were not trained specifically on detainee tasks in order to perform this mission. Additionally, in lieu of (ILO) units assigned the guard force (tower) and escort mission for I/R facilities received limited MP training at their Mobilization Site.

Interrogators used the screening procedure to identify a detainee who may have intelligence information. The interrogators screened both the detainee paperwork along with his/her personal effects to determine which individual possessed intelligence information. When an interrogator requested to screen a detainee's personal effects prior to the interrogation, the MP guard would have him sign for the items using DA Form 4137. The MP guard escorted the detainee to the interrogators, and since the detainee was not leaving the facility the interrogator was not required to sign for the detainees. If the detainee was leaving the facility a written authorization was required, and the guard had the individual sign for the detainee on a DD Form 2708 or DD Form 629. The MI units used military and contract interrogators and interpreters to interrogate the detainees. MP personnel provided the detainees with food, water (bottled water or 5 gallon cans), and access to medical treatment. Each compound had shelter, mats or cots to sleep on, latrines, and showers.

(4) Root Cause: Division level units are not resourced with sufficient numbers of Military Police personnel and Military Intelligence personnel (interrogators) to conduct detainee operations in a non-linear battlespace. Point of capture units did not comply with doctrine that requires the quick evacuation of detainees to internment facilities. Units held detainees at CPs closer to the point of capture for longer periods of time to conduct more effective interrogation and intelligence exploitation so they could obtain time-sensitive tactical intelligence.

(5) Recommendation: TRADOC and G3 update the Military Police force structure at the division level and below to support the simultaneous execution of detainee operations and other battlefield missions.

Recommendation: TRADOC and G3 update the Military Intelligence force structure at the division level and below to integrate the requirement for detainee operations that allows for timely intelligence exploitation.

Recommendation: TRADOC update doctrine to integrate tactical interrogation at battalion and company level to assist in the intelligence exploitation of detainees immediately upon capture.

d. **Finding 12:**

(1) Finding: There was no Theater Detainee Reporting Center (TDRC) acting as the central, theater-level agency responsible for detainee accountability, resulting in a lack of detainee personnel and data management.

(2) Standard: See Appendix E.

(3) Inspection Results: The Office of the Provost Marshal General (OPMG) has redesignated the doctrinal term Prisoner of War Information Center (PWIC) used in the above standards as the TDRC, and the doctrinal term National Prisoner of War Information Center (NPWIC) as the National Detainee Reporting Center (NDRC). The following inspection results will refer to these organizations by their redesignated titles.

The DAIG Team found there was no central agency in theater to collect and manage detainee information for OPERATION ENDURING FREEDOM (OEF) or OPERATION IRAQI FREEDOM (OIF), and no consolidated, comprehensive, and accurate database for detainee

accountability. The TDRC that had the doctrinal mission to maintain detainee accountability was not deployed to OIF or OEF during the timeframe of the inspection. In OIF, the TDRC mission of detainee data collection was consolidated at one location in Iraq and was executed as an additional duty by a battalion S1 section. None of the major functions of the TDRC were performed in accordance with policy. Internment facilities were not fully accounting for detainees or property, and they were not meeting policy requirements. There were no procedures to ensure records on detainee disposition, health status, and personal/evidentiary property were adequately accounted for during movement of detainees between collecting points and internment facilities. Capturing units did not have standardized procedures for recording detainee personal and property information or for maintaining accountability. Doctrine and policy for detainee data collection need to be revised to address technological requirements for personnel accountability systems (biometrics) and the processing of non-compliant detainees in the current operating environment.

The TDRC is the specialized unit whose mission is to be the central agency in theater for total detainee and property accountability, from which consolidated detainee data is forwarded to the NDRC. There are two Reserve Component TDRCs, and no Active Component TDRCs, in the Army. TDRCs are structured as 59-Soldier units consisting of a headquarters detachment, operations, record keeping, property accountability, postal operations, public relations, information management, and other staff sections. TDRCs were not used in OIF or OEF. A TDRC was activated and deployed to Kuwait during the mobilization for OIF, but it did not move forward into Iraq in support of detainee operations and was re-deployed to Continental United States (CONUS). However, the large numbers of captured detainees, holding detainees longer for intelligence exploitation, and a slow release process resulted in a significantly higher detainee population and a demonstrated need for the TDRC.

In OIF, the TDRC mission of detainee data collection for Iraq was assigned to the MP battalion at Camp Bucca and overseen by the S1 as an additional duty. Detainee data was consolidated as it was received from locations throughout the country and forwarded to the NDRC. Forwarded data was often incomplete, and the S1 lacked the resources to track down missing data from reporting internment facilities. The TDRC responsibilities for detainee property accountability, tracking, records management, and postal operations were not met. The S1 performed as well as could be expected with limited organic assets, but it was impossible to execute the many mission requirements that would normally be executed by a 59-Soldier TDRC. A TDRC was not deployed in OEF. The internment facility at Bagram performed the mission of detainee data collection, consolidation, and reporting. Although information management and property accountability were more consistent in Afghanistan than in Iraq, most TDRC responsibilities were not being performed.

In the absence of a TDRC there were inefficiencies in accounting, reporting and tracking of detainee information from internment/resettlement facilities to the NDRC. The NDRC developed the automated Detainee Reporting System (DRS) as a standardized, automated data system that the TDRC uses to consolidate data from the internment facilities and forward to the NDRC. With no TDRC to provide oversight, OIF and OEF detainee processing centers often used simple spreadsheets or alternate automated data systems (Joint Automated Booking System (JABS) and Biometric Assessment Tool Set (BATS)) with the ability to capture biometric data (e.g., fingerprints), but these applications did not capture other data required by Army policy. Moreover, the alternate data systems were not compatible with DRS and could not transfer information to the NDRC. At the direction of the NDRC, the DRS became the primary

automated database that internment facilities were required to use. Concurrently, internment facilities continued to enter data in JABS and BATS due to the inability of DRS to record biometric data. (Note: The DRS is projected to have the capability to collect and store fingerprints by July 2004.) There is a fourth detainee reporting system in place to collect the same data in Arabic for use by the Coalition Provisional Authority (CPA). Because of the use of multiple data systems, incomplete data entry, and the inconsistent implementation of the DRS there are approximately 50,000 missing data points in the NDRC database.

Capturing units did not have standardized procedures for recording detainee personal and property information or for maintaining accountability. In OEF and OIF, units at points of capture and collecting points were not uniformly using DD Form 2745, Enemy Prisoner of War (EPW) Capture Tag. Of the assessed units in Iraq (19%) were using DD Form 2745, compared to 55% in Afghanistan and 30% of units redeploying from both theaters. In Iraq, the Coalition Provisional Authority Forces Apprehension Form was used, a form that is more comprehensive than the EPW Capture Tag. Although the CPA form appears better than DD Form 2745 for the purpose of intelligence exploitation and continued custody determinations, there was no TDRC in theater to manage the use of the form or capture information from the form for forwarding to the NDRC. Units did not uniformly forward documentation (medical, evidence/property, capture, and intelligence documents) when detainees were transferred to other echelons of detention. Furthermore, there was no mechanism during the transfer process to maintain accountability for records that accompanied a particular detainee.

The DAIG concluded the reason for the lack of accountability, standardization and reliability of detainee data is directly related to the absence of the TDRC. The sole purpose of the TDRC, as the field operating agency for the NDRC, is to ensure the accountability of detainees and their property by standardizing practices throughout the theater and implementing DoD and Army policy. An 8-person Camp Liaison Detachment (CLD) was deployed as part of OIF 2 to perform the functions of the TDRC, in addition to numerous other responsibilities. They have received initial training on the DRS, but as a CLD they are not trained on the procedures for executing the other specific TDRC tasks. The CLD may be able to accomplish the TRDC mission if appropriately trained and relieved of additional, unrelated duties, but they lack sufficient manpower to address the backlog of unaccounted-for detainees and property.

(4) Root Cause: The TDRC was not deployed for OEF. In OIF, it was initially deployed and subsequently redeployed without moving forward in the theater.

(5) Recommendation: CFLCC submit a Request For Forces for the Theater Detainee Reporting Center (TDRC) to meet the requirements for reporting and accountability of detainees and their property.

Recommendation: The Provost Marshal General review the TRDC process, structure, and employment methods for maintaining information on detainees, their property, and other related requirements within an assigned theater of operations and consider the development of an information technology solution.

e. **Finding 13:**

(1) Finding: The ongoing Military Intelligence Force Design Update is better suited to conduct simultaneous and sustained human intelligence missions in the current and future operating environment.

(2) Standard: See Appendix E.

(3) Inspection Results: The DAIG Team found the ongoing Military Intelligence - Counterintelligence/Human Intelligence Force Design Update is better suited than the current Military Intelligence force structure to conduct simultaneous and sustained human intelligence collection and counterintelligence/force protection missions in the current and future operating environments.

The current Military Intelligence (MI) force structure lacks the necessary 97E - Human Intelligence (HUMINT) Collectors (formerly called interrogators) and 97B - Counterintelligence personnel to conduct simultaneous and sustained HUMINT collection and counterintelligence/force protection missions. The current force structure does not allow the commander to employ the doctrinal concept of conducting both HUMINT and counterintelligence missions simultaneously. Currently the commander must choose which mission is the priority. These items are covered in the Current Military Intelligence Force Structure Section below.

The ongoing Military Intelligence - Counterintelligence/Human Intelligence (HUMINT) Force Design Update (FDU), provides the necessary 97E and 97B personnel to conduct simultaneous and sustained HUMINT collection and counterintelligence/force protection missions. Multiple MI initiatives and programs, specifically the Counterintelligence/HUMINT FDU, are reshaping the MI force structure in a multi-tiered approach, to include: increasing the 97E authorizations, converting 97Bs to 97Es, converting 97L (Translator/Interpreter) to 97E and 97B, rebalancing the Active Component (AC) to Reserve Component (RC) mix to move more personnel to the AC, increasing the number of MI units and the dispersion of Tactical Human Intelligence (HUMINT) Teams (THTs) in the division and Stryker Brigade force structures, and designing Human Intelligence (HUMINT) Collection Teams (HCTs) throughout the Unit of Action (UA), Unit of Employment x (UEx), and Unit of Employment y (UEy) level. These items are addressed in the Military Intelligence - Counterintelligence/Human Intelligence Force Design Update Section below.

CURRENT MI FORCE STRUCTURE

The MI mission to gain HUMINT information during detainee operations is performed by the 97E. In contrast, the 97B counters the intelligence gathering of foreign intelligence and security services (FIS). Gathering information from detainees focuses the 97Es on their specialty: gathering and developing intelligence from the local environment. The 97E10 is a highly trained Soldier who has gone through 82 weeks of training. This Soldier has completed language training from the Defense Language Institute, in addition to the required Military Occupational Specialty (MOS) training. Developing this asset is a costly and time-consuming process.

The current force structure does not give the commander on the ground the amount of 97E and 97B expertise required. A divisional MI battalion has all of the 97Es in the division (depending on the type of division, approximately 16 are authorized). The DAIG Team visited one division that had six 97Es. In the current operating environment people are the key terrain, but the force structure lacks 97Es and 97Bs at the brigade level.

The average maneuver brigade has an intelligence team consisting of four 97B - Counterintelligence personnel and three 97E - HUMINT personnel (approximately two Tactical HUMINT Teams (THTs)). These 97Es come from the division MI battalion. The commander must set the intelligence priorities at either HUMINT (gathering intelligence from the local environment and information exploitation from detainees) or at counterintelligence (denying FIS intelligence on U.S. Forces).

G3 Force Developers stated current rotations in OPERATION ENDURING FREEDOM (OEF) and OPERATION IRAQI FREEDOM (OIF) require approximately 130 THTs per deployment. There are approximately four personnel per team. The ongoing Counterintelligence/HUMINT Force Design Update has greatly contributed to meeting the current operational needs. Since 2001, the number of THTs has grown from 300 teams to 450 teams. Even with these changes, the current force structure lacks the depth to meet this doctrinal requirement for a sustained period.

There are usually three 97E HUMINT specialists in the current brigade force structure; they come from the division MI battalion. They gather intelligence on threat forces and capabilities. The 97Es, as part of THTs, accompany patrols, visit communities, talk to local leaders, to gather information on how U.S. Forces are being targeted. The 97Es evaluate the internment/resettlement (I/R) population to identify potential intelligence sources. They conduct interviews and interrogations across the range of detainees, gathering information from civilian internees, enemy prisoners of war (EPWs), and high-risk detainees (HRDs).

Information gathered from detainees is critical to meeting the doctrinal mission of the 97E "to conduct focused collection, analysis, and production on the adversary's composition, strength, dispositions, tactics, equipment, personnel, personalities, capabilities, and intentions". Exploitation of intelligence gathered from EPWs and HRDs is one of the reasons detainees are kept beyond the doctrinal time standard at the point of capture and brigade level. The current force structure of three 97Es in the brigade (division MI battalion assets) provides limited resources to evaluate, gather, and analyze information from detainees.

The 97B counterintelligence mission requires the intelligence assets of the brigade to cover a large section of the local population. The brigade has a total of 4 counterintelligence specialists who gather information on threat forces and foreign intelligence services and their activities and then develop force protection and information denial measures. The 97B focus on denying intelligence to the enemy is based on their ability to stop the following FIS operations: counter-HUMINT, counter-signals intelligence (C-SIGINT), and counter-imagery intelligence (C-IMINT). The 97Bs are not accomplishing their counterintelligence and force protection missions if they are supporting the HUMINT mission of gathering information from detainees.

The current force structure of the MI is a result of the 1997 Quadrennial Defense Review (QDR) process. The QDR reshaped tactical MI units, relying heavily on the Reserve Component (RC) to carry a large portion of MI personnel. Additionally, in 1994 and 1995, the

Army restructured personnel authorizations and sent 97E personnel to the Defense Intelligence Agency.

A substantial number of active component 97Es and 97Bs are in U.S. Army Intelligence and Security Command (INSCOM) Theater Intelligence Brigades (BDEs)/Groups (GPs). Until recently, those personnel were not available to support rotational sourcing.

Some commands were using 97Bs to fill 97E requirements to meet the shortage of personnel who can conduct interrogations of detainees. Commanders who chose the collection and exploitation of information as the priority mission gave up the 97Bs from performing their counterintelligence/force protection mission. However, force protection is still a critical issue due to the non-linear battlefield. Based on the current force structure, the Army has the ability to support either force protection or HUMINT.

Currently, 60% of the 97E and 97B force structure is in the Reserve Component (RC). Deployment of some units as battalions vs. teams in early rotations to OEF followed by OIF artificially reduced the available population to support subsequent rotations. The buildup of RC THTs prior to OIF met the immediate requirement for tactical intelligence but denied a sustained capability. Additionally, the MOS qualification rate in the RC is at 50%. So even if all RC authorized positions were filled, only one-half of the personnel would be deployable.

The TRADOC proponent (U.S. Army Intelligence Center and Fort Huachuca) developed the Military Intelligence - Counterintelligence/HUMINT Force Design Update and other initiatives to meet the requirements of the current and future operating environments. G3 Force Management is restructuring the force through redesign of current Modified Tables of Organization and Equipment (MTOEs) of MI units and creation of new MTOEs. The new force structure increases the authorizations for and distribution of 97E and 97B.

MI - COUNTERINTELLIGENCE/HUMAN INTELLIGENCE FORCE DESIGN UPDATE

The Army recognizes the current force structure does not allow the commander to conduct the doctrinal missions of HUMINT and counterintelligence simultaneously. Currently, the commander must choose which mission is the priority. The Counterintelligence/HUMINT FDU was approved on 2 August 2001. Some aspects of the Counterintelligence/HUMINT FDU and other MI initiatives and programs have assisted the force in current operations, while the majority is still ongoing (as of 21 May 2004). The number of THTs in the Army has increased by 50% since 2001 (300 THTs to 450 THTs).

The main portions of the Counterintelligence/HUMINT FDU will occur from 2005 to 2009 Total Army Analysis 09 (TAA 09); additional changes will continue in 2007 through 2011 (TAA 11). The changes to the force structure are being documented in the UA, UEx, UEy, templates and in the Stryker Brigades' Modified Tables of Organization and Equipment.

The near-term changes include adding one counterintelligence company per Theater at Echelon Above Corps Theater Intelligence Groups/Brigades in Fiscal Year (FY) 05-07. The FDU and other initiatives add a variety of active component Counterintelligence/HUMINT Teams to Theater Intelligence Groups/Brigades for an increase of 400 counterintelligence/HUMINT spaces in FY06. Other changes include revising the MI Corps Support BN (MI-CSB) and changing the MI-CSB allocation from one MI-CSB per Theater to one MI-CSB per Corps.

Another Corps-level change is the creation of a "Corps G2X Cell" in the G2 section of the HHC with HUMINT authorizations.

Four counterintelligence and 2 HUMINT companies (U.S. Army Reserve) will activate in FY05-07. Finally, the AC/RC mix will rebalance, resulting in activation of 2 HUMINT companies and 1 counterintelligence company (active component) and deactivation of 2 U.S. Army Reserve counterintelligence companies.

The design of the HUMINT team will change. Previously, Warrant Officers led HUMINT teams; in the future a Sergeant First Class will lead some HUMINT teams. The current force structure can convert to an enlisted-led team by using currently available NCOs.

The Counterintelligence/HUMINT FDU is programmed to increase the number of 97E and 97B Soldiers; 97E will increase by 50%. An increase of "in excess of" 1400 97E and 97B personnel is programmed from FY05-07, including an increase in authorizations for 97E and 97B in the AC. Some of these changes will be the result of rebalancing the AC/RC mix of 97E. The 97E personnel increases have been implemented early and continue to occur. Other changes include the conversion of 460 Compo 2 MOS 97L (Translator/Interpreter) to 97E and 97B authorizations in FY05.

MI Branch will restructure the 97E MOS. 97E10 Soldiers will no longer have a language requirement following initial entry training (IET). By removing the language requirement at Skill Level 1 for 97E MOS the MI branch can send 97E10 Soldiers directly to units to gain experience. The language requirement will shift to a 97E20 requirement. Currently the 97E10 Soldier spends up to 82 weeks post-IET meeting the language requirement.

The Counterintelligence/HUMINT FDU and other initiatives will support the design of elements within the UEy, UEx, and UA. (The current design of the UEy, UEx, and UA are the base for this section of the report). This increase of counterintelligence/HUMINT units at each level is significant and is designed to add an intelligence gathering and processing capability at the UA level, as well as at higher levels. The Army's ability to add counterintelligence/HUMINT resources as it transforms into the Modular Design is based on an increase in the number of 97Es authorizations, which go from the FY04 level of 861 authorizations to the FY 11 projection of 3312 authorizations.

The UEy's Theater Intelligence Brigade will add an Exploitation Battalion and a RC Battalion that are in-Theater assets. The Exploitation Battalion and the RC Battalion will each add a counterintelligence company and a HUMINT company to the Theater, providing an additional 2 counterintelligence companies and 2 HUMINT companies to the commander.

The UEx has a G2X cell designed into its Main HQ staff. The G2X is a new organization not in the current division template. The G2X acts as the single point for all counterintelligence/HUMINT data. The G2X is a 6-person team led by an officer (MAJ/CPT) and contains a CW3 HUMINT Technician, one 97B, and three 97Es. Supplying information to the G2X are the Counterintelligence Control Authority (CICA) and the HUMINT Operations Cell (HOC). The CICA provides the counterintelligence function with 97Bs while the HOC adds 4 more 97Es for the HUMINT function. The G2X also contains a Language Coordination Section which sets up contracts for interpreters. The main HUMINT and counterintelligence gathering capability will exist in the UAs.

There are HUMINT and counterintelligence gathering capability in both Maneuver UAs (MUA) and Reconnaissance, Surveillance, and Target Acquisition UAs (RSTA UA). In the MUA and the RSTA UA the main HUMINT collection will be conducted by the HUMINT Collection Teams (HCTs) which have taken the place of the Tactical HUMINT Teams (THTs). The HCT is made up of four 97E whose mission is to gather HUMINT. This will eliminate the THTs' requirement of dividing the time among the mission of the 97B and the 97E that made up the THT. The THT currently exists in the division force structure and the Stryker Brigade force structure; THTs are not in the UA or UE force structures.

Each MUA has an S2X in the headquarters, serving the same function as the G2X does at the UEx. The MUA also has an MI company with a robust intelligence gathering capability. The HUMINT platoon contains 26 Soldiers focused on gathering HUMINT. The HUMINT platoon has two Operations Management Teams (OMTs) that each manages two HCT. Each OMT also has the ability to serve as a HCT. At the minimum, each MUA has an organic capability to field four HCTs and, if needed, generate 2 more from the OMTs. This gives the UA commander the ability to put HCTs at the point of capture or where detainees are first encountered.

The RSTA UA has a greater HUMINT capability. The MI battalion in the RTSA UA has a Collection and Exploitation (C&E) company and a counterintelligence/HUMINT company. The C&E Company has 3 HCT platoons (28 Soldiers per platoon) with 1 OMT and 5 HCTs per platoon. The C&E Company has a total of 15 HCTs. The counterintelligence/HUMINT company has 9 OMTs and 27 HCTs. At the minimum, each RSTA UA will have 42 HCTs on the ground.

The significant difference from the current division force structure is that the average division has all 16 Soldiers with MOS 97E in the division MI battalion. The UEx will deploy into theater with a modular capability that is based on the mission requirements. If the UEx deploys with 4 MUAs and a RSTA UA, it will have a total of 20 OMTs and 58 HCTs and a robust HUMINT planning, coordination, and analysis capability.

(4) Recommendation: TRADOC and G3 continue to refine and implement the force structure changes in the Military Intelligence - Counterintelligence/Human Intelligence Force Design Update.

Recommendation: TRADOC integrate the Military Intelligence - Counterintelligence/Human Intelligence Force Design Updates into the development of Units of Action and Units of Employment.

f. **Finding 14:**

(1) Finding: The ongoing Military Police Force Design Update provides a force structure for internment/resettlement operations that has the flexibility and is better suited to conduct sustained detainee operations in the current and future operating environment.

(2) Standard: See Appendix E.

(3) Inspection Results: The DAIG Team found the ongoing Military Police - Internment/Resettlement Battalion Force Design Update provides a force structure for Military Police internment/resettlement operations that has the flexibility and is better suited than the current Military Police force structure to conduct sustained detainee operations in the current and future operating environments, to include control and internment of high-risk detainees.

The current Military Police force structure lacks the 31E (Internment/Resettlement Specialist) personnel to meet the requirements of manning the current detention facilities and conducting sustained detainee operations in the current and future operating environments, to include control and confinement of high-risk detainees. The 31E is the only Soldier trained to run a detention facility and specifically deals with controlling and confining high value detainees. The Active Component (AC) 31Es are in the Table of Distribution and Allowance (TDA) that runs the U.S. Military Disciplinary Barracks (USDB), staffs Guantanamo Bay Naval Station (GTMO) and other outside the continental United States (OCONUS)-based confinement facilities, and staffs continental United States (CONUS)-based confinement facilities. The Reserve Component (RC) does not have the 31E personnel to provide units to run sustained detainee operations. These items are covered in the Current Military Police Force Structure Section below:

The ongoing Military Police Internment/Resettlement (I/R) Battalion Force Design Update (FDU) standardizes the force structure of Active Component (AC) and Reserve Component (RC) I/R units, converts AC Tables of Distribution and Allowance (TDAs) to I/R Modified Tables of Organization and Equipment (MTOEs), and increases personnel and units throughout the AC and RC force structure. The FDU was approved September 2003, this analysis is based on that data and is current as of 21 May 2004. The increase of deployable 31Es will give Combatant Commanders the flexibility to conduct sustained detainee operations in a non-linear battlefield and the ability to control and confine high-risk detainees (HRDs). The I/R FDU provides the RC force structure necessary to carry out its sustainability mission. Employment of the I/R FDU has been incorporated into the Unit of Employment (UE) design at Unit of Employment y (UEy) level with staff support at Unit of Employment x (UEx) level. These items are covered in the Military Police Internment/Resettlement (I/R) Battalion Force Design Update Section below:

CURRENT MP FORCE STRUCTURE

The current AC TDA organizations, such as the U.S. Army Disciplinary Barracks (USDB) and Regional Correctional Facilities (RCFs) are not deployable, and each has a different force structure. Each facility will convert to at least one I/R company.

The AC 31E population is based out of 4 installations within CONUS TDA units and 2 Modified Table of Organization and Equipment (MTOE) MP battalions that are OCONUS. In CONUS, the largest population of 31Es is at the USDB at Fort Leavenworth. Large numbers of 31Es are also assigned to the 3 Regional Correctional Facilities (RCFs) at Fort Lewis, Fort Sill, and Fort Knox. These are TDA organizations and not designed to deploy, lacking a rotational base to support the TDA corrections mission and other missions such as GTMO. There are 824 AC MOS 31E authorizations in the Army; of these, 770 are directly related to running the current detention facilities. There are 371 31E authorizations at the USDB. The other 31E authorizations are at Fort Lewis (112), Fort Sill (81), Fort Knox (80), and 24 at Navy/Marine facilities (CONUS and OCONUS). The 2 OCONUS MP battalions contain 31Es in their MTOE,

but lack the depth to support rotations; USAREUR has 76 authorizations and USFK has 26 authorizations. The remaining 54 are not directly working with U.S. prisoners or detainees. These Soldiers are at the U.S. Army Military Police School (24), recruiting (12), AC/RC support (6), and 12 others throughout the AC force.

The deployable 31Es are in the RC. The RC has 119 31E authorizations, 90 of which were filled as of 22 April 2004. The RC internment/resettlement (I/R) units' missions are to deploy or provide backfill for the AC's 31Es that deploy. However, the RC I/R units lack the qualified personnel to sustain the mission. Additionally, the RC has the only I/R command and control elements, two I/R brigades.

This force structure does not support the policy or doctrine requirement for a deployable, sustainable, and standardized, modular MP I/R battalion force design package that can meet the I/R operations objective of processing, handling, caring for, accounting for, and securing EPWs, CIs, RPs, ODs, DCs, and U.S. Armed Forces prisoners, as well as supporting the global war on terrorism (GWOT) and controlling and confining high-risk detainees. The I/R doctrine is a revision of the old Enemy Prisoner of War concept, reminiscent of Cold War doctrine applicable to a unit that is modular, capabilities-based, and deployable.

The new I/R doctrine adapts well to the Units of Action concept, however, the 31E force structure does not support I/R doctrine. FM 3-19.40, Military Police Internment/Resettlement Operations, 1 August 2001, covers most detainee operations, but at the time the doctrine was written, the MP Corps had not yet developed or defined the term high-risk detainee.

FM 3-19.1 Military Police Operations, Change-1, 31 January 2002, and FM 3-19.40, refer to the MPs as having the responsibility for coordinating sustainment for EPW/CI and that I/R battalions are equipped and trained to handle the EPW/CI mission for the long term. This is not true under the current force structure. By doctrine, an I/R battalion should support up to 4,000 EPWs/CIs, 8000 dislocated civilians, or 1500 U.S. Armed Forces prisoners. This formula does not address confinement of high-risk detainees. The current MP doctrine only focuses on long-term confinement of U.S. Armed Forces personnel.

The 31E Soldier receives his/her MOS training as part of Military Police Advanced Individual Training (AIT). All MP AIT is based on 31B (Military Police) training. There is a split in the MP AIT where 31Es and 31Bs go to different tracks. MOS 31E Soldiers take a 4-week Corrections track while the 31B receive 4 weeks of Law and Order training. The 31B (Military Police) do not receive corrections training. 31Bs receive one day of I/R training in MP AIT. The 31E10 gains MOS experience at a correctional facility or the USDB.

The current Military Police force structure is not designed to support Units of Action. The TDA-based AC units are not flexible, adaptable, or deployable.

The U.S. Army Training and Doctrine Command (TRADOC) proponent (U.S. Army Military Police School) developed an I/R Battalion Force Design Update and which was approved September 2003. G3 Force Management is restructuring the force through redesign of current MTOEs of AC and RC MP units and creation of new MTOEs. The new force structure increases the number of I/R units and 31E authorizations and is covered in the next section of this finding.

MP I/R BATTALION FORCE DESIGN UPDATE SECTION

The ongoing Military Police Internment/Resettlement (I/R) Battalion Force Design Update addresses the flexibility and sustainability of the current MP force structure. The current AC TDA organizations, such as the U.S. Army Disciplinary Barracks (USDB) and Regional Correctional Facilities (RCFs) are not deployable, and each has a different force structure. Each facility will convert to at least one I/R company.

The Director of Force Management approved the I/R Tables of Organization and Equipment (TOEs) on 17 May 2004. The I/R FDU will occur from Fiscal Year (FY04) through FY11. The FDU will standardize the I/R force structures in the AC and RC. The distribution of personnel and units will rebalance between the AC and RC, giving the AC the ability to immediately deploy I/R companies. The RC will have the force structure to accomplish the mission of backfilling Army confinement facilities as well as providing a sustained rotation of deployable units.

The I/R FDU will standardize the force structure and increase the MOS 31E expertise within the units conducting the I/R mission. The I/R battalion will be modular in nature, providing a command and control capability that is flexible and tailorable, that by design supports the Units of Action concept. The MP I/R battalion will be a flexible base that can be tailored to the Theater of Operations and the operating environment.

The I/R battalion Headquarters and Headquarters Detachment (HHD) is a 74-person unit that provides the command and control function and supports a mix of I/R companies, guard companies, and I/R detachments as required. A standard I/R battalion template for deployment could include the battalion HHD, 1 guard company, 1 I/R company, and 3 I/R detachments.

The I/R company is tailored around accomplishing the 31E mission and is the base of the new force structure. It can operate independently or as part of an I/R battalion. The I/R company will have 124 personnel, with 100 31Es. It has the built-in administrative support to conduct detainee operations as well as 2 internment platoons and a Maximum Security Section. The internment platoons each contain 42 personnel while the Maximum Security Section has 12 personnel. The Maximum Security Section is different from an I/R detachment. The I/R company should have the ability in the short term to control and intern HRDs, a capability that is essential in the current operating environment.

The I/R company can either operate as a stand-alone organization or operate as part of an I/R battalion. In either mission it provides command and control, staff planning, administration and logistical services (for both assigned personnel and the prisoner population). If the I/R company operates as a stand-alone unit, it is limited in the detainee operations functions it can perform. The stand-alone I/R company can operate either a U.S. Armed Forces prisoner confinement facility or a high-risk detainee internment facility.

If the I/R company operates as part of an I/R battalion, it can conduct a wider range of detainee operations due to the support of the I/R battalion's guard company and I/R detachments. When the I/R company operates as part of I/R battalion, it can operate the following types of facilities: high-risk detainee internment facilities; Enemy Prisoner of War/Civilian Internee (EPW/CI) internment facilities; or displaced civilian (DC) resettlement facilities.

The I/R company and I/R battalion force structures are focused on the I/R mission. Any I/R unit will require support from the Command it falls under. I/R units will require engineer support to build facilities, medical support for Soldiers and detainees, maintenance support, water purification, and other support as required.

The I/R company's main focus is supporting its 2 internment platoons and 1 Maximum Security Section. The I/R company has different capabilities based on whether it is conducting stand-alone operations or operating as part of an I/R battalion. If operating in the stand-alone function the I/R company has the capability to confine up to 300 U.S. prisoners or detain up to 100 high-risk detainees. If the I/R company is operating as part of an I/R battalion, the I/R company has the capability to detain up to 300 high-risk detainees when supported by 1 MP guard company. The I/R company also has the capability to conduct detainee operations for enemy prisoners of war/civilian internees or resettlement operations for dislocated civilians. In these detainee operations, the I/R company will also require support from one MP guard company.

The Maximum Security Section in the I/R company is responsible for detainees/prisoners who require special supervision, control, and discipline. These detainees/prisoners require close and intense management, special precautions, and more stringent confinement, search, and handling measures. The Maximum Security Section is merged with the internment platoons when conducting high-risk detainee operations.

The MP guard company has personnel and equipment resources to provide a perimeter security function as well as a transportation function. Each guard company has 3 platoons of 31Bs. Each platoon has four 11-man squads. The MP guard company has 3 light medium tactical vehicle (LMTV) trucks and 16 high mobility multipurpose wheeled vehicle (HMMWV) trucks authorized. This robust guard force and transportation assets will give the I/R battalion the capability to control and transport detainees using internal resources.

The I/R detachment is a 24-person unit that exists only in the RC. The I/R detachment augments an AC or RC I/R battalion HHD. There are no 31Es in an I/R detachment; the detachments support the detainee operations mission by providing 31Bs to act as outside-the-wire security and additional support personnel. The I/R detachment is not designed to detain HRD or U.S. prisoners. The 60 I/R detachments allow a high degree of flexibility in modularizing any organization for a mission. These units are designed to be mobilized and attached to other units as needed.

To meet the requirement for the I/R FDU, G3 plans to increase 31E authorizations through conversion of some 31Bs (Military Police) to 31Es (Internment/Resettlement Specialist), increased recruiting for 31E positions, and a redesignation of RC units to the 31E mission.

The conversion of Active Component MP TDA organizations to an I/R company MTOE has begun. The first AC I/R company will activate in FY04 at Guantanamo Bay (GTMO). A total of 10 AC I/R companies will activate by FY11.

The RC will contain the bulk of the 31E units and personnel. The RC currently contains 119 authorizations. When the I/R battalion FDU is completed in FY11, the RC will contain approximately 1720 31E authorizations, a 14-fold increase in personnel.

The U.S. Army Reserve (USAR) will contain most of the I/R battalions, while the Army National Guard (ARNG) will contain most of the I/R companies. By FY11, the RC will be organized with 20 I/R battalions (17 USAR, 3 ARNG) compared to the AC's 1 I/R battalion. The RC will have 17 I/R companies (7 USAR, 10 ARNG) compared to the AC's 10 I/R companies. The RC will contain all 60 I/R detachments (51 USAR, 9 ARNG). The I/R sustainment mission will be supplemented by this RC build-up of 17 I/R companies and 60 I/R detachments.

Based on the currently proposed MTOE, the standard I/R battalion will deploy with a battalion HHD, 1 guard company, 1 I/R company, and 3 I/R detachments. The template for a deployed I/R battalion will contain 427 personnel; 101 of them will be 31Es. The I/R company contains the 31E personnel in the 2 I/R platoons and the Maximum Security Section. The I/R FDU units contain the following personnel:

- I/R battalion HHDs: 74 total personnel (one 31E)
- I/R companies: 124 total personnel (100 31Es)
- I/R platoons: 42 total personnel (41 31Es)
- Maximum Security Sections: 12 total personnel (12 31Es)
- MP guard companies: 157 total personnel (no 31Es)
- I/R detachments (RC only): 24 total personnel (no 31Es)

The I/R FDU is designed to provide I/R units to the UEy that meet the specific requirements of the commander. The primary employment of 31Es will be at the UEy level. They will deploy in the I/R configuration best suited to the mission, whether it be as I/R brigades or I/R battalions. Current planning calls for two 31E NCOs (E-7s) working on the UEx staff, one in the UEx Main and one in the UEx TAC. Both will act as liaisons to the UEy I/R units and as advisors on I/R capabilities at the UEx level. There are no current plans to place 31Es in the Unit of Action (UA) or Stryker Brigades.

A UA will contain a 41-person MP platoon (31Bs). There will be no 31Bs in the Stryker Brigades. In the UEx and UEy, the 31Bs outside of the I/R units will not be primarily tasked with I/R operations.

(4) Recommendation: TRADOC and G3 continue to refine and implement the force structure changes in the Military Police - Internment/Resettlement Battalion Force Design Update.

Recommendation: TRADOC integrate the Military Police - Internment/Resettlement Battalion Force Design Update into the development of Units of Action and Units of Employment.

g. **Finding 15:**

(1) Finding: Three of 4 inspected internment/resettlement facilities and many of the collecting points, had inadequate force protection measures, Soldier working conditions, detainee living conditions, and did not meet the minimum preventive medicine and medical treatment requirements.

(2) Standard: See Appendix E.

(3) Inspection Results: The DAIG Team inspected 4 internment/resettlement (I/R) facilities and 12 forward and central collecting points (CPs). Three of 4 inspected internment/resettlement (I/R) facilities, and 3 of 12 (25%) inspected collecting points (CPs), had problems and shortcomings with deteriorating infrastructure that impacted on having a clean, safe, and secure working environment for Soldiers and living conditions for detainees. Poor food quality and food distribution, lack of laundry capability, and lack of personal hygiene facilities at some of these facilities affected the detainees' living conditions. Overcrowding, safety hazards, frequent enemy hostile fire, and lack of in-depth force protection measures also put both Soldier and detainee at risk.

Four of 16 (25%) inspected facilities (Camp Bucca, Bagram, Abu Ghraib, and Brassfield-Mora) were found to have safety hazards that posed risks to Soldiers and detainees. In addition, there was little evidence that units operating facilities had safety inspection programs in place. Safety programs in just a few facilities amounted to nothing more than detainee fire evacuation plans, weapons clearing procedures, and military working dog safety considerations. At the time of the inspection, Camp Cropper, Camp Bucca, and Abu Ghraib did not have finalized and approved Standing Operating Procedures (SOPs) for their facilities. At the time, units were busy revising and tailoring their SOPs for the mission. However, during SOP reviews conducted by the DAIG Team, there was no evidence that the risk management process was being incorporated into the working draft SOPs as required. Reviews of finalized SOPs at other facilities yielded the same results as the working drafts—no risk management was incorporated into SOPs.

No units fully complied with the medical treatment of detainees or with the sanitary conditions of the detainee facilities. Not all medical personnel supporting division CPs and I/R facilities were aware of detainee medical treatment requirements or had the proper equipment to treat a detainee population. The medical personnel interviewed stated that they did not receive any specific training in detainee operations and were not aware of Army Regulation (AR) 190-8, Enemy Prisoners of War, Retained Personnel, Civilian Internees and Other Detainees, 1 October 1997, although most believed they were required to treat detainees to the same standard of care as Coalition Forces. There was a widespread lack of preventive medicine staffing, supplies, and equipment to meet the needs of CPs and I/R facilities. This shortfall was compounded by the failure of units to deploy appropriately trained and supplied field sanitation teams. Medical leaders responsible for direct oversight of preventive medicine personnel lacked specific training in detainee operations and field sanitation. I/R facility site selection, design and construction decisions did not incorporate preventive medicine considerations. There was significant variance in the hygiene and sanitation conditions at CPs and in I/R facilities throughout Afghanistan and Iraq. While major improvements continue to upgrade conditions at most sites, the process has been hampered by shortages of preventive medicine personnel and materiel, problems with site selection and design, and detainee populations that exceed the current system capacity. Lack of trained preventive medicine personnel and required field sanitation supplies has contributed significantly to deficiencies in hygiene and sanitation at CPs and I/R facilities.

CAMP BUCCA

Soon after the ground conflict began in Iraq, the Camp Bucca I/R facility was designed and established as an internment facility for Enemy Prisoners of War (EPWs). At the time of the

DAIG inspection, Camp Bucca was considered an overflow I/R facility for Abu Ghraib, and all detainees were kept in the old facility, which contained 6 compounds. The new facility, containing six additional compounds, was in the final stages of completion. The old facility housed a non-compliant Civilian Internee (CI) population, third-country nationals, and a very small number of EPWs. Detainees were not segregated according to category (i.e., EPWs and CIs (to include Security Internees) were housed together in compounds 7 through 11). Compound 12 housed the third-country nationals.

The DAIG Team found inadequate security measures at the Camp Bucca. Camp Bucca had 2 controlled entry points leading into the compound, but blind spots along the perimeter made access possible at other points. The facility had a sally port gate, but it was used as a serpentine instead of a true double-gate security mechanism to control the entrance and exit of personnel and vehicles. The perimeter security consisted of roving guards, a gate guard, and a guard in each of the towers. There were 2 vehicular security patrols, but they would consistently take the same route, making them vulnerable to enemy attacks and Improvised Explosive Devices (IEDs) placed on the patrol route. The visitation process at Camp Bucca presented security concerns. During visitation hours Iraqi family members were searched at the exterior entry point, but thereafter they were allowed to mingle around guards who were carrying weapons until they were taken inside the compound to visit detained relatives. This posed a major security concern should one or more of the visitors overtake a guard and seize his weapon.

In numerous places at the old facility, the triple-standard concertina wire was over-stretched and not tied down properly, and the short and long U-shaped pickets were not spaced properly. This, and the fact that the detainees vastly outnumbered the guard force, posed a security concern and potentially put Soldiers at risk if detainees rushed the wire. There were 8 perimeter towers that were not mutually supporting, creating dead space and blind spots throughout the old compounds. The towers also did not have effective communications with the roving guards. The facility had good lighting according to leaders and Soldiers due to recently receiving 32 trailer-mounted portable light stands that can be moved around the facility as needed. The acquired light stands significantly improved the lighting around the compounds. At the time of the Taguba Investigation, the perimeter lighting around Camp Bucca was inadequate and needed to be improved to illuminate dark areas that routinely became avenues of escape. Many of the security concerns due to the wire fences were corrected when the detainees were transferred to the 6 new compounds that have been constructed. The chain link fence at the new compounds was not staked to the ground between fence posts to prevent detainees from slipping through the bottom. However, to overcome this shortcoming, the battalion was placing concertina wire around the inside perimeter of the chain-link fence. This is a significant improvement in security over the old compounds. Detainees were transferred to the new compounds after the DAIG visit. These safety and security concerns were resolved once the detainees were transferred and the old compounds phased out.

According to interviews and sensing sessions at Camp Bucca, Soldiers said food is distributed and served in 30 gallon plastic containers, sometimes long after it is prepared. Detainees served themselves by dipping whatever containers they possessed into the food. No utensils were provided, and no portion control measures were in place to ensure that each detainee got the proper amount of food. One leader interviewed stated that serving ladles were on order, but none were on-hand. Food frequently ran out before all detainees had an opportunity to eat. Soldiers stated in sensing sessions that Meals, Ready to Eat (MREs) had to

be used to ensure all detainees were fed. The detainees got their drinking water from water spigots at Camp Bucca. It was noted during the walk-through that at least one water source at one of the compounds was located several feet from the human waste dump (septic tank). This problem was eliminated once the detainees were transferred.

There was no laundry service at Camp Bucca to support the detainees so they did their own laundry with the small tubs and soap given them. However, leaders and Soldiers said during interviews that they did not know if there were enough washtubs supplied to the detainees. They were not sure how many detainees actually possessed tubs and soap, and where the tubs were located within the 6 compounds.

Camp Bucca did not routinely receive hostile fire, if at all. However, the compounds did not have adequate force protection measures in place to ensure the safety and protection of detainees and Soldiers from potential hostile indirect and small arms fire. There were no bunkers or shelters constructed with overhead cover for detainees to enter if the compounds came under attack. There were also no such bunkers or shelters constructed in the new compounds where the detainees are scheduled to be transferred.

The Taguba Investigation mentioned Camp Bucca as significantly over its intended maximum capacity, with a guard force that is under-manned and under-resourced. The DAIG Team found that Camp Bucca was not overcrowded nor under-manned because the facility had been scheduled to be discontinued as an I/R facility, and a drawdown in the detainee population had occurred after the investigation was conducted. A decision to use it as an overflow facility for Abu Ghraib kept it operational. The detainee population during the DAIG Inspection was 1769. Capacity for the newly constructed facility is 4500 according to the command briefing given to the DAIG Team.

BAGRAM I/R FACILITY

The Bagram I/R facility was designed and used as a Soviet aircraft maintenance facility that was built in the early 1960s. The DAIG Team found several safety hazards at the facility that posed risks to both Soldiers and detainees. Based on the document review and a thorough walk-through of the Bagram I/R facility, there was little evidence of a unit safety program. However, extensive engineering and environmental surveys of the facility, to include contaminated rooms and roof failures, had been recently conducted. At the time of the DAIG inspection, the infrastructure to support the facility was inadequate. Examples included inadequate ventilation/climate control and lighting on the main floor, the electrical distribution system throughout the facility, and non-existent sanitary facilities at the main floor.

In the Bagram I/R facility, there were no handrails and banisters on many of the steep stairwells and landings. The DAIG Team determined this was particularly dangerous while Soldiers escorted blindfolded detainees up and down the stairs. Team members actually witnessed Soldiers escorting blindfolded detainees on these stairs. Some drop-offs from the second floor landings were 5 to 7 feet.

Potential shock hazards existed at the Bagram I/R facility. There were numerous examples of open and exposed electrical wiring around the facility, to include a major electrical panel located in the vicinity of a known roof leak. Throughout the office areas, uncovered receptacles and light switches were found.

Contaminated soil (evidence of heavy metals) was found in the former metal plating rooms. The rooms were previously used as a metal plating facility as part of the Soviet aircraft maintenance facility. The unit requested and received an environmental survey of the rooms, and the conclusion was that the sampled materials represented a health risk. A rough cost estimate ($3-6 million) to remediate the contaminated rooms was cost-prohibitive, and the decision was made to seal the rooms to protect Soldiers and detainees from exposure.

According to an interview, lead-based paint was procured from the local economy to paint the interior in various locations in the facility. Lead-based paint had been used in the past and was still being used in the Bagram I/R facility, creating a potential risk to Soldiers and detainees.

Concerning the non-existing sanitary system, Soldiers were required to remove modified portable latrines from each detainee group cell by hand. These latrines were dragged to a designated location outside the facility where contractors would empty and clean them. After cleaning the latrines, Soldiers dragged the latrines back into place in each detainee cell. During interviews and sensing sessions, Soldiers stated that human waste spills were frequent on the main floor. There was a project ongoing that will remedy this problem. The project included an installed indoor septic system that consisted of a 4-inch main line running underneath the newly poured concrete pads and along the length of the group cells. Toilets were being installed inside of each cell, and the effluent will flow via gravity to an exterior waste system. The estimated completion date was April or May 2004.

The facility had multiple roof leaks, to include an area that was repaired after damage from aerial bombing. In December 2003, the engineer group conducted a roof inspection and found possible obstructed roof drains and deterioration of parapet walls and flashing. The estimated cost to repair the roof is $350K. This project was not funded at the time of the inspection.

At the time of this inspection, the facility had inadequate personal hygiene facilities for the number of detainees. An ongoing indoor plumbing system project to fix the problem will consist of a newly built shower room with full shower capabilities (10 shower heads) as well as a white water supply system. The fresh water supply will be housed inside of an exterior water system building that must also be designed and built.

The electrical distribution system in place was inadequate, especially to support planned upgrades for the facility that include lighting for new cells and towers and power for the Morale, Welfare, and Recreation room for the Soldiers. Current electrical amperage draw is 1279.7 amps. Amperage draw, once the upgrades are complete, will increase by another 340 amps, beyond the current transformer's capability of 1441 amps. The facility engineer was assessing the electrical load and prioritizing electrical distribution throughout the facility, with office air conditioning units and hot water heaters being shut down first during overloads to the system. There was concern that serious overloads to the system will occur this summer. There is a project planned to replace the transformer and renovate the electrical distribution system for the facility, but at the time of the inspection the project had not been funded.

ABU GHRAIB

Abu Ghraib had problems with deteriorating infrastructure that impacted the clean, safe, and secure working environment for Soldiers and living conditions for detainees. Poor food quality and food distribution, lack of laundry capability, and inadequate personal hygiene facilities affected the detainees' living conditions. Overcrowding, frequent enemy hostile fire, and lack of in-depth force protection measures also put Soldiers and detainees at risk. There is a separate finding concerning Abu Ghraib. See Finding 3 in Chapter 3.

COLLECTING POINTS

Detainees were being held at division forward and central CPs from 1 to 54 days for intelligence exploitation before release or transfer based on interviews and sensing sessions of leaders and Soldiers. If detainees are kept longer than doctrinally recommended, then the infrastructure standards for the facilities should be similar to I/R facilities for the security, safety, and wellbeing of the detainee. 3 of the 12 (25%) forward and central CPs inspected (Green Zone in Baghdad, Brassfield-Mora in Samarra, and Khost, Afghanistan) were determined to be inadequate to keep detainees for longer than doctrinally recommended due to not having the needed laundry services, personal hygiene facilities, medical care, and adequate shelter from adverse weather conditions and the elements. The division forward collecting point (CP) at Brassfield-Mora was also located within 100 feet of an ammunition holding area and fuel point. Enemy hostile fire targeting these areas could result in detainee casualties due to the close proximity of these sites to the collecting point. There were plans to fix a majority of these shortcomings at these three facilities.

Many forward and central facilities visited had recent improvements and upgrades made to them because of the inadequate facilities and harsh conditions. These improvements included upgrades to supporting infrastructure and expansions to facilities to relieve overcrowding, enhance security, and to provide for better sanitation conditions. Improvements and upgrades at collecting points included (but are not limited to) a completely new facility (construction ongoing) at the Kandahar division central CP; new roof, new interrogation room, new electrical system, installed personal hygiene facility, and additional security lighting at the division forward CP in the Green Zone; security upgrades at the division forward CP at Ar Ramadi; addition of gravel around latrines at the Brassfield-Mora division forward CP to improve drainage; and a repaired guard tower at the division central CP at the Baghdad International Airport.

Planned upgrades and improvements included (but are not limited to) installation of two 500 gallon water tanks, laundry washers, and shower facility at Ar Ramadi; new cells in a hardened facility that will protect detainees from the elements in Khost; and planned security upgrades and construction of new shower facilities for the CP at Brassfield-Mora. All units inspected were placing a great deal of effort on making improvements and upgrades to existing collecting points for the health and welfare of detainees.

PREVENTIVE MEDICINE

Six of 8 inspected units operated CPs and I/R facilities that did not comply with minimum preventive medicine standards established in policy and doctrine. Two of 8 units met or exceeded minimum preventive medicine standards. The DAIG Team conducted

comprehensive preventive medicine inspections at 8 of the 16 (50%) internment/resettlement (I/R) facilities and collecting points (CPs) visited that were interning detainees.

Leaders and Soldiers from 36 units, both continental U.S. (CONUS) and outside CONUS (OCONUS), were interviewed concerning preventive medicine practices and procedures in detainee operations. There was a widespread lack of preventive medicine staffing, supplies, and equipment to meet the needs of CPs and I/R facilities. This shortfall was compounded by the failure of units to deploy appropriately trained and supplied field sanitation teams. Medical leaders responsible for direct oversight of preventive medicine personnel lacked specific training in detainee operations and field sanitation. I/R facility site selection, design and construction decisions did not incorporate preventive medicine considerations. The capacity of the detainee system was exceeded early in the operations, leading to prolonged holding times at CPs and other areas not prepared for long-term housing of detainees.

There was significant variance in the hygiene and sanitation conditions at CPs and in I/R facilities throughout Afghanistan and Iraq. While major improvements continue to upgrade conditions at most sites, the process has been hampered by shortages of preventive medicine personnel and materiel, problems with site selection and design, and detainee populations that exceed the current system capacity. As of March 2004, Camp Bucca still had potable water sources within a few feet of exposed fecal material; Abu Ghraib continued to struggle with garbage and rodents in living areas; and Kandahar's food service sanitation was extremely poor. Hand washing stations were still absent from 3 of 8 (38%) locations inspected, and sanitary orders had not been published and posted at any detainee facilities in accordance with Army Regulation (AR) 190-8, Enemy Prisoners of War, Retained Personnel, Civilian Internees and Other Detainees, 1 October 1997.

Lack of trained preventive medicine personnel and required field sanitation supplies contributed significantly to deficiencies in hygiene and sanitation at CPs and I/R facilities. Units (97%, 35 of 36) did not deploy with properly trained and equipped field sanitation teams in accordance with AR 40-5, Preventive Medicine, 15 October 1990. Preventive medicine technicians (Military Occupational Specialty 91S) were not deployed in sufficient numbers to support detainee operations, with only one assigned to each Military Police (MP) I/R battalion and none available to support units operating CPs. Preventive medicine detachments at the division level provided support to I/R facilities and CPs when distance and security permitted, but the non-linear battlespace precluded support to the majority of CPs forward of brigade. Shortages of supplies and equipment prohibited preventive medicine personnel from providing complete field sanitation services. Holding times at CPs (up to 54 days; doctrinal maximum is 24 hours) required a more robust infrastructure than units were prepared or resourced to provide.

During interviews and sensing sessions, the DAIG Team noted that (86%, 31-36) leaders and Soldiers were unaware of the specific hygiene and sanitation requirements for CPs and I/R facilities. They relied on "common sense" and contractors to establish local, often unwritten, standards. All (16 of 16) of the interviewed battalion, brigade, and division surgeons said they were not trained in detainee operations and/or preventive medicine and therefore lacked the knowledge to provide adequate oversight for hygiene and sanitation of CPs and I/R facilities. There were no theater- or unit-level policies that addressed preventive medicine requirements for detainee operations. Additionally, there was no evidence of specific medical planning for field sanitation/preventive medicine support to detainee operations.

Despite the many obstacles, recent (March 2004 timeframe) International Committee of the Red Cross (ICRC) inspections of the U.S.-operated I/R facilities in OIF have indicated general satisfaction with the efforts underway to address persistent problems in hygiene and sanitation (although the slow pace of improvements was criticized). As of March 2004, contractors have assumed responsibility for many sanitation functions, including food and water supplies, latrines, laundry, and waste disposal. The most significant problems that persist include overcrowding and insect/rodent control.

The Ryder Report and the Taguba Investigation indicated deficiencies in preventive medicine aspects of detainee operations. The Ryder Report stated that "significant variance in the health, hygiene and sanitation conditions were observed in the detention facilities throughout Iraq." The report referred to ICRC reports that indicated "major progress" in all areas, and further stated that "most facilities have adequate water supplies, sewage management and appropriate food services to comply with the United Nations guidelines." The deficiencies observed were attributed in this report to "inadequate logistical support for facility operations." The Ryder Report pointed out major sanitation problems at Camps Ganci and Vigilant (compounds at Abu Ghraib). Camp Ganci was littered with trash, had large amounts of standing water around latrines, lacked laundry facilities, had insufficient cleaning supplies, and housed detainees in tents that did not provide adequate protection from severe weather or hostile fire. Camp Vigilant had problems with water supply and latrines. The Taguba Investigation did not look at hygiene and sanitation, but it noted that Abu Ghraib and Camp Bucca were "significantly over their intended maximum capacity", with the overcrowding contributing to "poor living conditions." The DAIG Team's findings are consistent with those of the Ryder Report and the Taguba Investigation, but they were not chartered to perform specific evaluations of preventive medicine conditions at U.S.-operated CPs and I/R facilities. While the Ryder Report found most facilities to be in compliance with United Nations guidelines, the DAIG Team inspected I/R facilities and CPs against Army standards (AR 190-8, AR 40-5, and FM 21-10).

MEDICAL TREATMENT

No inspected units supporting detainee operations complied with all medical treatment requirements for enemy prisoners of war and civilian internees, such as monthly height/weight screenings, chest x-rays, and tuberculin skin tests. The DAIG Team found none of the inspected units were following all the medical requirements in accordance with AR 190-8. However, at the time of the inspection all units were attempting to provide detainees with the same quality of medical treatment as that provided to Coalition Forces.

AR 190-8 requires an initial medical screening at I/R facilities for both enemy prisoners of war (EPWs) and civilian internees (CIs). At the time of the inspection, all I/R facilities and collecting points (CPs) were performing a medical screening upon initial in processing, but not to standards. At least one I/R facility (Camp Bucca) had previously provided no medical screening, relying on sick call to discover detainees who required medical treatment. The regulation also requires a continuing monthly medical screening, to include weight measurements that ensure detainees are properly nourished. Two of the 4 I/R facilities (Camp Bucca and the Bagram Internment Facility) were aware of this requirement, and both stated they had started performing these screenings in December 2003. Only 2 of the 4 I/R facilities (Camp Cropper and Bagram Internment Facility) conducted a routine, follow-up monthly

examination for detainees held over one month as required by regulation.

AR 190-8 also requires CIs be administered a "radioscopic chest examination." None of the facilities had performed this examination. At least one facility (Camp Bucca) had no means of diagnosis for tuberculosis until December 2003. At the time of the inspection, all I/R facilities isolated potentially contagious detainees and provided some preventive measures for Soldiers treating these detainees. All I/R facilities and 7 of 12 (58%) inspected collecting points, established medical records for personnel who required medical treatment. At least 3 facilities transferred these records with the detainee when they were medically evacuated. Medical personnel at only one facility stated they would provide detainees with their medical records upon release.

Medical personnel at all facilities stated they provided medical care comparable to that afforded to Coalition Soldiers. The DAIG Team found this to be accurate in most cases, with some diagnosis-specific exceptions. The exceptions occurred when treatment required transportation out of the host nation, the patient required significant psychiatric care, or treatment was of an elective nature. Previously, one unit reported there had been some conflict between AR 190-8 and Coalition Provisional Authority treatment policy, which reportedly dictated that U.S. medical care was only available to detainees to prevent loss of life, limb, or eyesight. In these cases Army medical personnel attempted to maintain the higher standard by providing detainees with all necessary care. All interviewed medical providers stated they did not have the proper equipment for treating a detainee population that included older, chronically ill patients. In one I/R facility a senior medical Noncommissioned officer (NCO) stated that over 50% of his population had diabetes, and he had neither glucometers nor insulin. At another location a medical NCO stated that approximately 75% of his detainees had hypertension, and one-third were diabetics. At least 4 medical personnel and I/R facility commanders described shortfalls in resources to provide adequate psychiatric treatment. At least 2 I/R facilities had severely ill psychiatric patients (detainees who, in the estimation of the facility's medical personnel, required inpatient treatment) who were being treated pharmacologically by non-psychiatrist physicians.

The medical personnel interviewed stated that they did not receive any specific training in detainee operations or were aware of AR 190-8, although most believed they were required to treat detainees to the same standard of care as Coalition Forces. All requested additional training. At least one provider requested Mobile Training Teams to provide in-theater training.

The Ryder Report also noted medical personnel lacked adequate training and guidance on the treatment of detainees. Specifically, this report recommended that CJTF-7, "Publish and distribute all new Policies and SOPs to all affected parties and re-evaluate the application and adherence to medical practices." It went on to recommend that CJTF-7, "Provide continued in-service training to all newly assigned and/or rotating medical personnel on the provisions, rules and responsibilities stated."

(4) Root Cause: Some units did not have thorough plans to upgrade their facilities and in some cases, were not funded for upgrades. Field sanitation teams were not deployed in compliance with AR 40-5 and did not have adequate supplies to provide the services required. None of the units inspected were fully aware of, or trained on the specific medical requirements for detainees in accordance with AR 190-8. Medical leaders were not adequately trained for detainee operations and were unprepared to provide oversight for preventive medicine functions

at collecting points and I/R facilities. Preventive medicine aspects of detainee operations were not appropriately incorporated into medical planning processes. Preventive medicine detachments lacked sufficient personnel on their Modified Tables of Organization and Equipment (MTOEs) to adequately inspect all division collecting points and I/R facilities. Units did not have all the necessary medical equipment or supplies to meet the specific requirements contained in AR 190-8.

(5) Recommendation: CJTF-7 and CJTF-180 ensure all units meet the guidelines for minimum infrastructure standards supporting detainee operations to allow for adequate facilities to house detainees.

Recommendation: CJTF-7 and CJTF-180 implement a safety inspection program for all facilities that support detainee operations to identify and eliminate hazards to Soldiers and detainees.

Recommendation: CJTF-7 and CJTF-180 evaluate current living and working conditions at all facilities housing detainees and take corrective actions to improve the current living and working environment.

Recommendation: CJTF-7 review the physical and operations security requirements and policy/doctrinal procedures to ensure units operating internment/resettlement facilities comply with all requirements.

Recommendation: Force Providers require commanders to have trained and equipped field sanitation teams prior to deployment, and deployed commanders ensure field sanitation teams comply with Army policy.

Recommendation: TRADOC review the preventive medicine detachment force structure to ensure support to all collecting points and internment/resettlement facilities in a non-linear battlespace.

Recommendation: MEDCOM train all medical personnel in the preventive medicine aspects of detainee operations to ensure compliance with policy and the laws of land warfare.

Recommendation: MEDCOM ensure all health care personnel are trained on the medical treatment requirements for detainees in accordance with Army Regulations and ensure that units have the required medical equipment and supplies for treating detainees.

Recommendation: CJTF-7 and CJTF-180 evaluate current detainee medical capabilities and requirements and take corrective action to ensure detainees receive the required medical screening and care.

h. **Finding 16:**

(1) Finding: Two of 4 internment/resettlement facilities did not segregate enemy prisoners of war from civilian internees in accordance with legal requirements.

(2) Standard: See Appendix E.

(3) Inspection Results: The DAIG Team observed that 2 of the 4 inspected internment/resettlement (I/R) facilities did not segregate enemy prisoners of war (EPWs) from civilian internees (CIs). Inspections of I/R facilities, leader interviews, Soldier sensing sessions, and document reviews showed that there were 46 documented EPWs in Iraq, few of which were segregated from the CI population. Units did not segregate EPWs for 2 reasons: (1) it was too difficult a task because some of the compounds within the internment facility would only have a few EPWs in them, thus wasting space that could be used to house CIs; and (2) they were co-mingled to support interrogation requirements. Continued failure to segregate EPWs from CIs in Iraq is in contradiction to the legal requirements of GC, Article 84.

The Ryder Report mentioned, "Currently, due to the lack of Iraqi prison facilities and the ongoing consolidation efforts at the Abu Ghraib complex, Iraqi criminals are detained with security internees (generally Iraqi-on-Coalition offenses) and EPWs; though segregated in different cells/compounds. These categories of offenders need to be separated as soon as facility construction and renovation projects permit, especially separating those facilities run by U.S. personnel (for Iraqi criminals). The management of multiple disparate groups of detained persons in a single location by members of the same unit invites confusion about handling, processing, and treatment, and typically facilitates the transfer of information between different categories of detainees. Absent specific mission constraints, intermingling these categories of detainees should be avoided." Abu Ghraib abided by the Ryder Report recommendation regarding segregation of detainees by either releasing EPWs or moving them to other facilities, as the DAIG Team observed no EPWs at Abu Ghraib. In addition, the Ryder Report mentions segregation, but not specifically in the context of EPWs and CIs: "Initiate procedures for segregating Detainees into separate buildings if and where available, based on category of detainee, sex, untried, or sentenced, and severity of offense."

(4) Root Cause: Leaders at all levels were aware of the legal and regulatory requirement to segregate EPWs from CIs. Units did not comply with the segregation standard because they felt it was too difficult a task or they acted to support intelligence requirements.

(5) Recommendation: CJTF-7 segregate enemy prisoners of war and civilian internees to ensure compliance with the Geneva Conventions and Army Regulations.

i. **Finding 17:**

(1) Finding: Units operating collecting points (42%, 5 of 12), and units operating internment/resettlement facilities (2 of 4), were not adequately resourced with communications equipment, shotguns, and non-lethal ammunition.

(2) Standard: See Appendix E.

(3) Inspection Results: The DAIG Team inspected 12 collecting points and 4 internment/resettlement (I/R) facilities. Five out of 12 (42%) units operating collecting points (CPs), and 2 of 4 (Camp Bucca and Abu Ghraib) units operating I/R facilities experienced equipment shortfalls, including hand-held radios for communications between guards, escorts, and towers; weapon systems with non-lethal ammunition; hand and leg restraint devices; and rubber gloves to safely handle detainees.

The Military Police (MP) I/R battalion at Abu Ghraib experienced equipment shortfalls of weapons, radios, and non-lethal ammunition. This problem was compounded because the MP battalion was augmented with in lieu of (ILO) units (a Marine Infantry company and a Field Artillery battery) to perform MP missions. The MP battalion was short radios, so Soldiers at Abu Ghraib purchased their own commercial hand-held radios to overcome their shortages. These radios were used primarily for communication between tower guards, roving guards, and for detainee escort missions. Lack of batteries and working radios in the units compounded the problem. Leaders and Soldiers stated during interviews and sensing sessions that detainee operations placed additional communication burdens on the units. These commercial hand-held radios lacked the range and the communications security (COMSEC) capabilities required to maintain secure communications. According to interviews and sensing sessions, the ILO MP units did not deploy with the authorized number of shotguns, non-lethal ammunition, and radios for guard companies and escort guard companies under the Modified Table of Organization and Equipment (MTO&E) of an I/R battalion.

The situation at Camp Bucca was slightly different. The I/R battalion was augmented by two Field Artillery batteries that were ILO MP units. According to interviewed and sensed leaders and Soldiers, the MP battalion, to include the ILO units at Camp Bucca, was short authorized hand and leg restraint devices, radios, shotguns, and non-lethal ammunition. Soldiers at Camp Bucca also purchased commercial hand-held radios to overcome unit communication shortages. Like the ILO MP units at Abu Ghraib, the Field Artillery batteries experienced shortages before and after deployment due to MTO&E differences with I/R MP Guard and Guard Escort companies and experienced many of same impacts that the units at Abu Ghraib faced.

Based on interviews and sensing sessions, the collecting points at Baghdad (Green Zone), Tikrit, Baghdad International Airport (BIAP), Brassfield-Mora, and Ar Ramadi all had equipment shortages. Soldiers at the division forward collecting points at Brassfield-Mora and Ar Ramadi said that they did not have enough radios for detainee operations. The forward and central collecting points at the Green Zone, Tikrit, Ar Ramadi, and BIAP experienced shortages in hand and leg restraint devices. Collecting points at the Green Zone and Brassfield-Mora had difficulties in acquiring identification bracelets. All five of the collecting points mentioned above suffered shortages in rubber gloves for the handling of detainees.

(4) Root Cause: Combat support MPs and in lieu of MP units are not adequately equipped to perform detainee operations.

(5) Recommendation: TRADOC identify minimum equipment requirements for detainee operations to ensure successful unit mission accomplishment.

j. **Finding 18:**

(1) Finding: All inspected point of capture units established ad hoc kits containing necessary items and supplies for detainee field processing, but the items they contained and their quantities varied from unit to unit.

(2) Standard: See Appendix E.

(3) Inspection Results: Current operations involving the securing and field processing of detainees require specific equipment and paperwork. A "Detainee Field Processing Kit" would assist all units in processing detainees. Based on leader and Soldier interviews, the DAIG Team found that capturing units had established some type of ad hoc kit, which included a variety of items required for securing and field processing a detainee, however, the contents and quantities varied from unit to unit. Some units had more complete kits than others.

These kits were put together at unit level with no guidance from higher and no standardization except generally for the type of forms required for field processing. Capturing units developed the kits by trial and error over a period of time to streamline the processing of detainees to the forward collecting points. In some units, leaders and Soldiers were not aware of all the processing requirements for detainees for evacuation or transfer to forward collecting points. They expressed concern over not knowing these requirements and felt that if the kit had been established through doctrine, it would have expedited and standardized the field processing of detainees.

Some of the more complete kits contained copies of the required forms from AR 190-8, Enemy Prisoners of War, Retained Personnel, Civilian Internees and Other Detainees, 1 October 1997, such as DA Form 4137, Receipt for Evidence/Property Custody Document; DD Form 2745, Enemy Prisoner of War (EPW) Capture Tag; DA Form 2823, Sworn Statement; and the Coalition Provisional Authority (CPA) Forces Apprehension Form (OPERATION IRAQI FREEDOM only). Other items generally found in the more complete kits were flexi-cuffs, string or wire (to attach the Capture Tag or CPA Form to the detainee), large plastic bags (to hold evidence, personal effects and other large confiscated items), small zip-lock plastic bags (to hold currency or small valuable items), an instant or digital camera, hearing protection, sandbags, bandages, or blacked-out goggles (to cover eyes), and in times of cold weather, blankets for the detainees.

(4) Root Cause: Capturing units did not have doctrinal guidance to follow in preparing or funding detainee kits that enabled units to safely and efficiently field process detainees.

(5) Recommendation: TRADOC establish and identify resource requirements for a standardized "Detainee Field Processing Kit" that will enable capturing units to properly secure and process detainees quickly, efficiently, and safely.

k. **Finding 19:**

(1) Finding: All inspected units had adequate transportation assets to evacuate and/or transfer detainees from points of capture to collecting points, and eventually to internment/resettlement facilities.

(2) Standard: See Appendix E.

(3) Inspection Results: The DAIG Team determined that inspected units had adequate transportation assets to evacuate, transfer, or repatriate detainees. Only a few units experienced minor difficulties arranging transportation, usually during surge periods. These transportation shortages were usually temporary problems that were resolved through coordination with supporting units.

Leaders and Soldiers stated that supporting units, such as forward support and main support battalions, were able to assist in providing transportation assets if capturing units were hampered due to other ongoing missions when required.

Capturing units typically transported detainees to the battalion or division forward collecting points in the back of High Mobility Multi-Wheeled Vehicles or Bradley Fighting Vehicles. Guard ratios and the numbers of accompanying security vehicles were generally well planned out. Most units took advantage of resupply assets to move detainees across the battlefield.

(4) Root Cause: Units were planning for and using transportation assets efficiently to move detainees across the battlefield and through the system.

(5) Recommendation: Commanders continue to stress the importance of planning and providing for adequate transportation assets to support continuing detainee operations.

l. Finding 20:

(1) Finding: Common leader training in professional military schools contains only one detainee operations task.

(2) Standard: See Appendix E.

(3) Inspection Results: The DAIG Team found that leaders and Soldiers from 87% (53 of 61) of the units that commented on Professional Military Education (PME) indicated that their PME common core does not train them to conduct detainee operations. The only PME courses that cover detainee operations training in their common core are during pre-commissioning, Warrant Officer Candidate School and the Primary Leadership Development Course. The Noncommissioned officers (NCOs) interviewed and sensed said they received little detainee operations training in their PME courses. These same NCOs talked more specifically about the Situational Training Exercises (STX) that are conducted at the end of each level of NCOES through the Advanced Noncommissioned Officer Course (ANCOC). Their STX training was force-on-force play using Multi-Integrated Laser Engagement System (MILES), and detainee operations training ceased after the point of capture.

The NCOs experienced difficulty in filling out and completing the required detainee apprehension forms correctly, which included witness statements. They also experienced difficulty in creating a detailed list and accounting for captured detainee property and evidence. The NCOs agreed that there is a training shortfall dealing with detainee classification, and status and treatment afforded to each classification under the provisions of the Geneva Convention. STXs did not cover the classifying of detainees or the paperwork involved in field processing detainees. Their PME training for detainee operations only covered the processing of enemy prisoners of war (EPW). Leaders and Soldiers interviewed and sensed indicated a need to incorporate detainee operations tasks into their PME common core programs of instruction (POI). The current operating environment has evolved and Soldiers at all levels must have a clear understanding of and how to execute detainee operations in a non-linear battlespace. The PME must apply lessons learned quickly to adjust their training to what is occurring in the current operating environment. Interviewed leaders and Soldiers all said that PME is a very important training base, but that it must keep up with current operational lessons

learned and evolving tactics, techniques and procedures.

Interviewed and sensed leaders and Soldiers stated that the Law or War training they received prior to deployment did not differentiate between the different classifications of detainees causing confusion concerning the levels of treatment. Even though this confusion existed, most leaders and Soldiers treated detainees humanely.

Currently, TRADOC has integrated one detainee operations task into the PME common core: Process Captives, (191-000-0001). The pre-commissioning course, Warrant Officers Candidate School and NCOs at the Primary Leadership Development Course are only courses receiving training on this task.

The U.S. Army Military Police School (USAMPS) has several ongoing initiatives that began in December 2003. USAMPS is currently in the process of creating and revising their detainee operations programs of instruction and training support packages using lessons learned from OPERATION ENDURING FREEDOM (OEF) and OPERATION IRAQI FREEDOM (OIF). Military Police (MP) NCOs attending the MP NCO Academy receive training on the following new and revised detainee operations tasks:

- Introduction to Detainee operations
- Communication with detainees
- Use of Force and Detainees
- Detainee Frisk, Undress, Cell and area search operations
- Restraint procedures and Detainees
- The Geneva Conventions and detainee operations

USAMPS has currently revised the tasks to provide updated programs of instruction and training support packages to support detainee operations training at all PME schools and colleges.

(4) Root Cause: There are currently not enough programs of instruction and training support packages available to the Professional Military Education schools and colleges that support detainee operations training.

(5) Recommendation: TRADOC integrate standardized detainee operations training into all Army proponent school common core programs of instruction and training support packages.

m. **Finding 21:**

(1) Finding: Leaders and Soldiers assigned to 69% (46 of 67) of inspected units stated they desired additional home station training; and pre- and post mobilization training to assist them in performing detainee operations.

(2) Standard: See Appendix E.

(3) Inspection Results: The DAIG Team found that leaders and Soldiers assigned to 27 of 39 (69%) of inspected Active Component (AC) units indicated their home station training did not prepare their units to perform detainee operations. Individual and collective training at home station was concentrated on fighting an enemy on a linear battlefield, according to interviewed

and sensed leaders and Soldiers. Their units did little in the way of training on detainee operations. All inspected units did execute the Common Military Training (CMT) as outlined in Army Regulation 350-1, Army Training and Education, 9 April 2003. However, the CMT classes on the Law of War, the Geneva Conventions, and Code of Conduct were generic and did not address the specific application of detainee operations in the current operating environment. These same leaders and Soldiers said their detainee operations training only covered field processing of enemy prisoners of war (EPWs) and not other classifications of detainees. The training these units received on field processing of detainees was comprehensive when dealing with EPWs only.

Once deployed in support of OPERATION ENDURING FREEDOM (OEF) and OPERATION IRAQI FREEDOM (OIF), leaders and Soldiers identified a training shortfall dealing with the handling of the different classifications of detainees and their special handling procedures. Units did not have established tactics, techniques, and procedures (TTPs) or standing operating procedures (SOPs) to cover the handling and processing of different classifications of detainees. This lack of training by point of capture units placed a burden on their resources (manpower, logistics and medical). To compound the problem, a number of leaders and Soldiers were unaware of the specific Army regulation or field manuals that govern detainee operations.

Soldiers assigned to division MP units told the DAIG Team that they did not train at home station on the five MP functional areas that were assigned to the units in theater. One example concerned a division MP platoon conducting maneuver and mobility support training at home station and then being assigned the internment/resettlement (I/R) function after deployment. These Soldiers said that their training at home station should include all 5 of the MP battlefield functions. This agrees with the Taguba Investigation finding that states, "Those military units conducting I/R operations must know of, train on, and constantly reference the applicable Army Doctrine and CJTF command policies."

Reserve Component (RC) leaders and Soldiers assigned to 64% (14 of 22) of inspected RC units stated the training they received at their mobilization sites did not prepare them to conduct detainee operations. OEF and OIF experienced RC career course captains, interviewed at the U.S. Army Military Police School (USAMPS), also said their units did not receive adequate training at their mobilization sites to prepare them to conduct detainee operations. Training at some mobilization sites concentrated on improving combat soldiering skills and to pass the Common Task Test (CTT). Leaders and Soldiers were not required to attend deployment briefings at these mobilization sites, also these units maintained no tracking systems to ensure that every Soldier received mandatory training.

Interviewed and sensed leaders and Soldiers said they were not given enough time at the mobilization sites to conduct collective unit level training. Some units had just enough time to complete their central issue facility (CIF) draw, and complete the Soldier readiness checks (SRC) before deploying overseas. Training was considered and treated like a "revolving door" at some mobilization sites. Interviewed leaders and soldiers assigned to 64% (14 of 22) of inspected RC stated they were not given a clear mission statement prior to mobilization and were not notified of their MP mission until after deploying. The units received their MP mission upon their arrival in theater. Interviewed Soldiers gave examples of being placed in stressful situations in internment/resettlement (I/R) facility with thousands of non-compliant detainees and not being trained to handle them. The lack of a mission statement limited units in support of

OEF 4 and OIF 1 from training on mission essential tasks at their mobilization site. This is also supported by the findings in the Taguba Investigation.

Once deployed, these MP units had no means to gain access to the necessary tactics, techniques, and procedures (TTPs) to train their Soldiers on the MP essential tasks based on their new missions. Regulations and field manuals were digitized, but unit leaders and Soldiers had no access to computers or the internet. It was very difficult to train Soldiers on MP missions early in their deployment. Interviewed leaders and Soldiers assigned to 64% (14 of 22) of inspected RC units stated they were assigned battlefield missions that they had never received training on at their home station or at their mobilization site. Soldiers provided examples of unit training primarily as an escort or guard MP company, but once deployed the unit was assigned I/R or law and order missions. A consensus among leaders and Soldiers was that their units should have concentrated their training on all 5 of the MP functional areas. They also agreed that all MP units should be resourced to conduct all 5 MP functional areas.

Interviewed leaders and Soldiers assigned to 5 of 6 inspected in lieu of (ILO) Military Police (MP) units did not receive detainee operations training at their mobilization site. These ILO units deployed into theater with little post-mobilization training on detainee operations and were assigned the ILO MP Security missions. Soldiers assigned to these units had little knowledge on what to do, but just trusted in their leaders to provide them good guidance. The ILO MP units inspected that deployed in support of OIF 1 were not given a clear mission statement prior to mobilization and were not notified of their ILO MP mission until after deploying. The units received their ILO MP mission upon their arrival in theater and were given a just few days to conduct a battle-handover with the outgoing units.

Once deployed, the ILO MP units had difficulty in gaining access to the necessary tactics, techniques, and procedures (TTPs) to train their Soldiers on the MP essential tasks based on their new missions. Army regulations and field manuals were digitized and unit leaders and Soldiers had no access to computers or the internet. It was very difficult to train Soldiers on MP missions early in their deployment. During OIF 1 there were no training programs in theater to train units designated ILO MP before they assumed their ILO MP Security missions. Leaders and Soldiers interviewed and assigned to these ILO MP units were assigned battlefield missions that they had never received training on at their home station or at their mobilization site.

Interviewed and sensed leaders and Soldiers stated that the Law or War training they received prior to deployment did not differentiate between the different classifications of detainees, causing confusion concerning the levels of treatment. Even though this confusion existed, most leaders and Soldiers treated detainees humanely. Interviewed and sensed leaders and Soldiers said the Army has the necessary training tools in place, but doctrine and/or policy needs to address and apply lessons learned more quickly to incorporate changes coming from OEF and OIF. The Common Task Test (CTT) was identified by these leaders and Soldiers as an excellent training tool, but the tasks require updating to comply with changes evolving from the current operating environments in OEF and OIF. CTT would be an excellent tool to integrate detainee operations into the force by using a multi-echelon training approach. The CMT tasks outlined in AR 350-1 should be updated to address the different classifications of detainees and how to apply the Geneva Conventions and the Law of War to each type of detainee. Interviewed Soldiers complained about the lack of detainee operations training their units received during their respective rotations at the National Training Center (NTC) or the Joint

Readiness Training Center (JRTC). Soldiers said detainee operations during their rotation at NTC or JRTC was not evaluated beyond the point of capture and lacked realism.

Post-mobilization training for units that deployed in support of OEF 5 and OIF 2 consisted of a comprehensive training program ending in a Mission Rehearsal Exercise (MRX) to assess units' ability to execute wartime missions. Leaders and Soldiers interviewed said that all Soldiers were required to sign-in for all mandatory training received at the mobilization site. Soldiers deploying in support of OEF 5 and OIF 2 were required to sign a statement acknowledging the training they received at their mobilization site. These Soldiers were being tracked by name and by unit. This process ensured that all mobilized leaders and Soldiers were accounted for and trained. Mobilization site training was broken down into 7 Modules culminating in a Simulation Exercise (SIMEX):

Module 1: Soldier Readiness Packet, Central Issue Facility, Theater Specific Individual Readiness Training briefings

Module 2: NBC survival tasks, Land Navigation, Communications

Module 3: Crew and Individual Basic and Advanced Weapons Qualification Skills, Leader Training & New Equipment Training

Module 4: Specialty Training

Module 5: Squad and Platoon Training

Module 6: Platoon Training

Module 6.1: Combat Support/Combat Service Support training

Module 7: Multi-Echelon Training / Support and Stability Operations Training (CAPSTONE)

Brigade SIMEX that covers Battalion and Brigade level collective tasks.

Modules 1 and 2 are augmented with a series of leader and Soldier concurrent training on Common Task Test supporting tasks. Leaders and Soldiers, deployed in support of OIF 2 and OEF 5, were very complimentary of the training they received at their respective mobilization sites. These training modules provided unit commanders the ability to execute detainee operations training during Modules 4, 5, 6, and 7. Interviewed leaders and Soldiers that deployed in support of OIF 2 said that post-mobilization training helped them once they deployed into theater. Forces Command (FORSCOM) issued specific guidance on the collective and individual tasks units must train on prior to deploying in support of OEF and OIF. These tasks did not prepare units to conduct detainee operation in the current operating environment.

The Combat Training Centers (CTC) are using an internal After Action Review (AAR) process in order to continue making improvements to their detainee operations scenario and to include the synchronization and integration of detainee operations into every unit's rotation. NTC's current focus is on conducting detainee operations to the doctrinal standard and by incorporating approved procedures used in OIF. Both JRTC and NTC have incorporated detainee operations into their Mission Rehearsal Exercises (MRXs) and Contemporary Operational Environment High Intensity (COE HI) rotations.

In the future, the Combat Training Centers' (CTCs) detainee operations training during MRX scenarios will be based upon reports and lessons learned from OIF and/or OEF, to include 1st Armored Division SOPs/TTPs, and doctrinal guidelines. All rotating units will be required to establish and operate a collecting point of some kind as part of their rotations. The CTCs are striving to replicate the best scenarios for the current operating environment. The G3, in

coordination with TRADOC, the Office of the Provost Marshal General, and the Office of The Judge Advocate General (OTJAG) has initiated a training integration assessment for improving detainee handling from point of capture to repatriation, to include a review of CTT and specialized MP training across the Army during Combat Training Center (CTCs) rotations, MRXs and TRADOC institutional training. This assessment began in December 2003 and is currently ongoing with no projected completion date.

The G3, in coordination with the U.S. Army Training and Doctrine Command (TRADOC), the Office of the Provost Marshal General, and the Office of The Judge Advocate General (OTJAG), has initiated a training integration assessment for improving detainee handling from point of capture to repatriation, to include a review of CTT and specialized MP training across the Army during CTCs rotations, MRXs and TRADOC institutional training. This assessment began in December 2003 and is currently ongoing with no projected completion date.

TRADOC's institutional training assessment is focusing on the Law of War and the 5Ss and T (Search, Silence, Segregate, Safeguard, Speed, and Tag) regarding EPWs throughout the proponent schools. USAMPS has formed an MP subject matter expert team to develop a process to analyze, identify, evaluate, and integrate lessons learned from all CONUS/OCONUS MP operations. TRADOC, in coordination with OTJAG, is currently determining the feasibility of expanding or adjusting Law of War training in the proponent schools to include procedures for handling of detainees.

In January 2004, the U.S. Army Military Police School (USAMPS) sent a Mobile Training Team (MTT) to JRTC to conduct "train-the-trainer" education for their observer controllers (O/Cs) on detainee operations. The MTT training covered detainee operations, personal safety, forced cell movements, restraint procedures, communication with detainees, and case studies. USAMPS is also coordinating with the NTC for a MTT to conduct the same training.

Currently, the USAMPS MTT mission is to train identified CONUS/OCONUS units performing detainee operations or I/R missions in support of OIF 2 on select and approved tasks to enhance their capabilities of mission accomplishment. The 31E detainee operations support and MTT is comprised of a total of 29 (31E) Soldiers. The MTT has trained leaders and Soldiers from the following units: 160th MP Battalion (BN), 107th FA Battery, 172nd FA Battery, 391st MP BN, 152nd FA Battery, K 3/24 INF-USMC, 439th CLD, MEK: 336th MP BN, 579th FA Battery, and the 1/124th AR SQ. A total of 565 leaders and Soldiers have been trained as of 7 May 2004. The following units are scheduled: 1st INF DIV (9 May-11 Jun), 1st CAV DIV (24 May-12 JUN), 1st MEF (6-30 Jun), and MNB-N (TF-Olympia) (14-30 Jun).

(4) Root Cause: There is no prescribed detainee operations training program for units to train at home station. A majority of Reserve Component MP Units who deployed in support of OIF 1 were not told of their missions until they arrived into theater and their area of responsibility.

(5) Recommendation: The G3 integrate a prescribed detainee operations training program into unit training.

Recommendation: CFLCC and Force Providers coordinate to ensure, where possible, units are aware of their assigned mission upon mobilization so they can train for their specific mission.

Recommendation: FORSCOM integrate a standardized detainee operations training package as part of pre- and post-mobilization training.

Recommendation: CFLCC ensure that ILO MP units are trained before they assume their ILO MP missions.

n. **Finding 22:**

(1) Finding: To offset the shortage of interrogators, contractors were employed, however, 35% (11 of 31) of contract interrogators lacked formal training in military interrogation policies and techniques.

(2) Standard: See Appendix E.

(3) Inspection Results: 35% (11 of 31) Of the contract interrogators in OPERATION IRAQI FREEDOM (OIF), 35% (11 of 31) had not received formal training in military interrogation techniques, policy, and doctrine. These personnel conducted interrogations using skill sets obtained in previous occupational specialties such as civilian police interrogator or Military Intelligence (MI) officer. The lack of specific training in military policies and techniques has the potential of placing these interrogators at a higher risk of violating Army policies and doctrine, and decreasing intelligence yield. 65% (20 of 31) of contract interrogators in OIF had previous experience as Army or Marine interrogators (Army 97E military occupational specialty or Marine Corps 0211) where they received formal school training in military interrogation techniques and procedures. These individuals had received formal military interrogation training an average of 9.5 years prior to employment as interrogators in OIF. The range of time from having completed basic military interrogation training was 1 to 25 years. Field Manual (FM) 34-52, Intelligence Interrogation, 28 September 1992, is the base document for Army interrogation doctrine. Persons trained in interrogation techniques prior to publication of the current version of the FM would have been trained on some doctrinal techniques that are no longer valid.

Contract interrogators were a force multiplier in OIF, supplementing a shortage of military interrogators. Contract interrogators were used to perform screenings and interrogations at collecting points (CPs) and in internment/resettlement (I/R) facilities to free military interrogators and counterintelligence agents to perform tactical missions at points of capture and CPs.

CACI International, Inc. is the civilian company contracted through the Department of the Interior to provide civilian interrogators for OIF. CACI has provided a total of 31 contract interrogators since the blanket purchase agreement (contract) was issued on 14 August 2003. As of 17 May 2004, 19 contract interrogators were deployed in support of OIF, and 12 contract interrogators have returned to the United States citing personal or family reasons.

The CJTF-7 Statement of Work (SOW) required contract interrogators to be the civilian equivalent of military occupational specialty 97E (Human Intelligence Collector) or 351E (Human Intelligence Collection Technician), strategic debriefer (completed the DoD Strategic Debriefing Course), or an individual with a similar skill set. Contract interrogators that only meet the requirements of "strategic debriefer" or "similar skill sets" may not have training in military-

specific interrogation techniques and procedures as taught in the 97E and 351E qualification courses. This training is specific to human intelligence exploitation and includes collection priority, battlefield screening, planning and preparation, authorized approaches, methods of questioning, and termination of interrogations. It also includes 192 hours of direct and indirect training on the laws of land warfare, emphasizing compliance of all military interrogation techniques with the Geneva Conventions and Army policy.

The DAIG Team inspected the resumes of all 31 individuals hired as contract interrogators by CACI. 65% (20 of 31) were prior service military interrogators who had been awarded the Army 97E MOS or Marine Corps 0211 MOS. These individuals had received formal military interrogation training an average of 9.5 years prior to employment by CACI (range: 1-25 years). Of the contractors without prior military service, 35% (11 of 31) had "similar skill sets" acquired in related military or civilian experience (e.g., military intelligence/counterintelligence agent, police interrogator, intelligence analyst, and police officer).

Prior to May 2004, there was no CACI or CJTF-7 requirement for all contract interrogators to receive formal, comprehensive, military-specific interrogator training prior to performing interrogations in OIF. While in Iraq the DAIG Team did not find evidence of a formal training program for contract interrogators. The DAIG Team requested from the J2, CJTF-7, both in Iraq and upon return to the United States, a training plan or program of instruction (POI) outlining a formal training program. On 19 May 2004, the Chief, CJ2X, CJTF-7 provided an email message to the DAIG Team stating that prior to February 2004, new contract interrogators working at the Joint Interrogation and Debriefing Center (JIDC) received familiarization training, consisting of briefings on the approved interrogation approach techniques and the Geneva Conventions, "left seat-right seat ride" training, and evaluation by experienced interrogators prior to conducting interrogations. On 21 May 2004, the Chief, CJ2X, CJTF-7 provided an email message stating that in February 2004, the JIDC began a two-part newcomer's training/orientation for all contract interrogators deployed to OIF. This training consisted of an organizational overview, interrogation policy briefing, tour of the facilities, and "left seat-right seat ride" training on interrogation duties and responsibilities. The message stated that documentation of this training began in May 2004.

In interviews conducted during the inspection, when four contract interrogators were asked about in-theater training, there were three different responses. One stated he received no in-theater training of any kind. Two stated training was provided on the Geneva Conventions and the interrogation approach techniques, with some additional time spent observing experienced interrogators. One stated he received 2 weeks of "right seat" training at Abu Ghraib, followed by 1 week performing supervised interrogations. Two military interrogators interviewed stated, "While some contract interrogators were fine, some lacked understanding of proper interrogation policies and procedures." In contrast, the DAIG Team interviewed 5 leaders and Soldiers who found contract interrogators to be adequate to very good.

Two specific incidents were described to the DAIG Team where Army personnel stated they saw contract interrogators using techniques and procedures inconsistent with Army policy and doctrine (e.g., pouring water over detainees' heads while in stress positions); the chain of command was already aware of this incident. In one of these incidents military interrogators at that location were reportedly using the same techniques. The DAIG Team did not observe any improper interrogation techniques during the inspection. A DAIG Team member observed two

contract interrogators performing interrogations; both interrogations were conducted using tactics, techniques, and procedures in accordance with Army policy and doctrine.

The Taguba Investigation cited a contract interrogator who gave an MP non-doctrinal guidance that violated Army policy in order to facilitate conditions for interrogation. The contract interrogator has since requested to return to the United States. A lawyer representing CACI International stated that the Army has not requested, and no contract interrogators in OIF have received, administrative or disciplinary action as a result of improper performance of duties.

At the time of the inspection there were no contract interrogators employed in OPERATION ENDURING FREEDOM (OEF). In March 2004, CJTF-180 contracted with SYTEX, Inc. for 4 contract interrogators, all of which were assigned to the I/R facility at Bagram, Afghanistan. Two of the 4 contract interrogators have military interrogation training, and the other 2 are former police officers. The senior Army interrogator assigned to CJTF-180 stated that upon arrival at Bagram the contract interrogators were provided training on interrogation planning and preparation, interrogation approaches, Geneva Conventions, questioning methods, report writing, and the CJTF-180 interrogation approach techniques. They also underwent left/right seat interrogation training. CJTF-180 provided the DAIG Team with a training plan that outlines the above.

In summary, contract interrogators in OIF met the requirements of the CJTF-7 C2 Interrogation Cell SOW. The SOW did not mandate military interrogation training as a prerequisite for employment. While some training may have occurred at Abu Ghraib, there is no evidence of a formalized POI for contract interrogators. All contract interrogators should receive training on specific theater and Army techniques, policies, and doctrine for conducting military interrogations. This requirement should be reflected in the CJTF-7 C2 Interrogation Cell SOW.

(4) Root Cause: The CJTF-7 C2 Interrogation Cell SOW did not require contract interrogators to be trained in military interrogation procedures, policy, and doctrine. Pre-deployment and in-theater training for contract interrogators on military interrogation techniques, policy, and doctrine did not occur or was inconsistent.

(5) Recommendation: The CFLCC contracting officer representative modify the CJTF-7 C2 Interrogation Cell Statement of Work to require civilian interrogators to be former military interrogators trained in current interrogation policy and doctrine or receive formal training in current military interrogation policy and doctrine.

o. **Finding 23:**

(1) Finding: Interviewed leaders and Soldiers indicated their Law of War refresher training was not detailed enough to sustain their knowledge obtained during initial and advanced training.

(2) Standard: See Appendix E.

(3) Inspection Results: Leaders and Soldiers from inspected units who commented on Law of War training stated they did receive some Law of War training prior to deploying, but 57% (272 of 474) of leaders and Soldiers indicated that the training was generic and did not prepare them for the current operating environment. The Level B Law of War training was

normally given by the brigade legal advisor. Law of War training is required for leaders and Soldiers throughout their military careers commensurate with their duties and responsibilities. There are currently 3 levels of training for the Law of War. Level A training is conducted during Initial entry training (IET) for all enlisted personnel and during basic courses of instruction for all warrant officers and officers. Level B training is conducted in units for officers, warrant officers noncommissioned officers (NCOs) and enlisted personnel and incorporates the missions of the unit. Level C training is conducted in Professional Military Education (PME).

Currently in IET, Level A Law of Land warfare training is designed to advise the Soldier on his rights, duties, and obligations under the Hague Convention of 1907, the Geneva Conventions of 1949, and the customary Law of War. The program of instruction used for this training is dated 1 October 1998, and is scheduled for one hour, which includes 36 minutes of classroom instruction on the principles, spirit, and intent of the Hague and Geneva Conventions; the laws of war prohibiting unnecessary destruction; and the laws of war requiring humane treatment of prisoners of war (PWs), other captured and detained persons, and civilians. In this portion of the training, Soldiers become familiar with their obligations not to commit war crimes and to report all violations of the laws of war, and the significant provisions of the Geneva Convention relative to the treatment of prisoners of war (EPWs). The other 24 minutes consists of a television tape covering the Law of Land Warfare, and emphasizes "honor" and the Army's Values. The tape stresses that each Soldier has a personal stake in knowing about these conventions and in understanding how they work. Soldiers are taught to comply with these provisions and that failure may subject them to provisions under the Uniform Code of Military Justice (UCMJ). This program of instruction is given to all IET Soldiers who enter the Army.

Level B Law of War training is designed to sustain the training received in IET and PME. Unit commanders are responsible for planning and executing Level B Law of War training. Level B training should reinforce the basic principles set forth in "The Soldiers' Rules." Level B training should be designed around current missions and contingency plans, including anticipated geographical areas of deployment or rules of engagement. Commanders ensure that Law of War training is integrated into unit training activities, field training exercises, and unit external evaluations. There are no Office of The Judge Advocate General (OTJAG) programs of instructions for Level B training. Level B training is designed to be refresher training, used to reinforce previous training and/or to sustain/regain previously acquired skills, knowledge, and experiences. Commanders determine the need for refresher training based on assessment of individual and unit proficiency. Leaders and Soldiers complained about the content and quality of their unit level B Law of War training during interviews and sensing sessions. All agreed that their Level B Law of War training needed more structure as part of Common Military Training (CMT) to help them to better function in the current operating environment.

Level C Law of War training is conducted in The Army School System (TASS); TASS is a composite school system consisting of Army National Guard (ARNG), U.S. Army Reserve (USAR), and Active Army institutional training systems. TASS conducts IET; functional training (Military Occupational Specialty (MOS), Area of Concentration (AOC), Additional Skill Identifier (ASI), and Language Identification Code (LIC)); reclassification; and officer, warrant officer, NCO, and DA civilian professional development training and education through both standard resident and distance learning courses. Level C Law of War training emphasizes officer, warrant officer, and NCO responsibilities for their performance of duties in accordance with the Law of War obligations of the United States; Law of War issues in command planning and execution of combat operations; and measures for the reporting of suspected or alleged war

crimes committed by or against U.S. or allied personnel. There are currently 2 PME common core Law of War tasks:

1. Conduct small unit combat operations according to the law of war (Task #181-431-1001) – taught at the Pre-commissioning Course (PRE), the Officer Basic Course (OBC), the Warrant Officer Candidate School (WOCS), the Basic Noncommissioned Officer Course (BNCOC), and the Primary Leadership Development Course (PLDC). This task helps leaders identify key provisions of the Hague and Geneva Conventions and those acts that constitute violations and war crimes against noncombatants, property, POWs, and medical transports/facilities, and prevent the engagement of unlawful targets and the excessive use of force. This task is designed to be programmed training, with specific learning objectives and an evaluation for proficiency. The task is trained by an instructor/trainer in a structured manner and serves as the foundation for other training. Normally the task is a qualification requirement and is presented and evaluated using the prescribed training conditions and performance standards. This task takes 100 minutes to train.

2. Conduct company level combat operations consistent with the laws of war and laws affecting peacekeeping and peacekeeping operations, rules of engagement, and other legal constraints (Task # 181-433-1001) – taught at the Captain's Career Course (CCC) and the Warrant Officer Advanced Course (WOAC). This task helps leaders prevent law of war violations and war crimes against protected noncombatants, property, POWs, and medical transports/facilities, and prevent engagement of unlawful targets and excessive use of force. This task is designed to be programmed training. This task has specific learning objectives and an evaluation for proficiency; is conducted by an instructor trainer in a structured manner; serves as the foundation for other training; normally is a qualification requirement; and is presented and evaluated using the prescribed training conditions and performance standards. This task also takes 100 minutes to train.

Interviewed and sensed leaders and Soldiers stated that the Law or War training they received prior to deployment did not differentiate between the different classifications of detainees, causing confusion concerning the levels of treatment. Even though this confusion existed, most leaders and Soldiers treated detainees humanely.

TRADOC, in coordination with the Office of The Judge Advocate General, is currently determining the feasibility of increasing or adjusting Law of War training in the proponent schools to include procedures for handling civilian internees and other non-uniformed personnel on the battlefield.

(4) Root Cause: Level B Law of War training is a CMT task, coded "R" (Refresher), that does not require the training to have specific learning objectives and taught by an instructor/trainer in a structured manner.

(5) Recommendation: The G3, in coordination with the Office of The Judge Advocate General, mandate that Level B Law of War training have specific learning objectives, be conducted by an instructor/evaluator in a structured manner, and be presented and evaluated annually using the established training conditions and performance standards.

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Chapter 6

Summary of Recommendations

1. **Purpose:** The purpose of this chapter is to list all of the recommendations proffered in the report. Some recommendations may be similar to others; however, all recommendations are included here.

2. **Recommendation for Implementation:** Director, Army Staff task out appropriate recommendations and track compliance to Department of the Army Staffs and Major Commands. The Acting Secretary of the Army submit appropriate recommendations to the Joint Staff for consideration and implementation as appropriate by units deployed in OPERATION ENDURING FREEDOM and OPERATION IRAQI FREEDOM.

3. **Chapter 3, Capture, Care, and Control of Detainees:**

a. Recommendation: CJTF-7 and CJTF-180 continue to emphasize compliance with the requirements regarding the humane treatment of detainees.

b. Recommendation: Commanders continue to stress the importance of humane treatment of detainees and continue to supervise and train Soldiers on their responsibility to treat detainees humanely and their responsibility to report abuse.

c. Recommendation: Commanders enforce the basic fundamental discipline standards of Soldiers, provide training, and immediately correct inappropriate behavior of Soldiers towards detainees to ensure the proper treatment of detainees.

d. Recommendation: Commanders assess the quality of leadership in units and replace those leaders who do not enforce discipline and hold Soldiers accountable.

e. Recommendation: TRADOC develop and implement a train-the-trainer package that strongly emphasizes leaders' responsibilities to have adequate supervision and control processes in place to ensure the proper treatment of detainees.

f. Recommendation: TRADOC integrate training into all Professional Military Education that strongly emphasizes leaders' responsibilities to have adequate supervision and control processes in place to ensure the proper treatment of detainees.

g. Recommendation: The G3 require pre-deployment training include a strong emphasis on leaders' responsibilities to have adequate supervision and control processes in place to ensure proper treatment of, and prevent abuse of, detainees.

h. Recommendation: CJTF-7 expand Camp Bucca as an internment/resettlement facility in order to transfer detainees from Camps Ganci and Vigilant, and phase out U.S. Armed Forces detainee operations at Abu Ghraib completely.

4. **Chapter 4, Interrogation Operations:**

a. Recommendation: TRADOC revise doctrine to address the criteria for establishing and operating collecting points to enable commanders to more effectively conduct intelligence exploitation in a non-linear battlespace.

b. Recommendation: TRADOC develop a single document for detainee operations that identifies the interdependent and independent roles of the Military Police custody mission and the Military Intelligence interrogation mission.

c. Recommendation: TRADOC establish doctrine to clearly define the organizational structures, command relationships, and roles and responsibilities of personnel operating interrogation facilities.

d. Recommendation: The Provost Marshal General revise, and the G2 establish, policy to clearly define the organizational structures, command relationships, and roles and responsibilities of personnel operating interrogation facilities.

e. Recommendation: The G3 direct the incorporation of integrated Military Police and Military Intelligence detainee operations into field training exercises, home station and mobilization site training, and combat training center rotations.

f. Recommendation: TRADOC and G2 ensure documentation of unit organizations meet interrogator personnel manning requirements, authorizations, and capabilities in order to provide commanders with timely intelligence.

g. Recommendation: The CFLCC contracting officer representative ensure enough Category II interpreters are hired to support timely intelligence exploitation of detainees.

h. Recommendation: TRADOC continue the integration of the G2X/S2X Battle Staff Course for all Military Intelligence officers assigned to G2X/S2X positions.

i. Recommendation: TRADOC integrate additional training on the collection and analysis of HUMINT into the Military Intelligence Officer Basic Course program of instruction.

j. Recommendation: TRADOC, in coordination with G2 and TJAG, revise doctrine to identify interrogation approach techniques that are acceptable, effective and legal for non-compliant detainees.

k. Recommendation: CJTF-7 and CJTF-180 ensure that standardized policy on interrogation approach techniques are received, understood, trained and enforced by all units.

5. **Chapter 5, Other Observations**

a. Recommendation: CFLCC, CJTF-7, and CJTF-180 continue to stress the importance of positive unit morale and command climate.

b. Recommendation: TRADOC revise doctrine for the administrative processing of detainees to improve accountability, movement, and disposition in a non-linear battlespace. And further examine processes for capturing and validating lessons learned in order to rapidly modify doctrine and incorporate into training application for Soldiers and units.

c. Recommendation: The Provost Marshal General revise policy for the administrative processing of detainees to improve accountability, movement, and disposition in a non-linear battlespace.

d. Recommendation: The Provost Marshal General, in coordination with the G2, update detainee policy to specifically address the administration, internment/resettlement, and intelligence exploitation in a non-linear battlespace, enabling commanders to better manage resources, ensure safe and secure custodial environments, and improve intelligence gathering.

e. Recommendation: TRADOC and G3 update the Military Police force structure at the division level and below to support the simultaneous execution of detainee operations and other battlefield missions.

f. Recommendation: TRADOC and G3 update the Military Intelligence force structure at the division level and below to integrate the requirement for detainee operations that allows for timely intelligence exploitation.

g. Recommendation: TRADOC update doctrine to integrate tactical interrogation at battalion and company level to assist in the intelligence exploitation of detainees immediately upon capture.

h. Recommendation: CFLCC submit a Request for Forces for the Theater Detainee Reporting Branch Center (TDRC) to meet the requirements for reporting and accountability of detainees and their property.

i. Recommendation: The Provost Marshal General review the TDRC process, structure, and employment methods for maintaining information on detainees, their property, and other related requirements within an assigned theater of operations and consider the development of an information technology solution.

j. Recommendation: TRADOC and G3 continue to refine and implement the force structure changes in the Military Intelligence - Counterintelligence/Human Intelligence Force Design Update.

k. Recommendation: TRADOC integrate the Military Intelligence-Counter Intelligence/Human Intelligence Force Design Updates into the development of Units of Action and Units of Employment.

l. Recommendation: TRADOC and G3 continue to refine and implement the force structure changes in the Military Police - Internment/Resettlement Battalion Force Design Update.

m. Recommendation: TRADOC integrate this Force Design Update into the development of Units of Action and Units of Employment.

n. Recommendation: CJTF-7 and CJTF-180 ensure all units meet the guidelines for minimum infrastructure standards supporting detainee operations to allow for adequate facilities to house detainees.

o. Recommendation: CJTF-7 and CJTF-180 implement a safety inspection program for all facilities that support detainee operations to identify and eliminate hazards to Soldiers and detainees.

p. Recommendation: CJTF-7 and CJTF-180 evaluate current living and working conditions at all facilities housing detainees and take corrective actions to improve the current living and working environment.

q. Recommendation: CJTF-7 review the physical and operations security requirements and policy/doctrinal procedures to ensure units operating internment/resettlement facilities comply with all requirements.

r. Recommendation: Force Providers require commanders to have trained and equipped field sanitation teams prior to deployment, and deployed commanders ensure field sanitation teams comply with Army policy.

s. Recommendation: TRADOC review the preventive medicine detachment force structure to ensure support to all collecting points and internment/resettlement facilities in a non-linear battlespace.

t. Recommendation: MEDCOM train all medical personnel in the preventive medicine aspects of detainee operations to ensure compliance with policy and the laws of land warfare.

u. Recommendation: MEDCOM ensure all health care personnel are trained on the medical treatment requirements for detainees in accordance with Army Regulations and ensure that units have the required medical equipment and supplies for treating detainees.

v. Recommendation: CJTF-7 and CJTF-180 evaluate current detainee medical capabilities and requirements and take corrective action to ensure detainees receive the required medical screening and care.

w. Recommendation: CJTF-7 segregate enemy prisoners of war and civilian internees to ensure compliance with the Geneva Conventions and Army Regulations.

x. Recommendation: TRADOC identify minimum equipment requirements for detainee operations to ensure successful unit mission accomplishment.

y. Recommendation: TRADOC establish and identify resource requirements for a standardized "Detainee Field Processing Kit" that will enable capturing units to properly secure and process detainees quickly, efficiently, and safely.

z. Recommendation: Commanders continue to stress the importance of planning and providing for adequate transportation assets to support continuing detainee operations.

aa. Recommendation: TRADOC integrate standardized detainee operations training into all Army proponent school common core programs of instruction and training support packages.

bb. Recommendation: The G3 integrate a prescribed detainee operations training program into unit training.

cc. Recommendation: CFLCC and Force Providers coordinate to ensure, where possible, units are aware of their assigned mission upon mobilization so they can train for their specific mission.

dd. Recommendation: FORSCOM integrate a standardized detainee operations training package as part of pre- and post-mobilization training.

ee. Recommendation: CFLCC ensure that ILO MP units are trained before they assume their ILO MP missions.

ff. Recommendation: The CFLCC contracting officer representative modify the CJTF-7 C2 Interrogation Cell Statement of Work to require civilian interrogators to be former military interrogators trained in current interrogation policy and doctrine or receive formal training in current military interrogation policy and doctrine.

gg. Recommendation: The G3, in coordination with the Office of the Judge Advocate General, mandate that Level B Law of War training have specific learning objectives, be conducted by an instructor/evaluator in a structured manner, and be presented and evaluated annually using the established training conditions and performance standards.

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Appendix A

References

Reference	Date	Title
AR 1-201	12 January 2004	Army Inspection Policy
AR 25-30	16 March 2004	The Army Publishing Program
AR 27-10	6 September 2002	Military Justice
AR 40-5	15 October 1990	Preventive Medicine
AR 71-32	3 March 1997	Force Development and Documentation-Consolidated Policies
AR 190-5	28 August 1992	Evidence Procedures
AR 190-8	1 October 1997	Enemy Prisoners of War, Retained Personnel, Civilian Internees and Other Detainees
AR 190-11	12 February 1998	Physical Security of Arms, Ammunition and Explosives
AR 190-13	30 September 1993	The Army Physical Security Program
AR 190-14	12 March 1993	Carrying of Firearms and Use of Force for Law Enforcement and Security Duties
AR 190-22	1 February 1983	Searches, Seizures, and Disposition of Property
AR 190-40	30 November 1993	Serious Incident Report
AR 190-47	15 August 1996	The Army Corrections System
AR 350-1	9 April 2003	Army Training and Education
AR 381-20	15 November 1993	The Army Counterintelligence Program
AR 385-10	29 February 2000	The Army Safety Program
AR 420-70	10 October 1997	Buildings and Structures
AR 600-20	13 May 2002	Army Command Policy
AR 735-5	10 June 2002	Policies and Procedures for Property Accountability
ARTEP 19-472-MTP	2 March 2001	Mission Training Plan For The Military Police Combat Support And Internment And Resettlement Brigades And Criminal Investigation Division Groups
ARTEP 19-546-30 MTP	10 April 1999	MTP for HHC MP BN (IR)
ARTEP 19-647-30 MTP	10 April 1999	MTP for MP CO (Escort Guard)
ARTEP 19-667-30 MTP	10 April 1999	MTP for MP CO (Guard)
CENTCOM REG 27-13	7 February 1995	Captured Persons Determination of Eligibility For Enemy Prisoner of War Status
CFLCC	18 December 2001	OEF Detainee Handling Guidance
CFLCC FRAGO 254 to OPORD 03-032	111800Z April 2003	Subject is Classified Secret
CFLCC FRAGO 501 to OPORD 03-032	241500Z April 2003	Guidance for the Release and Repatriation of EPW.

CJCSI 3290.01A	15 October 2000	Program For Enemy Prisoners Of War, Retained Personnel, Civilian Internees, And Other Detained Personnel (EPW/Detainee Policy)
CJCSI 5810.01B	25 March 2002	Implementation Of The DoD Law Of War Program
CJCS Message	211933ZJan02	Subject is Classified Secret
CJTF-7 CG Memo	14 September 2003	Subject is Classified Secret
CJTF-7 CG Memo	12 October 2003	Subject is Classified Secret
CJTF-7 CG Memo	13 May 2004	Subject is Classified Secret
CJTF-7 FRAGO 209 to CJTF-7 OPORD 03-036	282021D June 2003	Subject is Classified Secret
CJTF-7 FRAGO 368to CJTF-7 OPORD 03-036	141028Z Jun03	Guidance for the Detention, Handling and Release of Individuals Who are Potentially Subject to Prosecution for War Crimes
CJTF-7 FRAGO 415 to CJTF-7 OPORD 03-036	151950DJul03	Subject is Classified Secret
CJTF-7 FRAGO 455 to CJTF-7 OPORD 03-036	200415DJul03	Classifying and Processing Enemy Prisoners of War/Detained Persons/Civilian Internees
CJTF-7 FRAGO 749 to CJTF-7 OPORD 03-036	242320DAug03	Subject is Classified Secret
CJTF-180 SJA Memo	24 January 2004	CJTF180 Interrogation Techniques
CJTF-180 DCG Memo	16 March 2004	Subject is Classified Secret
CJTF-180 DCG Memo	28 March 2004	Consolidated Detainee Operations Standard Operating Procedures
DA Form 3881	November 1989	Rights Warning Procedure/Waiver Certificate
DA Form 4237-R	August 1985	Detainee Personnel Record
DoD Directive 1325.4	1 December 2003	Confinement of Military Prisoners and Administration of Military Correctional Programs and Facilities
DoD Directive 2310.1	18 August 1994	DoD Program for Enemy Prisoners of War (EPOW) and Other Detainees (Short Title: DoD Enemy POW Detainee Program)
DoD Directive 5100.69	27 December 1972	DoD Program for Prisoners of War and Other Detainees
DoD Directive 5100.77	9 December 1998	DoD Law of War Program
DoD Directive 5210.56	24 January 2002	Use of Deadly Force and the Carrying of Firearms by DoD Personnel Engaged in Law Enforcement and Security Duties
FM 3-0	14 June 2001	Operations
FM 3-31	13 December 2001	Joint Force Land Component Commander Handbook (JFLCC)
FM 3-19.1	31 January 2002	Military Police Operations
FM 3-19.4	4 March 2002	Military Police Leaders' Handbook

FM 3-19.30	8 January 2001	Physical Security
FM 3-19.40	1 August 2001	Military Police Internment/Resettlement Operations
FM 5-34, w/ C3	10 April 2003	Engineer Field Data
FM 6-0	11 August 2003	Mission Command: Command and Control of Army Forces
FM 6-22.5	23 JUNE 2000	Combat Stress
FM 7-0	22 October 2002	Training the Force
FM 22-51	29 September 1994	Leaders' Manual For Combat Stress Control
FM 27-10, w/ C1	15 July 1976	The Law of Land Warfare
FM 27-100	1 March 2000	Legal Support to Operations
FM 34-60	3 October 1995	Counterintelligence
FM 34-52	28 September 1992	Intelligence Interrogation
FORSCOM Message	162313Z Jan 03	Subject is Classified Secret
FORSCOM/ARNG/ USAR Reg 350-2	27 October 1999	Reserve Component Training
FORSCOM Reg 500-3-1	15 April 1998	FORMDEPS, Volume I, FORSCOM Mobilization Plan (FMP)
FORSCOM Reg 500-3-3	15 July 1999	FORMDEPS Volume III, Reserve Component Unit Commander's Handbook (RCUCH)
Geneva Convention	12 August 1949	Relative to the Treatment of POWs
Geneva Convention	12 August 1949	Amelioration of the Condition of the Wounded, Sick and Shipwrecked Members of Armed Forces at Sea
Geneva Convention	12 August 1949	Amelioration of the Condition of the Wounded and Sick in the Armed Forces in the Field
Geneva Convention	12 August 1949	Protection of War Victims
Geneva Convention	12 August 1949	Relative to the Protections of Civilian Persons in Time of War
Geneva Convention	1967	Relative to the Status of Refugees
Geneva Convention	1951	Relative to the Status of Refugees
Convention Against Torture	1984	Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
Hague Convention No. IV	18 October 1907	Respecting the Laws and Customs of War on Land
JP 1-0	19 November 1998	Doctrine for Personnel Support to Joint Operations
JP 1-02	12 April 2001 (amended through 23 March 04)	Department of Defense Dictionary of Military and Associated Terms
JP 2-01	20 November 1996	Joint Intelligence Support to Military Operations
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Joint Operations Concepts	November 2003	Joint Operations Concepts
MG Antonio Taguba, AR 15-6 Investigation	14 March 2004	AR 15-6, Investigation of the 800th M P BDE
MG Donald J. Ryder, Provost Marshal Report	6 November 2003	Assessment of Detention and Corrections Operations in Iraq
MG Geoffrey D. Miller, CDR JTF-GTMO, Guantanamo Bay, Cuba Report	9 September 2003	Assessment of DoD Counter Terrorism Interrogation and Detention Operations in Iraq
ST 2-22.7	11 April 2002	Tactical Human Intelligence and Counterintelligence Operations
STP 19-95B1-SM	6 August 2002	MOS 95B, Skill Level 1
STP 19-95C14-SM-TG	26 March 1999	MOS 95C, Skill Levels 1/2/3/4
STP 19-95C1-SM	30 September 2003	MOS 95C, Skill Level 1
STP 19-95C24-SM-TG	30 September 2003	MOS 95C, Skill Level 2/3/4
V CORPS FRAGO 006M to V CORPS OPORD 0303-343	190200Z March 2003	Procedures for Handling the Detention of Iraqis in Internment Facilities and Detention Centers
V CORPS FRAGO 312M to V CORPS OPORD FINAL VICTORY	252146D May 2003	Guidance on Tactics, Techniques, and Procedures Designed to Improve the Preservation of Evidence of Crimes Committed by Civilians Detained and Transported to Detention Facilities

APPENDIX B

Acting Secretary of the Army
Directive for Assessment of Detainee Operations
10 February 2004

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DEPARTMENT OF THE ARMY
WASHINGTON DC 20310-0200

February 10, 2004

MEMORANDUM FOR THE INSPECTOR GENERAL

SUBJECT: Directive for Assessment of Detainee Operations

You are hereby directed to establish an Assessment Team to complete a Functional Analysis of the Department's internment, enemy prisoner of war, and detention policies, practices, and procedures as the Army executes its role as DOD Executive Agent for Enemy Prisoners of War and Detention Program.

When conducting this assessment, the following terms of reference apply. Use all potential Doctrine, Operations, Training, Materiel, Leadership, Personnel, and Facilities (DOTMLPF) approaches to identify any capability shortfalls with respect to internment, enemy prisoner of war, detention operations, and interrogation procedures and recommend appropriate resolutions or changes if required.

The assessment will focus on the following objectives:

a. Assess the adequacy of DOTMLPF of Army Forces for internment, enemy prisoner of war, detention operations, and interrogation procedures.

b. Determine the standards for Army Forces charged with internment, enemy prisoner of war, detention operations and interrogation procedures (e.g., size, equipment, standardization, and training).

c. Assess current and future organizations and structures for Army Forces responsible for internment, enemy prisoner of war, detention operations and interrogation procedures.

d. Identify and recommend any changes in policy related to internment, enemy prisoner of war, detention operations and interrogation procedures.

You are authorized to task the Army Staff and subordinate headquarters for those resources needed to ensure accomplishment of the detainee operations assessment. You are further authorized access to locations, documents, and personnel across the Army in order to complete your assessment. Coordinate with other Services for assistance, documentation, and information that may assist in completing this assessment.

You will provide me with a report at the conclusion of the assessment.

This assessment is exempt from the HQDA Short Notice Tasking Policy Message, dated 031353Z Jan 01, requiring units to be notified 180 days from execution of tasking and the HQDA memorandum dated January 27, 2004, subject: Travel [Restriction] to Iraq, Afghanistan, Kuwait and Qatar which requires my approval to travel to these countries.

R. L. Brownlee
Acting Secretary of the Army

Appendix C

Locations Visited

February 2004 (CONUS)

JRTC MRX (39th Separate Brigade) (Pre-Inspection)
NTC MRX (81st Separate Brigade) (Pre-Inspection)

March 2004 (Afghanistan)

Bagram (CJTF 180 and 237th MP BN)
Khandahar (274th MP CO, 805th MP CO, and 1/10th MTN DIV)
Gheresk (ODA 312)
Khost (1/501st Parachute Infantry Regiment)

March-April 2004 (Iraq)

Baghdad (CJTF 7, Camp Cropper, Camp Slayer, 1st AD Division Collecting Point, 2/1st AD Brigade Collecting Point)
Camp Bucca (160th MP BN)
Abu Ghraib (504th MI BDE)
Ar Ramadi (1/1st ID Brigade Collecting Point)
Brassfield-Mora (2/1st ID Brigade Collecting Point)
Tikrit (1st ID Division Collecting Point)
Mosul (MND-N Collecting Point and 3/2nd ID Brigade Collecting Point, Battalion Collecting Point)

March-April 2004 (Kuwait)

Camp Doha (CFLCC)
Arifjan (2/4th ID)

March-April 2004 (CONUS)

Fort Dix (310th MP BN and 320th MP BN; at two different times)
Fort Hood (4th ID and 720th MP BN)
Fort Bragg (2/82nd ABN DIV and USASOC SERE Course)
Fort Campbell (3/101st ABN DIV)
Fort Meade (HHC 400th MP BDE)
Owings Mill, MD (433rd MP CO)

June 2004 (CONUS)

Fort Leonard Wood (MP School)
Fort Huachuca (MI School)

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Appendix D

Inspection Tools

1. **INTERVIEW QUESTIONS:**

a. **C-4/J-4/G-4**

1). Concerning logistical operations, what is your role in the support of (Theater/Division) Detainee Operations?

2). Describe priority of support for Detainee Operations. How does this compete with your other mission requirements? Is the Priority of Support in SOPs, OPORDs/FRAGOs?

3). Describe how subordinate units plan and procure logistical support for Detainee Operations. (Include: transportation, sundry items, subsistence, organizational, and NBC clothing and equipment items, mail collection and distribution, laundry, and bath equipment) Have you ever coordinated for transportation to evacuate Detainees out of the AOR? Who approved the transfer?

4). What are some of the services being contracted out/outsourced to support Detainee Operations in Theater? Are there any issues concerning contracting or budget that you are aware of that impact Detainee Operations? If so, what are they? Who oversees the contracts that support Detainee Operations and where can we find out who the Army Representatives are (CORs)?

5). Are you aware of any Home Station Training that subordinate Combat Service Support units conducted prior to deployment to help them prepare for Detainee Operations? (To include collection point activities, etc) Can you describe it?

6). Have you had the opportunity to personally visit each of the Internment Facilities to determine if units have the necessary support and supplies to run their facilities? If so, what did you find? How about division and brigade Collection Points?

7). What are your challenges/issues in providing daily food rations in sufficient quantity, quality and variety to keep Detainees in good health and IAW with their cultural requirements? What is the schedule for feeding and what are they being fed? Please elaborate

8). How do Detainees receive fresh potable water in your area of responsibility? (Bottled water, Lister bags, running water--if so, is it potable)

9). What procedures are in place to account for and dispose of captured enemy supplies and equipment?

10). What are your biggest issues concerning adequate facilities for Detainees (tents, cots, etc)?

11). What are your biggest issues concerning logistical support for Detainee Operations?

12). What do you perceive to be doctrinal logistic shortcomings pertaining to Detainee Operations and how would you fix/incorporate into updated doctrine/accomplish differently? How about Force Structure of logistical units that ensures Detainee Operations can be successfully accomplished? What are the shortcomings and how do we fix at the Army-level?

13). Are you aware of your requirement to report abuse or suspected abuse of detainees?

14). What do you perceive as the mission of your unit? Describe the importance of your role in that mission.

15). Describe your working environment and living conditions since being in Theater.

16). Describe the unit command climate and Soldier morale. Has it changed or evolved since you have been in Theater

17). Are you aware of any incidences of detainee or other abuse in your unit?

18). ADVISEMENT OF RIGHTS (For military personnel)
The text of Article 31 provides as follows a. No person subject to this chapter may compel any person to incriminate himself or to answer any questions the answer to which may tend to incriminate him. b. No person subject to this chapter may interrogate or request any statement from an accused or a person suspected of an offense without first informing him of the nature of the accusation and advising him that he does not have to make any statement regarding the offense of which he is accused or suspected, and that any statement made by him may be used as evidence against him in a trial by court-martial. c. No person subject to this chapter may compel any person to make a statement or produce evidence before any military tribunal if the statement or evidence is not material to the issue and may tend to degrade him. d. No statement obtained from any person in violation of this article, or through the use of coercion, unlawful influence, or unlawful inducement, may be received in evidence against him in a trial by court-martial.

19). I am _____ (grade, if any, and name), a member of the (DAIG). I am part of a team inspecting detainee operations, this is not a criminal investigation. I am reading you your rights because of a statement you made causes me to suspect that you may have committed _____. (specify offense, i.e. aggravated assault, assault, murder). Under Article 31, you have the right to remain silent, that is, say nothing at all. Any statement you make, oral or written, may be used as evidence against you in a trial by courts-martial or in other judicial or administrative proceedings. You have the right to consult a lawyer and to have a lawyer present during this interview. You have the right to military legal counsel free of charge. In addition to military counsel, you are entitled to civilian counsel of your own choosing, at your own expense. You may request a lawyer at any time during this interview. If you decide to answer questions, you may stop the questioning at any time. Do you understand your rights? Do you want a lawyer? (If the answer is yes, cease all questions at this point). Are you willing to answer questions?

20). Describe what you understand happened leading up to and during the incident(s) of abuse.

21). Describe Soldier morale, feelings and emotional state prior to and after these incidents?

22). Was this incident reported to the chain of command? How, when & what was done? What would you have done?

23). How could the incident have been prevented?

24). Describe any unit training or other programs that you are aware of that teach leaders and Soldiers how to recognize and resolve combat stress.

25). What measures are in place to boost morale or to relieve stress

26). What measures could the command enact to improve the morale and command climate of your unit

b. **PROVOST MARSHAL**

1). What references/standards/publications/SOPs do you use to conduct Detainee Operations?

2). What is the C2 structure/organization of internment facilities across Theater? How many internment facilities under U.S. Military Control, do you oversee? How many divisional Central Collection Points? How about Brigade Forward Collection Points? What MP units in Theater operate internment facilities and where are they positioned? (Battalion and Above) Describe the essential organizational requirements to run an internment facility. (Organizational Elements, Manning, Facilities, Equipment). Do you have what you need to accomplish the mission? If not, explain?

3). How do you ensure the units operating these locations/facilities are complying with the provisions of the Geneva Convention and AR 190-8?

4). Are detainees being employed to work? What are the General policy and procedures for the Employment and Compensation of Detainees?

5). Is there a policy on the ratio of guards to Detainees in Theater? If so, what is it? Is this standard being met? If not, what is the shortfall and how are units meeting the challenge to overcome the shortfall?

6). What is your detainee segregation policy? ((EPWs, Females, Juveniles, Civilian Internees (to include those that are security threats, those that are hostile to coalition forces, and possible HTD/HVD, and Retained Persons, Criminals, etc.)) What can you tell me about the categories of Detainees that you are holding? What are they and what are the definitions of the different categories that your organizations detain? How are you organized to handle the different categories of Detainees (EPW, CI, HVD, OD, and refugees?)

7). What is the minimum living space standard for each Detainee? How is it determined and who set the provisions of minimum living space for internment facilities? (when possible, consult the preventative medicine authority in theater for provisions of minimum living space and sanitary facilities). Has a preventative medicine expert given advice on this?

8). Do you use Military Working Dogs (MWD) within internment facilities?

9). How does the command ensure that Detainee Operations is conducted is in compliance with the international Law of war? (OPORD/FRAGO, ROE, Interrogation Techniques, general orders, humane treatment, etc)

10). What is the current policy to grant conditional access to the International Red Cross/Crescent to Detainees? Has this always been the policy? Are they the only NGOs that have conditional access? If not, who are the other organizations?

11). What is your responsibility to the National Detainee Reporting Center (NDRC)? What is your relationship with the Theater Detainee Reporting Center (TDRC)? To the best of your knowledge, when were these centers stood up? Describe the Detainee Reporting System? (Software used, Data Base Management, Data Validation, Contingencies, Security and Privacy, etc.) Who has access?

12). What are the policies and procedures for US Forces transferring detainees to other Coalition Forces/Host Nation Forces? Has this been done?

13). What are the procedures that allow other United States Government Agencies (OGA) access and control to Detainees for the purpose of interrogations? What is the process for transfer and accountability of the Detainee? Does the commander of each internment facility have approval authority to transfer to OGAs? How much notice do they have to provide the chain of command for access or request for transfer? Do the same procedures apply when Military Intelligence personnel request access and control?

14). Describe the screening /background checks required prior to hiring interpreters. Are they trusted by U.S. Soldiers?

15). What are your biggest issues concerning adequate facilities for Detainees?

16). Since you have been in your position, what Detention facilities/locations have you visited and inspected for compliance with law, policy, and regulations? What were the results and findings? Can we get copies of your results?

17). What procedures are in place when a detainee in U S custody dies?

18). What do you perceive to be doctrinal Military Police shortcomings pertaining to Detainee Operations and how would you fix/incorporate into updated doctrine/accomplish differently? How does your doctrinal law enforcement mission suffer? How about Force Structure of Military Police units that ensures Detainee Operations can be successfully accomplished? What are the shortcomings and how do we fix at the Army-level?

19). Are you aware of your requirement to report abuse or suspected abuse of detainees?

20). What do you perceive as the mission of your unit? Describe the importance of your role in that mission.

21). Describe your working environment and living conditions since being in Theater.

22). Describe the unit command climate and Soldier morale. Has it changed or evolved since you have been in Theater

23). Are you aware of any incidences of detainee or other abuse in your unit?

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27). Describe Soldier morale, feelings and emotional state prior to and after these incidents?

28). Was this incident reported to the chain of command? How, when & what was done? What would you have done?

29). How could the incident have been prevented?

30). Describe any unit training or other programs that you are aware of that teach leaders and Soldiers how to recognize and resolve combat stress.

31). What measures are in place to boost morale or to relieve stress?

32). What measures could the command enact to improve the morale and command climate of your unit?

c. **RED CROSS**

1). Which US Military Controlled Internment Facilities have you visited? What did you find?

2). Have you visited any Collection Points in US Army areas? Which ones and what did you find?

3). How often are the US Army collection points/internment facilities inspected? What is the make-up of the team? (Prev Med, Doctors, Psychiatrists/Psychologists, etc) What, specifically do you inspect? What do you do with the results of the inspections? Are the appropriate commanders taking the necessary actions to correct the shortcomings noted during your monthly medical inspections? Have you observed any recurring deficiencies during your inspections? Have you noted improvements and if so, what are the improvements? In what areas can we make improvements and what are those?

4). How often do you or your staff conduct routine medical inspections (examinations) of detainees under US Military control? What does the medical evaluation consist of? What is the purpose of the medical examination? How are the results recorded/reported?

5). Does every US Military Controlled Internment Facility have an infirmary? How adequate is the medical care to the detainees? (Are Retained Persons used?) Do you know of any detainees being denied medical treatment or delayed medical attention? If so, why?

6). Do detainees at US Military Controlled Internment Facilities have access to personal hygiene products?

7). Have you noticed any markings and/or injuries on a detainee at a US Military Controlled Internment Facility that might lead you to believe the detainee was being abused? Did you bring this to the attention of the Facility Commander? Do you know what he did with the information?

8). Are detainees in US Military Controlled Internment Facilities segregated by nationality, language, rank, and sex? Do detainees have the ability to practice their religion? Are detainees able to send and receive mail?

9). Can you describe the living conditions at US Military Controlled Internment Facilities? (Sanitary conditions, heat during the winter, shelter for rain, fire prevention measures, latrines, sleep areas, etc)

10). How do the detainees get fresh water? What kind of meals are they being fed? Do they get enough food?

11). Overall, how do you feel detainees are being treated at US Military Controlled Internment Facilities? What systemic weaknesses have you identified?

d. **SJA**

1). What specific measures has the commander/unit taken to ensure compliance with the Law of War regarding detainee operations? Individual training events? When?

Collective/unit training events? When?

2). What is the minimum standard of treatment that the US must provide any detainee? What policies/procedures do units have in place to support the U. S. General Protection policy relative to the treatment of Detainees in the custody of the U S forces?

3). What specific measures did the unit take prior to arrival in the AOR to ensure that subordinate leaders and soldiers know and understand how to treat, handle, and process detainees properly? Do leaders and Soldiers know and understand how to apply Detainee Operations doctrine and standards when they arrive in the AOR? Can you provide some examples.

4). How is the issue of classification of detainees being handled? Are any Article 5 tribunals being held or is there a presumption that the insurgents clearly do not meet the Article 4 GC III EPW criteria (commanded by a person responsible for his subordinates, wearing fixed distinctive sign, carrying arms openly, conducting operations in accordance with the laws of war)?

5). Did units receive training on the reporting of Detainee abuse? When did this training occur last and how often is it conducted by the units? Are units reporting Detainee abuse? What is happening to individuals who abuse Detainees? How many cases of detainee abuse have you heard of and or processed since you have been in country? At what point in the detention process are most of the abuses occurring? (point of capture, initial collection point, by guards at internment facility, by interrogators)

6). What control measures are units using to maintain detainee discipline and security in each internment facility/collection point?

7). What are the procedures you follow if you personally notice or if it is reported to you that a detainee is injured and you suspect the detainee has been abused? What training has the unit received regarding reporting procedures for detainee abuse?

8). What are the procedures if a detainee in U.S. custody dies?

9). What are the Theater guidelines for any EPW, CI, and RP claims against the U.S. Government?

10). (Internment facility Judge Advocate only) What is the procedure if an EPW or detainee wants to make a complaint or requests to the camp commander regarding conditions of their internment? How are Detainees complaints and requests to the camp commander processed?

11). Have any detainees refused repatriation? If so, what happened to them?

12). What happens when a detainee is suspected of, or is known to have committed a serious offense while they are being interned at either the collection point or detention facility? Describe the due process available to detainees and rights of the detainee suspected of committing a serious offense. Have you or any Staff Judge Advocate provided legal advice to a detainee who might have committed an offense?

13). What is your feeling on how Detainees are being treated? What do you feel is the

primary focus/purpose of detainee operations. (force protection, punishment, rehabilitation, protection, merely a regulatory/legal requirement) No standard. Personnel observations and feelings.

14). What AARs or lessons learned have you written or received regarding detainee operations? Can I get a copy?

15). What do you perceive to be doctrinal legal shortcomings pertaining to Detainee Operations and how would you fix/incorporate into updated doctrine/accomplish differently? How about Force Structure of Staff Judge Advocate to ensure Detainee Operations can be successfully accomplished? What are the shortcomings and how do we fix the problem at the Army-level?

16). What do you perceive as the mission of your unit? Describe the importance of your role in that mission.

17). Describe your working environment and living conditions since being in Theater.

18). Describe the unit command climate and Soldier morale. Has it changed or evolved since you have been in Theater?

19). Are you aware of any incidences of detainee or other abuse in your unit?

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24). Was this incident reported to the chain of command? How, when & what was done? What would you have done?

25). How could the incident have been prevented?

26). Describe any unit training or other programs that you are aware of that teach leaders and Soldiers how to recognize and resolve combat stress.

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e. **STAFF ENGINEER (DIVISION & ABOVE)**

1). Describe facilities' infrastructure overall that support Detainee Operations. (Sewer, water distribution, storm drainage, electrical distribution, HVAC systems, and lighting, etc.) What are the problems concerning existing facilities and what is being done to fix?

2). What program is in place in Theater that allows for the maintenance and repair of facilities that house Detainees and their supporting facilities?

3). Are the Corps of Engineers involved in any facility upgrades/improvements in Theater for Detainees? If so, what are some ongoing projects? Can I get a list by Project Number? Who is your POC in USACE? What do you know of the Engineer Corps' Theater Construction Management System (TCSM). Were you aware that they have plans, specifications, and materiel requirements for Internment Facilities based on Detainee population?

4). Do you have any knowledge as to why U.S. Forces chose existing facilities rather than to use the Theater Construction Management System (TCSM) and build facilities elsewhere? (How and why were facilities picked as Long Term Detention Facilities?)

5). What is your role in determining provisions of minimum living space for Detention Facilities across the AOR? (when possible, consult the preventative medicine authority in theater for provisions of minimum living space and sanitary facilities). What is the minimum living space standard for each Detainee? Has a preventative medicine expert given advice on this?

6). Do engineer officers train and supervise internal and external labor for Detention Facilities? (construction and repair of detention facilities)? If so, describe the work ((construction, maintenance, repair, and operation of utilities (water, electricity, heat, and sanitation.))

7). Are you aware of your requirement to report abuse or suspected abuse of detainees?

8). What do you perceive as the mission of your unit? Describe the importance of your role in that mission.

9). Describe your working environment and living conditions since being in Theater.

10). Describe the unit command climate and Soldier morale. Has it changed or evolved since you have been in Theater?

11). Are you aware of any incidences of detainee or other abuse in your unit?

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18). Describe any unit training or other programs that you are aware of that teach leaders and Soldiers how to recognize and resolve combat stress.

19). What measures are in place to boost morale or to relieve stress?

20). What measures could the command enact to improve the morale and command climate of your unit?

f. **MI BDE/BN CDR/S-3/CO CDR/1SG**

1). (All) What is your overall role in detainee operation process? What involvement do you have in the interrogation process of detainee operations? Do you provide a means to validate detainee's information? Do you provide input as to the disposition of the detainee?

2). (All) What references/standards/publications/SOPs do you use to conduct interrogation Operations?

3). (All) Did your soldiers undergo Level B Law of War training prior to deployment? Explain what training occurred. Is there a plan to train new Soldiers (replacements) to the unit? Did this training include the treatment of Detainees? Explain.

4). (All) What training have you received to ensure your knowledge of DO is IAW the provisions under the Geneva Convention?

5). (All) What Home Station/Mob Site Training did your unit conduct prior to deployment to help your unit prepare for Detainee/interrogation Operations? Describe it. How did the training prepare you to conduct Detainee/interrogation Operations for this deployment? How did this training distinguish between the different categories of Detainees (EPWs, RPs, CIs, etc.)?

6). (All) What training did your unit receive on the established Rules of Engagement (ROE)? How often does this occur? Does this training include Rules of Interaction (ROI)?

7). (All) What procedures are in place to ensure your Soldiers do not violate the rules of engagement for the interment facility/collection point?

8). (All) What guidance or policies are there to ensure fraternization is not taking place between U.S. military personnel and the detainees?

9). (All) How does the command ensure that interrogation Operations is conducted in compliance with the international Law of war? (OPORD/FRAGO, ROE, Interrogation Techniques, general orders, humane treatment, etc)

10). (All) Have you personally visited each of the interrogation Facilities to determine if your unit has the necessary support and supplies to run their facilities? If so, what did you find?

11). (All) What control measures are you using to maintain discipline and security within the interrogation facility?

12). (BN/CO Cdr) Are you receiving sufficient information from the capture paperwork to properly conduct screenings and interrogations? Are the current requirements for documentation of a captured person sufficient or excessive? Did the changes in procedures as far as documenting captured person improve your ability to gather intelligence?

13). (BN/CO Cdr) What are the procedures for the transfer of custody of Detainees from the MP/Guard personnel to Military Intelligence personnel? When the detainee is returned to the guard force, what procedures occur?

14). (CO Cdr/BN S3) Describe the screening /background checks required prior to hiring interpreters. Are they trusted by U.S. Soldiers?

15). (All) Do counterintelligence agents conduct interrogations of detainees? What training have they received for conducting interrogations? What is their understanding of the laws of war as it pertains to interrogating detainees?

16). (All) What do you perceive to be doctrinal shortcomings pertaining to Interrogation Operations? How would you fix/incorporate into updated doctrine/accomplish differently? How about Force Structure to ensure Interrogation Operations can be successfully accomplished? What are the shortcomings and how do we fix the problem at the Army-level?

17). (All) What are the procedures if a detainee in U.S. custody dies?

18). (All) Do you know of the procedures to get stress counseling (Psychiatrist, Chaplain, Medical)? Do your Soldiers know of the procedures to get counseling (Psychiatrist, Chaplain, Medical)?

19). (All) Are you aware of your requirement to report abuse or suspected abuse of detainees?

20). (All) Do your subordinates know the reporting procedures if they observe or become aware of a Detainee being abused?

21). (All) What steps would you take if a subordinate reported to you an incident of alleged Detainee abuse?

22). (All) Do you feel you can freely report an incident of alleged Detainee abuse outside Command channels (IG, CID)

23). (All) What procedures do you have to report suspected detainee abuse (IG, CID, Next Level Commander)

24). (All) What procedures are in place for Detainees to report alleged abuse?

25). (All) What do you perceive as the mission of your unit? Describe the importance of your role in that mission.

26). (All) Describe your working environment and living conditions since being in Theater.

27). (All) Describe the unit command climate and Soldier morale. Has it changed or evolved since you have been in Theater?

28). (All) Are you aware of any incidences of detainee or other abuse in your unit

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33). (All) Was this incident reported to the chain of command? How, when & what was done? What would you have done?

34). (All) How could the incident have been prevented?

35). (All) Describe any unit training or other programs that you are aware of that teach leaders and Soldiers how to recognize and resolve combat stress.

36). (All) What measures are in place to boost morale or to relieve stress?

37). (All) What measures could the command enact to improve the morale and command climate of your unit?

g. **MP BDE COMMANDER INTERVIEW QUESTIONS**

1). What references/standards/publications/SOPs do you require your subordinates to use for Detainee Operations?

2). What MP units under your command operate US military controlled Internment Facilities? (Battalion and Company) How many Internment Facilities under U.S. Military Control, do you operate? Where are they positioned across the Theater? Have you visited any of DIV /BDE Collection Points?

3). What are the policies on the establishment of Internment facilities? How do you ensure the units are operating these locations/facilities under the provisions of the Geneva Convention and AR 190-8(ROE, Interrogation Techniques, general orders, humane treatment, etc)?

4). Are your operations employing detainees for work? If so, what are the General policy and procedures for the Employment and Compensation of Detainees?

5). Is there (or do you have) a policy on the ratio of guards to Detainees? If so, what is it? Is this standard being met? If not, what is the shortfall and how are your units managing the challenge?

6). What is your detainee segregation policy?

7). What is the minimum living space standard for each Detainee? Who set the provisions of minimum living space for Internment Facilities? (when possible, consult the preventative medicine authority in theater for provisions of minimum living space and sanitary facilities). Has a preventative medicine expert given advice on this?

8). Are the Corps of Engineers involved in any facility upgrades/improvements in Theater for Detainees? If so, what are some ongoing projects? What do you know of the Engineer Corps' Theater Construction Management System (TCSM). Were you aware that they have plans, specifications, and materiel requirements for Internment Facilities based on Detainee population?

9). Do you use Military Working Dogs (MWD) within detention facilities?

10). What is the current policy to grant conditional access to the International Red Cross/Crescent to Detainees? Has this always been the policy? Are they the only NGOs that have conditional access? If not, who are the other organizations?

11). Explain how medical information is kept on each individual Detainee?

12). What is your responsibility to the National Detainee Reporting Center (NDRC)? What is your relationship with the Theater Detainee Reporting Center (TDRC)? To the best of your knowledge, when were these centers stood up? Describe the Detainee Reporting System? (Software used, Data Base Management, Data Validation, Contingencies, Security and Privacy, etc.) Who has access?

13). When are Detainees assigned Internment Serial Numbers (ISNs) (from point of capture to internment? Are there any reasons why Detainees would not be assigned ISNs?

14). What are the policies and procedures for US Forces transferring detainees to other Coalition Forces/Host Nation Forces? Has this been done?

15). What are the procedures that allow other United States Government Agencies (OGA) access to Detainees? Who is the approval authority? How much notice do they have to provide the chain of command? Do Detainees ever leave U.S. Military Control for interrogation? How about U.S. Military Police control to MI control? What is the process for turnover and accountability of the Detainee? What happens if a detainee is returned to U.S. Military Control from an OGA, and it is determined that abuse has occurred?

16). How are interpreters (linguists/translators) integrated within the Detainee Detention system (within each facility)?

17). What are your biggest issues concerning logistical, contractor, and interpreter support for Detainee Operations?

18). What are your biggest issues concerning adequate facilities for Detainees?

19). Can you describe the in-processing actions required for Detainees? What are some of the reasons that Detainees are not accepted to the internment facility? Are capturing units/subordinate units properly processing Detainees? If not, what are they doing wrong? Is it administrative in nature or in the physically handling of Detainees?

20). What is the process to account for and dispose of weapons and contraband confiscated from Detainees? What happens to personal property? (Is it disposed of/tagged along with the Detainee and is it stored properly and accounted for?) Why is the DD Form 2745 (Capture Tag) not being used? What are units using in lieu of (if any)? ((Detainee Capture Card found in draft MTTP, Detainee Ops—this card does not require near as much data as DD 2745 (). The CPA Apprehension Form helps offset the lack of info on the Detainee, however it is usually filled out in a single copy (not the 3 required))) Who decided on the use of the Coalition Provisional Authority Apprehension Form and why?

21). Does the current force structure meet the requirements to run Internment Facilities? If not why? What recommendations can you can you provide? Do your units have what they need to accomplish the mission (personnel/equipment) without additional support? If not, explain? What do you perceive to be doctrinal shortcomings pertaining to Detainee Operations and how would you fix/incorporate into updated doctrine and accomplish differently?

22). What is the ROE concerning Detainees? How do you ensure that this ROE is being followed and understood by all Soldiers in your command that have any contact with Detainees? What is the policy to train on the established Rules of Engagement (ROE)? How often does this occur? Does this training include Rules of Interaction (ROI)?

23). What procedures are in place when a detainee in U S custody dies?

24). What are the procedures for repatriation?

25). What religious activities are permitted?

26). Are you aware of your requirement to report abuse or suspected abuse of detainees?

27). Do your subordinates know the reporting procedures if they observe or become aware of a Detainee being abused?

28). What steps would you take if a subordinate reported to you an incident of alleged Detainee abuse?

29). Do you feel you can freely report an incident of alleged Detainee abuse outside Command channels (IG, CID)?

30). What procedures do you have to report suspected detainee abuse (IG, CID, Next Level Commander)?

31). What procedures are in place for Detainees to report alleged abuse?

32). What do you perceive as the mission of your unit? Describe the importance of your role in that mission.

33). Describe your working environment and living conditions since being in Theater.

34). Describe the unit command climate and Soldier morale. Has it changed or evolved since you have been in Theater?

35). Are you aware of any incidences of detainee or other abuse in your unit?

36). ADVISEMENT OF RIGHTS (For military personnel)
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37). I am _____(grade, if any, and name), a member of the (DAIG). I am part of a team inspecting detainee operations, this is not a criminal investigation. I am reading you your rights because of a statement you made causes me to suspect that you may have committed _____. (specify offense, i.e. aggravated assault, assault, murder). Under Article 31, you have the right to remain silent, that is, say nothing at all. Any statement you make, oral or written, may be used as evidence against you in a trial by courts-martial or in other judicial or administrative proceedings. You have the right to consult a lawyer and to have a lawyer present during this interview. You have the right to military legal counsel free of charge. In addition to military counsel, you are entitled to civilian counsel of your own choosing, at your own expense. You may request a lawyer at any time during this interview. If you decide to answer questions, you may stop the questioning at any time. Do you understand your rights? Do you want a

lawyer? (If the answer is yes, cease all questions at this point). Are you willing to answer questions?

38). Describe what you understand happened leading up to and during the incident(s) of abuse.

39). Describe Soldier morale, feelings and emotional state prior to and after these incidents?

40). Was this incident reported to the chain of command? How, when & what was done? What would you have done?

41). How could the incident have been prevented?

42). Describe any unit training or other programs that you are aware of that teach leaders and Soldiers how to recognize and resolve combat stress.

43). What measures are in place to boost morale or to relieve stress

44). What measures could the command enact to improve the morale and command climate of your unit?

h. **CDR/OIC & SGM/NCOIC INTERNMENT FACILITY**

1). Can you tell me what basic publications you use for Detainee Operations (doctrine and standards)?

2). What standards were used in establishing this facility?

3). What procedures do you have in place to ensure Soldiers and leaders understand the use of force and rules of engagement for the interment facility?

4). How did you prepare yourself and your junior leaders to become familiar with and understand the applicable regulations, OPORDS/FRAGOs, directives, international laws and administrative procedures to operate an I/R facility?

5). How did Home Station/Mob Site Training prepare you to conduct Detainee Operations at this facility? What training have you and your Soldiers received to ensure your knowledge of DO is IAW the Geneva Convention and DoD/Army policy? (Did this include Law of War and treatment of Detainees training.)?

6). Describe the training the guard force received to prepare them for their duties.

7). How does your unit conduct sustainment training for Detainee Operations or training for newly assigned personnel? When did your unit last conduct this training?

8). Describe some of the basic operations of the camp relating to detainee segregation, captured medical/religious personnel, feeding, sanitation, etc? Where do you maintain copies of the Geneva Convention around the facility? (Is it posted in the detainee's home language within the facilities)? Are camps segregating Detainees by nationality, language, rank, and sex? How are captured Medical personnel and Chaplains being used in the camps?

What provisions are in place for the receipt and distribution of Detainee correspondence/mail? Are the daily food rations sufficient in quantity or quality and variety to keep detainees in good health? Are personal hygiene items and needed clothing being supplied to the Detainees? Are the conditions within the camp sanitary enough to ensure a clean and healthy environment free from disease and epidemics? Is there an infirmary located within the camp?

9). How are you organized to handle the different categories of personnel (EPW, CI, OD, females, JVs, and refuges)? How about female Detainees? How and where do you house them? Do you maintain a separate site for sick or wounded Detainees? If so where is it and how does your unit maintain the security and safeguarding of Detainees there?

10). Describe the procedures you use when you inprocess a detainee. (CPA Forces Apprehension Form, two sworn statements, EPW tag, where do you store Detainees' confiscated personal affects (if any) and how are they accounted for (are they tagged with DD Form 2745)? How is evidence tagged? What procedures are in place to dispose of captured enemy supplies and equipment?) How is the transfer of Detainees handled between different services and Other Governmental Organizations?

11). Where do you store Detainees' confiscated personal affects (if any) and how are they accounted for? (Are they tagged with DD Form 2745)?

12). What are the procedures for the interrogation/questioning of Detainees?

13). What are the procedures for the transfer of custody of Detainees from the MP/Guard personnel to Military Intelligence personnel? When the detainee is returned to the guard force, what procedures occur? (what info is passed on to the Guard Force (type of reward?)?...Observation report, paper trail audit)

14). What control measures do you use to maintain discipline and security in the facility?

15). What MP units (guards, escort, detachments) do you have at your disposal to operate and maintain this internment facility? Do you have any shortages? How do these shortages impact your mission? What non-MP units are you using to help operate this facility? Do you have any shortages? How do these shortages impact your mission?

16). What kind of security lighting do you have that ensures you have a safe and secure operation at night? How do you provide heat to detainees during the winter? What fire prevention/safety measures do you have?

17). Are you employing detainees for work? What are the General policy and procedures for the Employment and Compensation of Detainees?

18). What type of Medical assets are present in support of medical treatment of detainees?

19). What kind of stress counseling do you provide to Soldiers/Guards?

20). Are Detainees allowed to practice their religion? Is there a chaplain available to minister to the detainees? Is the chaplain a Retained Personnel, US Forces, or a civilian?

21). Describe the latrine facilities for Detainees' use (do they have access to it day and night and does it conform to the rules of hygiene and do females have separate facilities). How are they cleaned and how often and by whom? Where do they bathe and conduct other personal hygiene (this will depend how long it takes to evacuate Detainees to U.S. Military Controlled Detention Facilities--12 hours is the standard)?

22). Describe how the unit plans and procures logistical support to include: transportation, subsistence, organizational, and NBC clothing and equipment items, mail collection and distribution, laundry, and bath equipment ISO DO. What logistical support do you receive to run this Facility? What types of supplies is greater in-demand for the unit during detainee operations? What are your shortfalls?

23). How do the Detainees receive fresh water (Bottled water or Lister bag)?

24). What personnel or equipment USR shortages are affecting your ability to perform detainee operations?

25). What do you perceive to be doctrinal shortcomings pertaining to Detainee Operations and how would you fix/incorporate into updated doctrine/accomplish differently? How about Force Structure to ensure Detainee Operations can be successfully accomplished? What are the shortcomings and how do we fix the problem at the Army-level?

26). What are the procedures if an EPW or RP in U.S. custody dies?

27). What AARs or lessons learned have you written or received regarding detainee operations? Can I get a copy?

28). Are you aware of your requirement to report abuse or suspected abuse of detainees?

29). Do your subordinates know the reporting procedures if they observe or become aware of a Detainee being abused?

30). What steps would you take if a subordinate reported to you an incident of alleged Detainee abuse?

31). Do you feel you can freely report an incident of alleged Detainee abuse outside Command channels (IG, CID)?

32). What procedures do you have to report suspected detainee abuse (IG, CID, Next Level Commander)?

33). What procedures are in place for Detainees to report alleged abuse?

34). What do you perceive as the mission of your unit? Describe the importance of your role in that mission.

35). Describe your working environment and living conditions since being in Theater.

36). Describe the unit command climate and Soldier morale. Has it changed or evolved since you have been in Theater?

37). Are you aware of any incidences of detainee or other abuse in your unit?

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39). I am _____(grade, if any, and name), a member of the (DAIG). I am part of a team inspecting detainee operations, this is not a criminal investigation. I am reading you your rights because of a statement you made causes me to suspect that you may have committed _____. (specify offense, i.e. aggravated assault, assault, murder). Under Article 31, you have the right to remain silent, that is, say nothing at all. Any statement you make, oral or written, may be used as evidence against you in a trial by courts-martial or in other judicial or administrative proceedings. You have the right to consult a lawyer and to have a lawyer present during this interview. You have the right to military legal counsel free of charge. In addition to military counsel, you are entitled to civilian counsel of your own choosing, at your own expense. You may request a lawyer at any time during this interview. If you decide to answer questions, you may stop the questioning at any time. Do you understand your rights? Do you want a lawyer? (If the answer is yes, cease all questions at this point). Are you willing to answer questions?

40). Describe what you understand happened leading up to and during the incident(s) of abuse.

41). Describe Soldier morale, feelings and emotional state prior to and after these incidents?

42). Was this incident reported to the chain of command? How, when & what was done? What would you have done?

43). How could the incident have been prevented?

44). Describe any unit training or other programs that you are aware of that teach leaders and Soldiers how to recognize and resolve combat stress.

45). What measures are in place to boost morale or to relieve stress?

46). What measures could the command enact to improve the morale and command climate of your unit?

i. MANEUVER BDE/BN XO

1). What are your responsibilities concerning detainee operations?

2). (BDE XO) What are your responsibilities concerning the Forward Collection Point in the BSA? What is your relationship with the Forward Collection Point OIC?

3). Can you tell me what basic publications you use for Detainee Operations?

4). How did you prepare yourself and your junior leaders to become familiar with and understand the applicable regulations, OPORDS/FRAGOs directives, international laws and administrative procedures to support Detainee Operations?

5). How did Home Station/Mob Site Training prepare you to conduct Detainee Operations?

6). Can you describe the process of getting a Detainee to the Forward Collection Point in the BSA beginning with the point of Capture? How long do detainees stay in the company holding area before being transported to the BDE Forward Collection Point?

7). (BN XO) How do your companies integrate the security and defense of the company holding areas into their perimeter defense? What is your normal ratio of guards to detainees in the holding area? Is this ratio the proper mix for you to perform your mission? If not, what are the shortfalls? How do these shortfalls impact your mission

8). Are you experiencing any transportation problems to move detainees, and if so what? What is the number of personnel needed to move prisoners internally or externally (i.e. from the BN holding areas to the Forward Collection Point, for medical evacuation, etc?

9). What personnel or equipment USR shortages are affecting your ability to support detainee operations? What are your resource shortfalls to support this operation? What types of supplies is greater in-demand for the unit during detainee operations?

10). What do you perceive to be doctrinal shortcomings pertaining to Detainee Operations and how would you fix/incorporate into updated doctrine/accomplish differently? How about Force Structure to ensure Detainee Operations can be successfully accomplished? What are the shortcomings and how do we fix the problem at the Army-level?

11). What procedures are in place to ensure Soldiers and leaders understand the use of force and rules of engagement?

12). What kind of stress counseling are Soldiers/Guards provided?

13). What are the procedures for evacuating a sick or wounded Detainee? How does your unit maintain the security and safeguarding of sick or wounded Detainees while in transport?

14). Describe how the unit plans and procures logistical support to include: subsistence, organizational, and NBC clothing and equipment items, mail collection and distribution, laundry, and bath equipment ISO DO.

15). (BN XO) How do you provide your unit holding area with water? (Bottled water or bulk water)?

16). What are the procedures if a detainee in U.S. custody dies?

17). What AARs or lessons learned have you written or received regarding detainee operations? Can I get a copy?

18). Are you aware of your requirement to report abuse or suspected abuse of detainees?

19). What procedures do you have to report suspected detainee abuse? Who can you report abuse/suspected abuse to?

20). Do your subordinates know the reporting procedures if they observe or become aware of a Detainee being abused?

21). What steps would you take if a subordinate reported to you an incident of alleged Detainee abuse?

22). What do you perceive as the mission of your unit? Describe the importance of your role in that mission.

23). Describe your working environment and living conditions since being in Theater.

24). Describe the unit command climate and Soldier morale. Has it changed or evolved since you have been in Theater?

25). Are you aware of any incidences of detainee or other abuse in your unit?

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27). I am _____(grade, if any, and name), a member of the (DAIG). I am part of a team inspecting detainee operations, this is not a criminal investigation. I am reading you your rights because of a statement you made causes me to suspect that you may have committed _____. (specify offense, i.e. aggravated assault, assault, murder). Under Article 31, you have the right to remain silent, that is, say nothing at all. Any statement you make, oral or written, may be used as evidence against you in a trial by courts-martial or in other judicial or administrative proceedings. You have the right to consult a lawyer and to have a lawyer present during this interview. You have the right to military legal counsel free of charge. In addition to military counsel, you are entitled to civilian counsel of your own choosing, at your own expense. You may request a lawyer at any time during this interview. If you decide to answer questions, you may stop the questioning at any time. Do you understand your rights? Do you want a lawyer? (If the answer is yes, cease all questions at this point). Are you willing to answer questions?

28). Describe what you understand happened leading up to and during the incident(s) of abuse.

29). Describe Soldier morale, feelings and emotional state prior to and after these incidents?

30). Was this incident reported to the chain of command? How, when & what was done? What would you have done?

31). How could the incident have been prevented?

32). Describe any unit training or other programs that you are aware of that teach leaders and Soldiers how to recognize and resolve combat stress.

33). What measures are in place to boost morale or to relieve stress?

34). What measures could the command enact to improve the morale and command climate of your unit?

j. OIC & NCOIC COLLECTION POINT

1). Can you tell me what sources that you use to get policy, doctrine and standards for Detainee Operations? (What doctrine was used in setting up the collection point?) Describe the basic principles of detainee operations and how you are applying them.

2). How did you prepare yourself and your junior leaders/Soldiers to understand applicable regulations, OPORD/FRAGO, directives, international laws and administrative procedures to operate a collection Point?

3). How did Home Station/Mob Site Training prepare you to conduct Detainee Operations? (Did this include Law of War and treatment of Detainees training.)?

4). Describe the training the guard force received to prepare them for their duties.

5). How does your unit conduct sustainment training for Detainee Operations or training for newly assigned personnel? (How often does this occur and please describe it?) When did your unit last conduct this training?

6). What kind of security lighting do you have that ensures you have a safe and secure operation at night? How do you provide heat to detainees during the winter? What fire prevention/safety measures do you have?

7). In relation to where the detainees are housed, how far away are your ammunition and fuel storage sites? Where is your screening site where MI Soldiers interrogate Detainees?

8). Describe some of the basic operations of the collection point relating to detainee segregation, captured medical/religious personnel, feeding, sanitation, etc? (Do you segregate Detainees by nationality, language, religion, rank, and sex? How are captured Medical personnel and Chaplains being used? Are the daily food rations sufficient in quantity or quality and variety to keep detainees in good health? Are personal hygiene items and needed clothing being supplied to the Detainees? Are the conditions within the collection point sanitary enough to ensure a clean and healthy environment free from disease and epidemics)?

9). What control measures do you use to maintain detainee discipline and security in the collection point?

10). What are the procedures for the transfer of Detainees from the collection points to US Military controlled detention facilities? How is the transfer of Detainees handled between coalition forces/host nation?

11). What transportation problems do you experience moving detainees during the operation?

12). Describe the procedures you use when you in process a detainee. (CPA Forces Apprehension Form, two sworn statements, EPW tag, where do you store Detainees' confiscated personal affects (if any) and how are they accounted for (are they tagged with DD Form 2745)? How is evidence tagged? What procedures are in place to dispose of captured enemy supplies and equipment? Do you medically screen detainees?)

13). What MP units (platoon, guards, escort, detachments) do you have at your disposal to operate and maintain the collection point? Do you have any shortages? How do these shortages impact your mission? What non-MP units are you using to help operate the collection point? Do you have any shortages? How do these shortages impact your mission?

14). What is your normal ratio of guards to detainees in the collection point? Is this ratio the proper mix for you to perform your mission? If not, what are the shortfalls? Why are their shortfalls? How do these shortfalls impact your mission?

15). What is the number of personnel that is needed to move prisoners internally and externally (i.e. to the internment facility, from the BN Collection Points, for medical, evacuation, etc

16). What personnel shortages do you have? What issues, if any, do you feel your unit has regarding manning or personnel resourcing in conducting Detention Operations?

17). What equipment shortages (USR) are affecting your ability to perform detainee operations? What other equipment is the unit experiencing as a shortfall concerning detainee operations, (i.e., restraints, uniforms, CIF items, weapons, etc.)? What major shortfalls has the unit encountered in regards to materiel and supply distribution?

18). Describe how the unit plans and procures logistical support to include: transportation, subsistence, organizational, and NBC clothing and equipment items, mail collection and distribution, laundry, and bath equipment ISO DO.

19). What logistical support do you receive to run this Facility? What types of supplies is greater in-demand for the unit during detainee operations? And are these items regularly filled?

20). What procedures do you have in place to ensure Soldiers and leaders understand the use of force and rules of engagement for the collection point?

21). What are the unit's procedures for the interrogation/questioning of Detainees?

22). What kind of stress counseling are Soldiers/Guards provided?

23). Do you maintain a separate site for sick or wounded Detainees? If so where is it and how does your unit maintain the security and safeguarding of Detainees there? How about female Detainees? How and where do you house them?

24). What type of Medical personnel/units are available in support of medical treatment of detainees?

25). Are Detainees given the latitude to practice their religion? Is there a chaplain available to minister to the detainees? Is the chaplain a Retained Personnel, US Forces, or a civilian?

26). Describe the latrine facilities for Detainees' use (do they have access to it day and night and does it conform to the rules of hygiene and do females have separate facilities). How are they cleaned and how often and by whom? Where do they bathe and conduct other personal hygiene (this will depend how long it takes to evacuate Detainees to U.S. Military Controlled Detention Facilities--12 hours is the standard)?

27). How do the Detainees receive fresh water (Bottled water or Lister bag)?

28). What are the procedures if a detainee in U.S. custody dies?

29). What AARs or lessons learned have you written or received regarding detainee operations? Can I get a copy?

30). Are you aware of your requirement to report abuse or suspected abuse of detainees?

31). Do your subordinates know the reporting procedures if they observe or become aware of a Detainee being abused?

32). What steps would you take if a subordinate reported to you an incident of alleged Detainee abuse?

33). Do you feel you can freely report an incident of alleged Detainee abuse outside Command channels (IG, CID)?

34). What procedures do you have to report suspected detainee abuse (IG, CID, Next Level Commander)?

35). What systems are in place for detainees to report alleged abuse?

36). What do you perceive as the mission of your unit? Describe the importance of your role in that mission.

37). Describe your working environment and living conditions since being in Theater.

38). Describe the unit command climate and Soldier morale. Has it changed or evolved since you have been in Theater?

39). Are you aware of any incidences of detainee or other abuse in your unit?

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44). Was this incident reported to the chain of command? How, when & what was done? What would you have done?

45). How could the incident have been prevented?

46). Describe any unit training or other programs that you are aware of that teach leaders and Soldiers how to recognize and resolve combat stress.

47). What measures are in place to boost morale or to relieve stress?

48). What measures could the command enact to improve the morale and command climate of your unit?

k. **INTERROGATOR OIC/NCOIC**

1). What references/standards/publications/SOPs do you use to conduct interrogation Operations?

2). How does the command ensure that interrogation Operations is conducted in compliance with the international Law of war? (OPORD/FRAGO, ROE, Interrogation Techniques, general orders, humane treatment, etc)

3). Did you and your soldiers undergo Level B Law of War training prior to deployment? Explain what training occurred. Is there a plan to train new Soldiers (replacements) to the unit? Did this training include the treatment of Detainees? Explain.

4). What Home Station/Mob Site Training did you and your soldiers receive prior to deployment to help your unit prepare for Detainee/interrogation Operations? Describe it. How did the training prepare you to conduct Detainee/interrogation Operations for this deployment? How did this training distinguish between the different categories of Detainees (EPWs, RPs, CIs, etc.)?

5). What training did you receive on the established Rules of Engagement (ROE)? How often does this occur? Does this training include Rules of Interaction (ROI)?

6). What procedures are in place to ensure your Soldiers do not violate the rules of engagement for the interment facility/collection point?

7). What guidance or policies are there to ensure fraternization is not taking place between U.S. military personnel and the detainees?

8). What training have you and your subordinates received to ensure your knowledge of DO is IAW the provisions under the Geneva Convention?

9). What is the OIC/NCOICs overall role in detainee operation process? What involvement do the OIC/NCOICs have in the interrogation process of detainee operations? Do

the OIC/NCOICs provide a means to validate detainee's information? Do the OIC/NCOICs provide input as to the disposition of the detainee?

10). Where are your screening sites located (where detainees are interrogated and screened)? Are these facilities adequate for your needs? Do you have enough interrogators for your operation needs? What are your personnel shortfalls?

11). What is the procedure on how to identify a detainee who may have intelligence information? Who performs this procedure? Are MPs involved in the decision-making? Are PIRs used as a basis for the identification of detainees of interest, personality lists used, etc?

12). Have you personally observed the interrogation operations at this Facility to determine if your unit has the necessary support and supplies to run the facilities? If so, what did you find?

13). What control measures are you using to maintain discipline and security within the interrogation facility?

14). How many people are authorized to be present in the room when interrogating/ screening a detainee? Under what circumstances are you required and authorized to have more people?

15). Are the personal effects of a detainee released to the interrogator or is the interrogator allowed to examine the items?

16). Are you receiving sufficient information from the capture paperwork to properly conduct screenings and interrogations? Are the current requirements for documentation of a captured person sufficient or excessive? Did the changes in procedures as far as documenting captured person improve your ability to gather intelligence?

17). What are the procedures for the transfer of custody of Detainees from the MP/Guard personnel to Military Intelligence personnel? When the detainee is returned to the guard force, what procedures occur?

18). Describe the screening /background checks required prior to hiring interpreters. Are they trusted by U.S. Soldiers?

19). What is your perception of the contract interrogators training and capabilities to conduct proper interrogations of detainees?

20). How are translators/linguists used during the screening/interrogation process? Do you trust the interpreter? How are MPs/Guards used during this process?

21). Do counterintelligence agents conduct interrogations of detainees? What training have they received for conducting interrogations? What is their understanding of the laws of war as it pertains to interrogating detainees?

22). What do you perceive to be doctrinal shortcomings pertaining to Interrogation Operations? How would you fix/incorporate into updated doctrine/accomplish differently? How about Force Structure to ensure Interrogation Operations can be successfully accomplished? What are the shortcomings and how do we fix the problem at the Army-level?

23). What are the procedures if a detainee in U.S. custody dies?

24). Do you know of the procedures to get stress counseling (Psychiatrist, Chaplain, Medical)? Do your Soldiers know of the procedures to get counseling (Psychiatrist, Chaplain, Medical)?

25). Are you aware of your requirement to report abuse or suspected abuse of detainees?

26). Do your subordinates know the reporting procedures if they observe or become aware of a Detainee being abused?

27). What steps would you take if a subordinate reported to you an incident of alleged Detainee abuse?

28). Do you feel you can freely report an incident of alleged Detainee abuse outside Command channels (IG, CID)?

29). What procedures do you have to report suspected detainee abuse (IG, CID, Next Level Commander)?

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32). Describe your working environment and living conditions since being in Theater.

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37). Describe what you understand happened leading up to and during the incident(s) of abuse.

38). Describe Soldier morale, feelings and emotional state prior to and after these incidents?

39). Was this incident reported to the chain of command? How, when & what was done? What would you have done?

40). How could the incident have been prevented?

41). Describe any unit training or other programs that you are aware of that teach leaders and Soldiers how to recognize and resolve combat stress.

42). What measures are in place to boost morale or to relieve stress

43). What measures could the command enact to improve the morale and command climate of your unit?

I. INTERROGATOR QUESTIONS

1). What references/standards/publications/SOPs do you use to conduct interrogation Operations?

2). What training have you received to ensure your knowledge of DO is IAW the provisions under the Geneva Convention?

3). Did your unit undergo Level B Law of War training prior to deployment? Explain what training occurred. Is there a plan to train new Soldiers (replacements) to the unit? Did this training include the treatment of Detainees? Explain.

4). What training did you unit receive on the established Rules of Engagement (ROE)? How often does this occur? Does this training include Rules of Interaction (ROI)?

5). What is the procedure on how to identify a detainee who may have intelligence information? Who performs this procedure? Are MPs involved in the decision-making? Are PIRs used as a basis for the identification of detainees of interest, personality lists used, etc?

6). What is the Rules of Engagement (ROE)/Rules of Interaction (ROI) when interrogating a detainee?

7). What is the maximum amount of time allowed a detainee could be interrogated during one session? Where is this standard located?

8). What is the procedure in determining how long to hold a detainee at this level for interrogation once he refuses to cooperate?

9). How many people are authorized to be present in the room when interrogating/screening a detainee? Under what circumstances are you required and authorized to have more people?

10). Who may allow an interrogator to question a detainee if he is wounded or sick? (Medical personnel)

11). What types of restraining devices are authorized on the detainee during the interrogation? What type and/or amount of physical constraints are interrogators authorized to place on an unruly detainee during interrogation?

12). Where are your screening sites located (where detainees are interrogated and screened)? Are these facilities adequate for your needs? Do you have enough interrogators for your operation needs? What are your personnel shortfalls?

13). Are you receiving sufficient information from the capture paperwork to properly conduct screenings and interrogations? Are the current requirements for documentation of a captured person sufficient or excessive? Did the changes in procedures as far as documenting captured person improve your ability to gather intelligence?

14). What are the procedures for the transfer of custody of Detainees from the MP/Guard personnel to Military Intelligence personnel? When the detainee is returned to the guard force, what procedures occur? (what info is passed on to the Guard Force (type of reward?)...observation report, paper trail audit)

15). Are the personal effects of a detainee released to the interrogator or is the interrogator allowed to examine the items?

16). How are translators/linguists used during the screening/interrogation process? Do you trust the interpreter? How are MPs/Guards used during this process?

17). What is your perception of the contract interrogators training and capabilities to conduct proper interrogations of detainees?

18). What do you perceive to be doctrinal shortcomings pertaining to Interrogation Operations? How would you fix/incorporate into updated doctrine/accomplish differently? How about Force Structure to ensure Interrogation Operations can be successfully accomplished? What are the shortcomings and how do we fix the problem at the Army-level?

19). Do you know of the procedures to get stress counseling (Psychiatrist, Chaplain, Medical)? Do your Soldiers know of the procedures to get counseling (Psychiatrist, Chaplain, Medical)?

20). What is considered abuse to a detainee during interrogation?

21). Are you aware of your requirement to report abuse or suspected abuse of detainees?

22). Do your subordinates know the reporting procedures if they observe or become aware of a Detainee being abused?

23). What steps would you take if a subordinate reported to you an incident of alleged Detainee abuse?

24). Do you feel you can freely report an incident of alleged Detainee abuse outside Command channels (IG, CID)?

25). What procedures do you have to report suspected detainee abuse (IG, CID, Next Level Commander)?

26). What procedures are in place for Detainees to report alleged abuse?

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36). How could the incident have been prevented?

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m. **Chaplain**

1). Are Detainees allowed to practice their religion? Is there a chaplain available to minister to the detainees? Is the chaplain a Retained Personnel, US Forces chaplain, or a civilian?

2). What are your unit ministry team's responsibilities as part of the cadre for the detainees at this collection point / internment facility? (Looking for contraband the detainee might have hidden in their Koran?)

3). What are the procedures to bring local religious clergy members into the collection point or facility to help ministry to detainees?

4). Are you aware of your requirement to report abuse or suspected abuse of detainees?

5). Has any service member spoken with you about abusing detainees or seeing detainees being abused? If yes, can you provide details without violating your privilege information / confidentially status between you and the service member? (We do not want names).

6). How many times have you heard about detainees being abused or mistreated? What did you hear?

7). Have you made the Chain of Command aware of these allegations of abuse and have you seen the Chain of Command do anything about correcting detainee abuse?

8). What is your feeling on how Detainees are being treated? No standard. Personnel observations and feelings.

9). What do you perceive as the mission of your unit? Describe the importance of your role in that mission.

10). Describe your working environment and living conditions since being in Theater.

11). Describe the unit command climate and Soldier morale. Has it changed or evolved since you have been in Theater?

12). Are you aware of any incidences of detainee or other abuse in your unit?

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18). How could the incident have been prevented?

19). Describe any unit training or other programs that you are aware of that teach leaders and Soldiers how to recognize and resolve combat stress.

20). What measures are in place to boost morale or to relieve stress?

21). What measures could the command enact to improve the morale and command climate of your unit

m. **S-4 (INTERNMENT FACILITY)**

1). Concerning logistical operations, what is your role in the support of (Theater/Division) Detainee Operations?

2). What references/standards/publications do you use to conduct Detainee Operations or does your operation depend solely on existing SOPs, OPORDs, FRAGOs, supply/logistic requests?

3). What Home Station Training did your unit conduct prior to deployment to help the unit (and you) prepare for this mission? Describe it.

4). Describe how your unit plans and procures logistical support for Detainee Operations. (include: transportation, subsistence, organizational, and NBC clothing and equipment items, distribution, laundry, and bath equipment) What are the procedures for transporting and evacuating Detainees? Have you ever coordinated for transportation to evacuate Detainees out of the AOR? Who approved the transfer?

5). Do you have any responsibilities for feeding the detainees? If so, are the daily food rations sufficient in quantity and quality and variety to keep Detainees in good health and IAW with their cultural requirements? How and what are they being fed? Please elaborate.

6). Do detainees have adequate furnishings for sleeping and eating (does it include bedding/blankets)? Is the supply system in place allowing you to replace or procure necessary furnishings? Is there a means to launder clothing items for the Detainees here at this facility

7). How do Detainees receive fresh potable water in your area of responsibility? (Bottled water, Lister bags, running water--if so, is it potable)?

8). What procedures are in place to account for and dispose of captured enemy supplies and equipment?

9). How are personal hygiene items and needed clothing being supplied to the Detainees? What precisely are provided to them? Do detainees have access to sundry items?

10). What do you perceive to be doctrinal logistic shortcomings pertaining to Detainee Operations and how would you fix/incorporate into updated doctrine/accomplish differently?

11). What are your biggest issues concerning logistical support for Detainee Operations?

12). What are your biggest issues concerning adequate facilities for Detainees? Who provides engineer support to this facility? What is your relationship with the engineer? (If the S-4 provides engineer support, then ask the Engineer Support to Internment Facility Questions.)

13). Are you aware of your requirement to report abuse or suspected abuse of detainees?

14). Do your subordinates know the reporting procedures if they observe or become aware of a Detainee being abused?

15). What steps would you take if a subordinate reported to you an incident of alleged Detainee abuse?

16). Do you feel you can freely report an incident of alleged Detainee abuse outside Command channels (IG, CID)?

17). What procedures do you have to report suspected detainee abuse (IG, CID, Next Level Commander)?

18). What procedures are in place for Detainees to report alleged abuse?

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28). How could the incident have been prevented?

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n. **CID Special Agent**

1). What is your involvement with detainee abuse investigations? Please provide a general description of the quantity and type of investigations that you were involved in?

2). Can you list the detainee facilities that these incidents occurred?

3). During those investigations did you establish the motives for soldiers that abused detainees? If so, please list the motives you uncovered and explain each individually in as much detail as possible.

4). During those investigations, did you establish any deficiencies regarding training of those persons who committed abuse? If so, please explain?

5). During those investigations, did you establish any deficiencies in regards to the leadership of those who committed abuse? If so, please explain?

6). During those investigations, did you establish if the environmental factors (length of work day, shift schedule, living conditions, weather, food, etc...) might have been the cause of abuse? If so, explain?

7). During those investigations, did you determine if combat stress was a cause of the abuse? If so, please explain.

8). During those investigations did you establish if the assignment of MOS' that do not normally deal with detainee operations had an impact on those soldiers abusing detainees. If so, please explain.

9). During these investigations did you establish any patterns as far as one unit having more soldiers who abused detainees, or a specific MOS that had more soldiers who abused detainees. Did you see any specific patterns?

10): Is there anything else that you may have observed that you felt was the cause of those soldiers abusing detainees?

11). What do you perceive as the mission of your unit? Describe the importance of your role in that mission.

12). Describe your working environment and living conditions since being in Theater.

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23). What measures could the command enact to improve the morale and command climate of your unit?

n. **ENGINEER SUPPORT TO INTERNMENT FACILITIES (MP BDE/BN)**

1). What is your role in assisting this unit to maintain the security and safeguarding of Detainees at this interment facility?

2). What is the maximum capacity for this particular facility? What is the current Detainee population? What is your plan for surge? (tentage, latrines, etc)

3). What standards were used in establishing this internment facility? What standards do you use in providing engineer support for this facility? Have any facility standards been waived, and if so, by whom, and why?

4). Why was this facility picked as an internment facility (permanent)? What makes this the place of choice? Who decided the location of this facility?

5). What are some of the services being contracted out/outsourced to support Detainee Operations in Theater? (Custodial, Garbage, etc.) What are issues concerning contracting or budget that you are aware of that impact Detainee Operations? If so, what are they? Who oversees these contracts that support Detainee Operations (CORs)?

6). What do you know about the Engineer Corps' Theater Construction Management System (TCSM). Were you aware that they have plans, specifications, and materiel requirements for Internment Facilities based on Detainee population?

7). What is the minimum living space standard for each Detainee? Who set the provisions of minimum living space for this facility (Engineers are managers of real property) (when possible, consult the preventative medicine authority in theater for provisions of minimum living space and sanitary facilities). What is your relationship with the preventive medicine expert? Has a preventative medicine expert given advice on this?

8). Describe the latrine facilities for Detainees' use (do they have access to it day and night and does it conform to the rules of hygiene and do females have separate facilities. Are they serviced with running water)? How are they cleaned and how often, and by whom

(Contracted?)? Where do they bathe and conduct other personal hygiene? How recently has a preventative medicine expert inspected the latrine and personal hygiene facilities?

9). Is the sewage system intact? If not, what are the problems and what is being done to fix. What is used in lieu of?

10). Describe your lighting system for the internment facility. How does it enhance the security of the facility? Does the facility have emergency lighting/power capability? Describe the system. How about the electrical distribution system? What are your problems with the system?

11). How do the Detainees receive fresh potable water (Bottled water, Lister bags, running water--if so, is it potable)? How reliable is the (running) water distribution system (any breakdowns and if so, how often)?

12). How about heating during the winter? What fire prevention/safety measures are in place? Describe major problems in these areas.

13). Describe the facilities where the Detainees eat? (Is there a kitchen facility), what equipment do you have in place?

14). Do you train and supervise internal and external labor (CIs) (construction and repair of facilities)? If so, describe the work ((construction, maintenance, repair, and operation of utilities (water, electricity, heat, and sanitation.))

15). How do you prioritize your maintenance and repair? What is your backlog on work orders? Are there any future plans for this facility in terms of renovation or expansion? Please describe (how will they use swing space).

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o. **Medical Officer / Preventive Medical Officer**

1). What medical requirements in support of the detainee program were identified in the medical annexes of relevant OPLANs, OPORDs, and other contingency planning documents? What identified requirements were actually allocated? What procedures were specified in these documents

2). What training, specific to detainee medical operations, did you receive prior to this deployment? What training have you received during this deployment?

3). What are the minimum medical care and field sanitation standards for collection points/internment facilities? What have you observed when detainees are received at collection points/internment facilities? (Describe the process)

4). How often are the collection points/internment facilities inspected (PVNTMED inspections)? Who performs the inspections (field sanitation team, PVNTMED detachment)? What do the inspections consist of? What do you do with the results of the inspections? Are the appropriate commanders taking the necessary actions to correct the shortcomings noted during your monthly medical inspections? Have you observed any recurring deficiencies during your inspections?

5). How do you ensure that each unit has a field sanitation team and all necessary field sanitation supplies? What PVNTMED personnel are assigned to MP units responsible for detention operations?

6). How are detainees initially evaluated (screened) and treated for medical conditions (same as US)? Who performs the screening? What do you do if a detainee is suspected of having a communicable disease (isolated)?

7). How often do you or your staff conduct routine medical inspections (examinations) of detainees? What does the medical evaluation consist of? What is the purpose of the medical examination? How are the results recorded/reported?

8). Does every internment facility have an infirmary? If not, why not? How do detainees request medical care? What are the major reasons detainees require medical care? Have any detainees been denied medical treatment or has medical attention been delayed? If so, why?

9). How do detainees obtain personal hygiene products?

10). What are the procedures for the transfer of custody of detainees to/from the infirmary for medical treatment? How is security maintained when a detainee is transferred to a medical facility? (Database, form, etc

11). What are the procedures for repatriation of sick and wounded detainees ? Who is eligible for repatriation based on a medical condition? How do you interact with the Mixed Medical Commission (EPW/RP only)?

12). Who maintains medical records of detainees? How are these maintained and accessed? What is kept in the medical record? Who collects, analyzes, reports, and responds to detainee DNBI data

13). What are the standards for detainee working conditions? Who monitors and enforces them? Who administers the safety program? What is included in the safety program? How does a detainee apply for work-related disability compensation

14). How are retained medical personnel identified? What special conditions apply to them? How are they employed in the care of detainees? How are they certified as proficient? Who supervises them?

15). What measures are taken to protect US personnel from contracting diseases carried by detainees? Who monitors/enforces these procedures?

16). What kind of stress counseling do you provide to Soldiers/Guards of detainees?

17). What are the procedures if a detainee in U.S. custody dies?

18). What do you perceive to be doctrinal medical shortcomings pertaining to detainee operations? How would you fix/incorporate into updated doctrine/accomplish differently? Does the current force structure of the Medical/MS/SP Corps support the successful accomplishment of detainee operations? What are the shortcomings, and how do we fix the problem at the Army level?

19). If you noticed any markings and/or injuries on a detainee that might lead you to believe the detainee was being abused, what would you do with the information? Do your subordinates know the reporting procedures if they observe or become aware of a detainee being abused?

20). Overall, how do you feel detainees are being treated at the infirmary, collection points and/or detention facilities? What systemic weaknesses have you identified?

21). What AARs or lessons learned have you written or received regarding detainee operations? Can I get a copy?

22). What do you perceive as the mission of your unit? Describe the importance of your role in that mission.

23). Describe your working environment and living conditions since being in Theater.

24). Describe the unit command climate and Soldier morale. Has it changed or evolved since you have been in Theater?

25). Are you aware of any incidences of detainee or other abuse in your unit?

26). ADVISEMENT OF RIGHTS (For military personnel)
The text of Article 31 provides as follows a. No person subject to this chapter may compel any person to incriminate himself or to answer any questions the answer to which may tend to incriminate him. b. No person subject to this chapter may interrogate or request any statement from an accused or a person suspected of an offense without first informing him of the nature of the accusation and advising him that he does not have to make any statement regarding the offense of which he is accused or suspected, and that any statement made by him may be used as evidence against him in a trial by court-martial. c. No person subject to this chapter may

compel any person to make a statement or produce evidence before any military tribunal if the statement or evidence is not material to the issue and may tend to degrade him. d. No statement obtained from any person in violation of this article, or through the use of coercion, unlawful influence, or unlawful inducement, may be received in evidence against him in a trial by court-martial.

27). I am _____(grade, if any, and name), a member of the (DAIG). I am part of a team inspecting detainee operations, this is not a criminal investigation. I am reading you your rights because of a statement you made causes me to suspect that you may have committed _____. (specify offense, i.e. aggravated assault, assault, murder). Under Article 31, you have the right to remain silent, that is, say nothing at all. Any statement you make, oral or written, may be used as evidence against you in a trial by courts-martial or in other judicial or administrative proceedings. You have the right to consult a lawyer and to have a lawyer present during this interview. You have the right to military legal counsel free of charge. In addition to military counsel, you are entitled to civilian counsel of your own choosing, at your own expense. You may request a lawyer at any time during this interview. If you decide to answer questions, you may stop the questioning at any time. Do you understand your rights? Do you want a lawyer? (If the answer is yes, cease all questions at this point). Are you willing to answer questions?

28). Describe what you understand happened leading up to and during the incident(s) of abuse.

29). Describe Soldier morale, feelings and emotional state prior to and after these incidents?

30). Was this incident reported to the chain of command? How, when & what was done? What would you have done?

31). How could the incident have been prevented?

32). Describe any unit training or other programs that you are aware of that teach leaders and Soldiers how to recognize and resolve combat stress.

33). What measures are in place to boost morale or to relieve stress?

34). What measures could the command enact to improve the morale and command climate of your unit?

p. **NCOIC GUARD FORCE COLLECTION POINT & INTERNMENT FACILITY**

1). How did you prepare yourself and your Soldiers to become familiar with and understand the applicable regulations, OPORDS/FRAGOs directives, international laws and administrative procedures to operate an I/R facility or Collection Point?

2). Did you and all of your Soldiers undergo Law of War training prior to deployment? Explain what training occurred. What is your plan to train new Soldiers (replacements) to the unit? Did this training include the treatment of Detainees? Explain.

3). What policies/procedures does your unit have in place to support the U. S. policy relative to the humane treatment of Detainees?

4). Does your unit have a formal training program for the care and control of Detainees? Describe what it includes. (For Permanent Internment Facilities only)

5). What training did your unit receive on the established Rules of Engagement (ROE)? How often does this occur? Does this training include Rules of Interaction (ROI)?

6). What procedures do you have in place to ensure Soldiers understand the use of force and rules of engagement for the interment facility/collection point?

7). What guidance or policies do you have to ensure fraternization is not taking place between U.S. military personnel and the detainees?

8). Describe the training the guard force received to prepare them for their duties (5Ss & T)) How does your unit conduct sustainment training for Detainee Operations in Theater? How often does this occur and please describe it? When did your unit last conduct this training?

9). What Home Station/Mob Site Training did your unit conduct prior to deployment to help your unit prepare for Detainee Operations? Describe it. How did the training prepare you to conduct Detainee Operations for this deployment? What are your unit's strengths and weaknesses? How did this training distinguish between the different categories of Detainees (EPWs, RPs, CIs, etc.)?

10). Describe the training you received during your last Military Institutional School (BNCOC/ANCOC) in handling/processing Detainees. How was it helpful in preparing you for Detainee Operations? How would you improve the training at the schoolhouse?

11). What are some of the basic operations of the collection point/internment facility? Is there a copy of the Geneva Convention posted in the detainee's home language within these camps? Are camps segregating Detainees by nationality, language, rank, and sex? How are captured Medical personnel and Chaplains being used in the camps? What provisions are in place for the receipt and distribution of Detainee correspondence/mail? Are the daily food rations sufficient in quantity or quality and variety to keep detainees in good health? Are personal hygiene items and needed clothing being supplied to the Detainees? Are the conditions within the camp sanitary enough to ensure a clean and healthy environment free from disease and epidemics? Is there an infirmary located within the camp?

12). What control measures are your unit using to maintain discipline and security in the collection point/internment facility?

13). What procedures are in place to account for and dispose of captured enemy supplies and equipment? What procedures are in place to process personnel, equipment, and evidence?

14). What is your ratio of guards to detainees in your collection point/internment facility? Is this ratio the proper mix for you to perform your mission? If not, what are the shortfalls? Why are their shortfalls? How do these shortfalls impact your mission?

15). How are you organized to handle the different categories of personnel (EPW, CI, OD, females, juveniles and refugees)? Do you maintain a separate site for sick or wounded

Detainees? If so where is it and how does your unit maintain the security and safeguarding of Detainees there?

16). What is the number of personnel needed to escort prisoners internally and externally? (i.e. for medical, evacuation, etc.)?

17). What are the procedures for transporting and evacuating detainees? W hat are the procedures for transferring Detainees from the collection points to US Military controlled detention facilities? How is the transfer of Detainees handled between different services?

18). What are the procedures for the transfer of custody of Detainees from the collection points/internment facility to Military Intelligence/OGA personnel? When the detainee is returned to the guard force, what procedures occur with the detainee? (in processing, medical screening, suicide watch, observation report DD Form 2713?, etc)

19). What MP units (guards, escort, detachments) do you have at your disposal to operate and maintain this collection point/internment facility? What non-MP units are you using to help operate this collection point/internment facility? If you do not use MP teams, what forces are required to operate the Collection Point (guard, security etc)? Do you have any shortfalls in performing the Collection Point mission? How does this affect your doctrinal mission? How long are you holding Detainees at the coll ection point? Is holding the detainees longer than the 12/24 hours impacting on your units' ability to perform its mission? Why?

20). Describe how this unit is able to maintain the security and safeguarding of Detainees at this interment facility/collection point. Describe your security requirements. (What are your clear zones? How do your Guard Towers permit an unobstructed view of the clear zone and how do they allow for overlapping fields of fire? Describe your perimeter security.

21). How do you maintain a high state of discipline with your Soldiers to enhance the internal and external security of the internment facility/Collection Point?

22). Does this facility include Sally Ports? Describe the system in place.

23). What do you have in place for communications (between guards/towers and the TOC/C^2)? What problems do you have? How do you overcome them?

24). Describe the latrine facilities for Detainees' use (do they have access to it day and night and does it conform to the rules of hygiene and do females have separate facilities). How are they cleaned and how often and by whom? Where do they bathe and conduct other personal hygiene (this will depend how long it takes to evacuate Detainees to U.S. Military Controlled Detention Facilities—12/24 hours is the standard)?

25). How do the Detainees receive fresh water (Bottled water or Lister bag)?

26). Can you give some examples of contraband? What are the procedures when you find contraband?? (i.e.., Knives, Narcotics, weapons, currency)

27). Describe your lighting systems at the Facility/Collection Point (how does it affect security) . How about heating during the winter? What fire prevention/safety measures are in place?

28). How are Detainee complaints and requests to the camp commander processed?

29). What are your shortcomings/problems in feeding the population? W hat is the menu of the population?

30). What problems, if any, do you feel the unit has regarding manning or personnel resourcing in conducting Detention O perations? What about the number of personnel to control the detention operation in regards to riot control?

31). What personal equipment is the unit experiencing as a shortfall concerning detainee operations, (i.e., restraints, uniforms, CIF items, weapons, etc?

32). What types of supplies is greater in-demand for the unit during detainee operations? And are these items regularly filled? What major shortfalls has the unit encountered in regard to materiel and supply distribution?

33). What transportation problems is the unit experiencing to move detainees during the operation?

34). What safety programs/policies are currently being used in the Detainee cam ps?

35). Do you know of the procedures to get stress counseling (Psychiatrist, Chaplain, Medical)? Do your Soldiers know of the procedures to get counseling (Psychiatrist, Chaplain, Medical)?

36). Are you aware of your requirement to report abuse or suspected abuse of detainees?

37). Do your subordinates know the reporting procedures if they observe or become aware of a Detainee being abused?

38). What steps would you take if a subordinate reported to you an incident of alleged Detainee abuse?

39). Do you feel you can freely report an incident of alleged Detainee abuse o utside Command channels (IG, CID)?

40). What procedures do you have to report suspected detainee abuse (IG, CID, Next Level Commander)?

41). What systems are in place for detainees to report alleged abuse?

42). What do you perceive as the mission of your unit? Describe the importance of your role in that mission.

43). Describe your working environment and living conditions since being in Theater.

44). Describe the unit command climate and Soldier morale. Has it changed or evolved since you have been in Theater?

45). Are you aware of any incidences of detainee or other abuse in your unit?

46). ADVISEMENT OF RIGHTS (For military personnel)
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47). I am _____(grade, if any, and name), a member of the (DAIG). I am part of a team inspecting detainee operations, this is not a criminal investigation. I am reading you your rights because of a statement you made causes me to suspect that you may have committed _____. (specify offense, i.e. aggravated assault, assault, murder). Under Article 31, you have the right to remain silent, that is, say nothing at all. Any statement you make, oral or written, may be used as evidence against you in a trial by courts-martial or in other judicial or administrative proceedings. You have the right to consult a lawyer and to have a lawyer present during this interview. You have the right to military legal counsel free of charge. In addition to military counsel, you are entitled to civilian counsel of your own choosing, at your own expense. You may request a lawyer at any time during this interview. If you decide to answer questions, you may stop the questioning at any time. Do you understand your rights? Do you want a lawyer? (If the answer is yes, cease all questions at this point). Are you willing to answer questions?

48). Describe what you understand happened leading up to and during the incident(s) of abuse.

49). Describe Soldier morale, feelings and emotional state prior to and after these incidents?

50). Was this incident reported to the chain of command? How, when & what was done? What would you have done?

51). How could the incident have been prevented?

52). Describe any unit training or other programs that you are aware of that teach leaders and Soldiers how to recognize and resolve combat stress.

53). What measures are in place to boost morale or to relieve stress

54). What measures could the command enact to improve the morale and command climate of your unit?

q. **POINT OF CAPTURE-- CDR/ 1SG/ PL/ PS**

1). How did you prepare yourself and your junior leaders to become familiar with and understand the applicable regulations, OPORDS/FRAGOs directives, international laws and administrative procedures to operate a unit Collection Point?

2). Did you and all of your Soldiers undergo Law of War training prior to deployment? Explain what training occurred. Did this training include the treatment of Detainees? Is there a plan to train new Soldiers (replacements) to the unit? Explain.

3). What Home Station/Mob Site Training did your unit conduct prior to deployment to help your unit prepare for Detainee Operations? Describe it. How did the training prepare you to conduct Detainee Operations for this deployment? How did this training distinguish between the different categories of Detainees (EPWs, RPs, CIs, etc.)?

4). What training did you receive on the established Rules of Engagement (ROE)? How often does this occur? Does this training include Rules of Interaction (ROI)?

5). Describe the training you received at the last Professional Military Education on handling/processing Detainees. How was it helpful in preparing you for Detainee Operations? How would you improve the training at the schoolhouse?

6). Describe the training the guard force received to prepare them for their duties. How do you ensure your guards understand their orders?

7). How does your unit conduct sustainment training for Detainee Operations? How often does this occur and please describe it? When did your unit last conduct this training?

8). (CDR/1SG) What are your policies on the establishment of a unit holding area? How do you ensure that these areas operate IAW Law of War?

9). (PL/PS) What is the units' policy on the establishment of a unit holding area? How do you know that you are operating the holding areas IAW Law of War? ?

10). How do you administratively process each detainee, (i.e., tagging pax and equipment, evidence, witness statements, etc.)?

11). How do you maintain good morale and discipline with Soldiers and leaders to enhance the security of the unit collection point?

12). What procedures do you have in place to ensure Soldiers and leaders understand the use of force and rules of engagement for the unit collection point? (ROE Card, sustainment tng, etc)

13). What procedures are in place to dispose of captured contraband (enemy supplies and equipment)?

14). (CDR/1SG) What policies/procedures do you have in place to ensure that all Detainees are protected, safeguarded, and accounted for (5Ss & T)? What policies/procedures does your unit have to ensure the humane treatment of Detainees?

15). What are your procedures for questioning Detainees? (Is interrogation taking place?) Who is interrogating the detainees?

16). What are your procedures to evacuate a detainee from the point of capture to the Battalion/Brigade collection point? What transportation problems is the unit experiencing either to move troops or detainees during the operation? How do you process detainees too sick or wounded to be evacuated?

17). What is the number of personnel that is needed to move prisoners within the holding area and then to higher? (i.e. for medical sick call, evacuation, etc.)?

18). What medical personnel are available to support DO?

19). What procedures are in place when a detainee in U S custody dies?

20). What equipment is the unit experiencing as a shortfall concerning detainee operations, (i.e., restraints, uniforms, CIF items, radios, weapons, etc.)?

21). (CDR) Are any of these USR shortages and if so are you reporting them on your USR?

22). What types of supplies is greater in-demand for the unit during detainee operations? What about health and comfort items? And are these items regularly filled?

23). What duties put the most stress on soldiers in terms of personnel resources?

24). What is the most important factor that you would address in terms of personnel resources in regards to a successful detainee operation?

25). What AARs or lessons learned have you written or received regarding detainee operations? Can I get a copy?

26). Do you know of the procedures to get stress counseling (Psychiatrist, Chaplain, Medical)? Do your Soldiers know of the procedures to get counseling (Psychiatrist, Chaplain, Medical)?

27). Are you aware of your requirement to report abuse or suspected abuse of detainees?

28). Do your subordinates know the reporting procedures if they observe or become aware of a Detainee being abused?

29). What steps would you take if a subordinate reported to you an incident of alleged Detainee abuse?

30). Do you feel you can freely report an incident of alleged Detainee abuse outside Command channels (IG, CID)?

31). What procedures do you have to report suspected detainee abuse (IG, CID, Next Level Commander)?

32). What systems are in place for detainees to report alleged abuse?

33). What do you perceive as the mission of your unit? Describe the importance of your role in that mission.

34). Describe your working environment and living conditions since being in Theater.

35). Describe the unit command climate and Soldier morale. Has it changed or evolved since you have been in Theater?

36). Are you aware of any incidences of detainee or other abuse in your unit?

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38). I am _____(grade, if any, and name), a member of the (DAIG). I am part of a team inspecting detainee operations, this is not a criminal investigation. I am reading you your rights because of a statement you made causes me to suspect that you may have committed _____. (specify offense, i.e. aggravated assault, assault, murder). Under Article 31, you have the right to remain silent, that is, say nothing at all. Any statement you make, oral or written, may be used as evidence against you in a trial by courts-martial or in other judicial or administrative proceedings. You have the right to consult a lawyer and to have a lawyer present during this interview. You have the right to military legal counsel free of charge. In addition to military counsel, you are entitled to civilian counsel of your own choosing, at your own expense. You may request a lawyer at any time during this interview. If you decide to answer questions, you may stop the questioning at any time. Do you understand your rights? Do you want a lawyer? (If the answer is yes, cease all questions at this point). Are you willing to answer questions?

39). Describe what you understand happened leading up to and during the incident(s) of abuse.

40). Describe Soldier morale, feelings and emotional state prior to and after these incidents?

41). Was this incident reported to the chain of command? How, when & what was done? What would you have done?

42). How could the incident have been prevented?

43). Describe any unit training or other programs that you are aware of that teach leaders and Soldiers how to recognize and resolve combat stress.

44). What measures are in place to boost morale or to relieve stress?

45). What measures could the command enact to improve the morale and command climate of your unit?

r. **DETAINEE ADMINISTRATION COLLECTION POINT/INTERNMENT FACILITY**

1). Can you tell me what basic publications that you use to get doctrine and standards for Detainee Operations? How are you applying standards/doctrine to your processing of Detainees?

2). How often does your immediate supervisor/commander come here to ensure that Detainee Operations is conducted in compliance with the international Law of war? How about other commanders in your chain of command?

3). Describe the in processing for Detainees at this Collection Point/Internment Facility. (TAGGING, EQUIPMENT, EVIDENCE, SWORN STATEMENTS, ETC)? By what means are they transported here? ? How long do Detainees typically stay here (12/24 hours is the standard for each location of captivity until they get to the Long Term Detention Facility)? How long does it typically take Detainees to get here after capture? How are they out-processed and where do they go? How are they transported to the next higher level facility/Collection Point? (What is the documentation required for the transfer of prisoners/Civilian Internees? (What is the documentation required for the transfer of Detainees to other locations or to either MI Soldiers or other U.S. Government Agencies?)

4). What are the procedures for the transfer of custody of Detainees from the MP/Guard personnel to Military Intelligence personnel? When the detainee is returned to the guard force, what procedures occur? (what info is passed on to the Guard Force (type of reward?)...observation report, paper trail audit)

5). What is your Detainee segregation policy? (EPWs, Females, Juveniles, Civilian Internees (to include those that are security threats, those that are hostile to coalition forces, and possible HTD/HVD), and Retained Persons, Criminals, etc.)) What can you tell me about the categories of Detainees that you are holding? What are they and what are the definitions of the different categories that you detain? How are you organized to handle the different categories of Detainees (EPW, CI, HVD, OD, and refugees?)

6). What happens to weapons/contraband confiscated from Detainees? What happens to personal property? (Is it disposed of/tagged along with the Detainee and is it stored properly and accounted for?) Why is the DD Form 2745 (Capture Tag) not being used in country? Who gave the authority not to use this form? What are units using in lieu of (if any)? ((Detainee Capture Card found in draft MTTP, Detainee Ops—this card does not require near as much data as DD 2745. The CPA Apprehension Form helps offset the lack of info on the Detainee, however it is in single copy (not the 3 required))) Who decided on the use of the Coalition Provisional Authority Apprehension Form? Why and under whose authority?

7). How are interpreters (linguists/translators) used in this Collection Point/Internment Facility? How many do you have at your disposal? How do you obtain them? Do you and your Soldiers trust them?

8). (COLLECTING POINT ONLY) Are the daily food rations sufficient in quantity or quality and variety to keep detainees in good health (HOW MUCH FOOD DO THEY GET)? Are

personal hygiene items and needed clothing being supplied to the Detainees if they are kept longer than 12/24 hours here? Explain?

9). Are you aware of your requirement to report abuse or suspected abuse of detainees?

10). Do your subordinates know the reporting procedures if they observe or become aware of a Detainee being abused?

11). What steps would you take if a subordinate reported to you an incident of alleged Detainee abuse? Do you feel you can freely report an incident of alleged Detainee abuse outside Command channels (IG, CID)

12). What procedures do you have to report suspected detainee abuse (IG, CID, Next Level Commander)

13). What procedures are in place for Detainees to report alleged abuse?

14). What do you perceive as the mission of your unit? Describe the importance of your role in that mission.

15). Describe your working environment and living conditions since being in Theater.

16). Describe the unit command climate and Soldier morale. Has it changed or evolved since you have been in Theater

17). Are you aware of any incidences of detainee or other abuse in your unit?

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19). I am _____(grade, if any, and name), a member of the (DAIG). I am part of a team inspecting detainee operations, this is not a criminal investigation. I am reading you your rights because of a statement you made causes me to suspect that you may have committed _____. (specify offense, i.e. aggravated assault, assault, murder). Under Article 31, you have the right to remain silent, that is, say nothing at all. Any statement you make, oral or written, may be used as evidence against you in a trial by courts-martial or in other judicial or administrative proceedings. You have the right to consult a lawyer and to have a lawyer present during this interview. You have the right to military legal counsel free of charge. In addition to military counsel, you are entitled to civilian counsel of your own choosing, at your own expense.

You may request a lawyer at any time during this interview. If you decide to answer questions, you may stop the questioning at any time. Do you understand your rights? Do you want a lawyer? (If the answer is yes, cease all questions at this point). Are you willing to answer questions?

20). Describe what you understand happened leading up to and during the incident(s) of abuse.

21). Describe Soldier morale, feelings and emotional state prior to and after these incidents?

22). Was this incident reported to the chain of command? How, when & what was done? What would you have done?

23). How could the incident have been prevented?

24). Describe any unit training or other programs that you are aware of that teach leaders and Soldiers how to recognize and resolve combat stress.

25). What measures are in place to boost morale or to relieve stress

26). What measures could the command enact to improve the morale and command climate of your unit

2. **SENSING SESSION QUESTIONS**

a. **NCO (Point of Capture)**

1). What regulations, directives, policies, are you aware of that deal with detainee operations?

2). Did you and all of your Soldiers undergo Law of War/Geneva Convention training prior to deployment? Explain what training occurred. Did this training include the treatment of Detainees? What is your plan to train new Soldiers (replacements) to the unit? Explain.

3). What training did your unit receive on the established Rules of Engagement (ROE)? How often does this occur? Does this training include Rules of Interaction (ROI) (How can you interact with the detainees)?

4). Does your unit conduct sustainment training for Detainee Operations? How often does this occur and please describe it? When did your unit last conduct this training?

5). What Home Station/Mob Site Training did your unit conduct prior to deployment to help your unit prepare for Detainee Operations? Describe it. How did the training prepare you to conduct Detainee Operations for this deployment? What are your unit's strengths and weaknesses? How did this training distinguish between the different categories of Detainees (EPWs, RPs, CIs, etc.)?

6). Describe the training you received During PLDC/BNCOC/ANCOC in handling/processing Detainees. How was it helpful in preparing you for Detainee Operations? How would you improve the training at the schoolhouse?

7). What procedures are in place to ensure Soldiers understand the use of force and rules of engagement? (ROE Card? Etc)

8). How do you maintain discipline and security until the detainees are handed off to higher? Describe the training/GUIDANCE the guard force received to prepare them for their duties?

9). What is the minimum standard of treatment US Soldiers must provide detainees? What policies/procedures does your unit have to ensure the humane treatment of Detainees? What procedures does your unit have in place to ensure that Detainees are protected, safeguarded, and accounted for?

10). How do you tag detainees for processing?) (CPA Forces Apprehension Form, two sworn statements, EPW tag) What procedures do you go through? How do you tag equipm ent? (are they tagged with DD Form 2745)? What about evidence? W hat procedures do you use to process equipment/evidence? What about confiscated personal affects? Where do you store Detainees' confiscated personal affects (if any)?

11). What is your ratio of guards to detainees? Is this ratio the proper mix for you to perform your mission? If not, what are the shortfalls? Why are their shortfalls? How do these shortfalls impact your mission?

12). What is the number of personnel needed to maintain security for the detainees until they are processed to a higher collection point?

13). What is the number of personnel needed to move prisoners within the holding area (i.e. from one point to another, for medical, evacuation, etc.)?

14). How long do you keep detainees at the unit col lection point? In relation to the Collection Point, how far away are your ammunition and fuel storage sites? Where is your Tactical Operation Center (TOC)? Where is your screening site where MI Soldiers interrogate Detainees?

15). Do you maintain a separate site for sick or wounded Detainees? If so where is it and how does your unit maintain the security and safeguarding of Detainees there? How about female Detainees? How and where do you house them?

16). What are the procedures for transporting and evacuating detainees? W hat procedures are in place to account for or dispose of captured enemy supplies and equipment?

17). What transportation problems is the unit experiencing either to move troops or detainees during the operation?

18). What is the most important factor that you would address in terms of personnel resources in regards to a successful detainee operation?

19). What equipment is the unit experiencing as a shortfall concerning detainee operations, (i.e., restraints, uniforms, CIF items, weapons, etc)?

20). How do the Detainees receive fresh water (Bottled water or Lister bag)?

21). What types of supplies is greater in-demand for the unit during detainee operations? And are these items regularly filled?

22). What procedures are in place when a detainee in U S custody dies?

23). Do you know of the procedures to get stress counseling (Psychiatrist, Chaplain, Medical)? Do your Soldiers know of the procedures to get counseling (Psychiatrist, Chaplain, Medical)?

24). Are you aware of your requirement to report abuse or suspected abuse of detainees?

25). Do your subordinates know the reporting procedures if they observe or become aware of a Detainee being abused?

26). What steps would you take if a subordinate reported to you an incident of alleged Detainee abuse?

27). Do you feel you can freely report an incident of alleged Detainee abuse outside Command channels (IG, CID)?

28). What procedures do you have to report suspected detainee abuse (IG, CID, Next Level Commander)?

29). What procedures are in place for detainees to report alleged abuse?

30). What do you perceive as the mission of your unit? Describe the importance of your role in that mission.

31). Describe your working environment and living conditions since being in Theater.

32). Describe the unit command climate and Soldier morale. Has it changed or evolved since you have been in Theater?

33). Please provide by show of hands if you aware of any incidences of detainee or other abuse in your unit? (Those that raise their hands, need to be noted and interviewed individually afterwards using the ABUSE QUESTIONNAIRE)

b. **SOLDIER (Point of Capture)**

1). Did you undergo Law of War training prior to deployment? Explain what training occurred. Did this training include the treatment of Detainees? Explain.

2). Describe the training/guidance you received to prepare you for handling/guarding the detainees. Does your unit conduct sustainment training for Detainee Operations in Theater? How often does this occur and please describe it? When did your unit last conduct this training?

3). What Home Station/Mob Site Training did your unit conduct prior to deployment to help your unit prepare for Detainee Operations? Describe it. (5Ss & T) How did the training

prepare you to conduct Detainee Operations for this deployment? What are your unit's strengths and weaknesses? How did this training distinguish between the different categories of Detainees (EPWs, RPs, CIs, etc.)? What training have you received to ensure your knowledge of DO is IAW the provisions under the Geneva Convention?

4). Describe the training you received during Basic Training in handling/processing Detainees. How was it helpful in preparing you for Detainee Operations? How would you improve the training at the schoolhouse?

5). How does your unit train on the established Rules of Engagement (ROE)? How often does this occur? Does this training include Rules of Interaction (ROI)? What about Standards of Conduct? (How can you interact with the detainees)? What guidance or policies have you been trained/briefed on to ensure you understand interaction/ fraternization and that it is not taking place between U.S. military personnel and the detainees?

6). What procedures has your leadership developed to ensure you understand the use of force and the rules of engagement?

7). How is your unit ensuring that all Detainees are protected, safeguarded, and accounted for IAW the 5Ss & T?

8). How do you tag detainees for processing (CPA Form, DD Form 2745)? What procedures do you go through? How do you tag equipment (DD Form 2745, DA Form 4137)? What about evidence(DD Form 2745, DA Form 4137)? What procedures do you use to process equipment/evidence? What about confiscated personal affects? Where do you store Detainees' confiscated personal affects (if any)?

9). What are the procedures for transporting and evacuating detainees?

10). What transportation problems is the unit experiencing either to move troops or detainees during the operation?

11). What is the ratio of guards to detainees? Is this ratio the proper mix for you to perform your mission? If not, what are the shortfalls? Why are their shortfalls? How do these shortfalls impact your mission?

12). What equipment is the unit experiencing as a shortfall concerning detainee operations, (i.e., restraints, uniforms, CIF items, weapons, etc.)?

13). Describe the latrine facilities for Detainees' use (do they have access to it day and night and does it conform to the rules of hygiene and do females have separate facilities). How are they cleaned and how often and by whom? Where do they bathe and conduct other personal hygiene (this will depend how long it takes to evacuate Detainees to CO/BN?

14). How do the Detainees receive fresh water (Bottled water or Lister bag)?

15). Do you know of the procedures to get stress counseling (Psychiatrist, Chaplain, Medical)?

16). Are you aware of your requirement to report abuse or suspected abuse of detainees?

17). Do you feel you can freely report an incident of alleged Detainee abuse outside Command channels (IG, CID)?

18). What procedures do you have to report suspected detainee abuse (IG, CID, Next Level Commander)?

19). What procedures are in place for detainees to report alleged abuse?

20). What do you perceive as the mission of your unit? Describe the importance of your role in that mission.

21). Describe your working environment and living conditions since being in Theater. (Identify physical and psychological impact on Soldier's attitude).

22). Describe the unit command climate and Soldier morale. Has it changed or evolved since you have been in Theater

23). Please provide by show of hands if you aware of any incidences of detainee or other abuse in your unit. (Those that raise their hands, need to be noted and interviewed individually afterwards using the ABUSE QUESTIONNAIRE)

c. **GUARD FORCE (NCO) COLLECTION POINT & INTERNMENT FACILITY**

1). How did you prepare yourself and your Soldiers to become familiar with and understand the applicable regulations, OPORDS/FRAGOs directives, international laws and administrative procedures to operate an I/R facility or Collection Point?

2). Did you and all of your Soldiers undergo Law of War training prior to deployment? Explain what training occurred. What is your plan to train new Soldiers (replacements) to the unit? Did this training include the treatment of Detainees? Explain.

3). What policies/procedures does your unit have in place to support the U. S. policy relative to the humane treatment of Detainees?

4). Does your unit have a formal training program for the care and control of Detainees? Describe what it includes. (For Permanent Internment Facilities only)

5). What training did your unit receive on the established Rules of Engagement (ROE)? How often does this occur? Does this training include Rules of Interaction (ROI)?

6). What procedures do you have in place to ensure Soldiers understand the use of force and rules of engagement for the interment facility/collection point? What guidance or policies do you have to ensure fraternization is not taking place between U.S. military personnel and the detainees?

7). Describe the training the guard force received to prepare them for their duties (5Ss & T)) How does your unit conduct sustainment training for Detainee Operations in Theater? How often does this occur and please describe it? When did your unit last conduct this training?

8). What Home Station/Mob Site Training did your unit conduct prior to deployment to help your unit prepare for Detainee Operations? Describe it. How did the training prepare you to conduct Detainee Operations for this deployment? What are your unit's strengths and weaknesses? How did this training distinguish between the different categories of Detainees (EPWs, RPs, CIs, etc.)?

9). Describe the training you received during your last Military Institutional School (BNCOC/ANCOC) in handling/processing Detainees. How was it helpful in preparing you for Detainee Operations? How would you improve the training at the schoolhouse?

10). What are some of the basic operations of the collection point/internment facility? Is there a copy of the Geneva Convention posted in the detainee's home language within these camps? Are camps segregating Detainees by nationality, language, rank, and sex? How are captured Medical personnel and Chaplains being used in the camps? What provisions are in place for the receipt and distribution of Detainee correspondence/mail? Are the daily food rations sufficient in quantity or quality and variety to keep detainees in good health? Are personal hygiene items and needed clothing being supplied to the Detainees? Are the conditions within the camp sanitary enough to ensure a clean and healthy environment free from disease and epidemics? Is there an infirmary located within the camp?

11). What control measures are your unit using to maintain discipline and security in the collection point/internment facility?

12). What procedures are in place to account for and dispose of captured enemy supplies and equipment? What procedures are in place to process personnel, equipment, and evidence?

13). What is your ratio of guards to detainees in your collection point/internment facility? Is this ratio the proper mix for you to perform your mission? If not, what are the shortfalls? Why are their shortfalls? How do these shortfalls impact your mission?

14). How are you organized to handle the different categories of personnel (EPW, CI, OD, females, juveniles and refugees)? Do you maintain a separate site for sick or wounded Detainees? If so where is it and how does your unit maintain the security and safeguarding of Detainees there?

15). What is the number of personnel needed to escort prisoners internally and externally? (i.e. for medical, evacuation, etc.)?

16). What are the procedures for transporting and evacuating detainees? What are the procedures for transferring Detainees from the collection points to US Military controlled detention facilities? How is the transfer of Detainees handled between different services?

17). What are the procedures for the transfer of custody of Detainees from the collection points/internment facility to Military Intelligence/OGA personnel? When the detainee is returned to the guard force, what procedures occur with the detainee? (in processing, medical screening, suicide watch, observation report DD Form 2713?, etc)

18). What MP units (guards, escort, detachments) do you have at your disposal to operate and maintain this collection point/internment facility? What non-MP units are you using to help operate this collection point/internment facility? If you do not use MP teams, what forces are required to operate the Collection Point (guard, security etc)? Do you have any shortfalls in

performing the Collection Point mission? How does this affect your doctrinal mission? How long are you holding Detainees at the collection point? Is holding the detainees longer than the 12/24 hours impacting on your units' ability to perform its mission? Why

19). Describe how this unit is able to maintain the security and safeguarding of Detainees at this interment facility/collection point. Describe your security requirements. (What are your clear zones? How do your Guard Towers permit an unobstructed view of the clear zone and how do they allow for overlapping fields of fire? Describe your perimeter security.

20). How do you maintain a high state of discipline with your Soldiers to enhance the internal and external security of the internment facility/Collection Point?

21). Does this facility include Sally Ports? Describe the system in place.

22). What do you have in place for communications (between guards/towers and the TOC/C^2)? What problems do you have? How do you overcome them?

23). Describe the latrine facilities for Detainees' use (do they have access to it day and night and does it conform to the rules of hygiene and do females have separate facilities). How are they cleaned and how often and by whom? Where do they bathe and conduct other personal hygiene (this will depend how long it takes to evacuate Detainees to U.S. Military Controlled Detention Facilities—12/24 hours is the standard)?

24). How do the Detainees receive fresh water (Bottled water or Lister bag)?

25). Can you give some examples of contraband? What are the procedures when you find contraband?? (i.e.., Knives, Narcotics, weapons, currency)

26). Describe your lighting systems at the Facility/Collection Point (how does it affect security) . How about heating during the winter? What fire prevention/safety measures are in place?

27). How are Detainee complaints and requests to the camp commander processed?

28). What are your shortcomings/problems in feeding the population? What is the menu of the population?

29). What problems, if any, do you feel the unit has regarding manning or personnel resourcing in conducting Detention Operations? What about the number of personnel to control the detention operation in regards to riot control?

30). What personal equipment is the unit experiencing as a shortfall concerning detainee operations, (i.e., restraints, uniforms, CIF items, weapons, etc.)?

31). What types of supplies is greater in-demand for the unit during detainee operations? And are these items regularly filled? What major shortfalls has the unit encountered in regard to materiel and supply distribution?

32). What transportation problems is the unit experiencing to move detainees during the operation?

33). What safety programs/policies are currently being used in the Detainee camps?

34). Do you know of the procedures to get stress counseling (Psychiatrist, Chaplain, Medical)? Do your Soldiers know of the procedures to get counseling (Psychiatrist, Chaplain, Medical)?

35). Are you aware of your requirement to report abuse or suspected abuse of detainees?

36). Do your subordinates know the reporting procedures if they observe or become aware of a Detainee being abused?

37). What steps would you take if a subordinate reported to you an incident of alleged Detainee abuse?

38). Do you feel you can freely report an incident of alleged Detainee abuse outside Command channels (IG, CID)

39). What procedures do you have to report suspected detainee abuse (IG, CID, Next Level Commander)?

40). What systems are in place for detainees to report alleged abuse?

41). What do you perceive as the mission of your unit? Describe the importance of your role in that mission.

42). Describe your working environment and living conditions since being in Theater.

43). Describe the unit command climate and Soldier morale. Has it changed or evolved since you have been in Theater?

44). Please provide by show of hands if you aware of any incidences of detainee or other abuse in your unit? (Those that raise their hands, need to be noted and interviewed individually afterwards using the ABUSE QUESTIONNAIRE)

d. **GUARD FORCE (ENLISTED) COLLECTION POINT & INTERNMENT FACILITY**

1). Did all of you undergo Law of War training prior to deployment? Explain what training occurred. Is there a plan to train new Soldiers (replacements) to the unit? Did this training include the treatment of Detainees? Explain.

2). What training have you received to ensure your knowledge of DO is IAW the provisions under the Geneva Convention? (5Ss & T)

3). What training did your unit receive on the established Rules of Engagement (ROE)? How often does this occur? Does this training include Rules of Interaction (ROI)?

4). Describe the training the guard force received to prepare them for their duties.

5). How does your unit conduct sustainment training for Detainee Operations here in Theater? How often does this occur and please describe it? When did your unit last conduct this training?

6). (For Permanent Internment Facilities only) Does your unit have a formal training program for the care and control of Detainees? Describe what it includes.

7). What Home Station/Mob Site Training did your unit conduct prior to deployment to help your unit prepare for Detainee Operations? Describe it. How did the training prepare you to conduct Detainee Operations for this deployment? How did this training distinguish between the different categories of Detainees (EPWs, RPs, CIs, etc

8). What are some of the basic operations of the collection point/facility? Is there a copy of the Geneva Convention posted in the detainee's home language within these camps? Are camps segregating Detainees by nationality, language, rank, and sex? What provisions are in place for the receipt and distribution of Detainee correspondence/mail? Are personal hygiene items and needed clothing being supplied to the Detainees? Are the conditions within the camp sanitary enough to ensure a clean and healthy environment free from disease and epidemics? Is there an infirmary located within the camp?

9). What is the maximum capacity for this particular collection point/facility? What is the current Detainee population? What is your ratio of guards to detainees in the collection point/facility? Is this ratio the proper mix for you to perform your mission? If not, what are the shortfalls? Why are their shortfalls? How do these shortfalls impact your mission?

10). What control measures are units using to maintain discipline and security in each collection point/facility?

11). Describe how this unit is able to maintain the security and safeguarding of Detainees at this collection point/interment facility. Describe your security requirements. (What are your clear zones)? How do your Guard Towers permit an unobstructed view of the clear zone and how do they allow for overlapping fields of fire? Describe your perimeter security.

12). What MP units (guards, escort, detachments) do you have at your disposal to operate and maintain this collection point/facility? What non-MP units are you using to help operate this collection point/facility?

13). What is the number of personnel that is needed to move prisoners internally and externally, (i.e. for medical, evacuation, etc.)?

14). How are you organized to handle the different categories of personnel (EPW, CI, OD, and refuges)? How many female Detainees are housed here? How and where do you house them? How do you maintain separation from the male population (during the day or during recreational activities)? What about other categories (juveniles, CI, RP, etc)? What about other categories (juveniles, CI, RP, etc)? Do you maintain a separate site for sick or wounded Detainees? If so where is it and how does your unit maintain the security and safeguarding of Detainees there?

15). (Collection Point only) How long are you holding Detainees at the collection point? Is holding the detainees longer than the 12 hours (FWD CP) or 24 hours (Central CP) impacting on your units' ability to perform its mission? Why?

16). What procedures are in place to account for and dispose of captured enemy supplies and equipment?

17). Can you give some examples of contraband? What are the procedures when you find contraband?? (i.e.., Knives, Narcotics, weapons, currency)

18). (Collection Point only) What are the procedures for transporting and evacuating detainees?

19). What are the procedures for the transfer of Detainees from the collection points to US Military controlled detention facilities? How is the transfer of Detainees handled between different services?

20). What are the procedures for the transfer of custody of Detainees from the collection points/internment facility to Military Intelligence/OGA personnel? When the detainee is returned to the guard force, what procedures occur with the detainee? (in processing, medical screening, suicide watch, observation report DD Form 2713?, etc)

21). Does this facility include Sally Ports? Describe the system in place.

22). What do you have in place for communications (between guards/towers and the TOC/C^2)? What problems do you have?

23). How do the Detainees receive fresh water (Bottled water or Lister bag)?

24). How are Detainee complaints and requests to the internment facility commander processed?

25). What safety programs/policies are currently being used in the internment facilities?

26). What personal equipment is the unit experiencing as a shortfall concerning detainee operations, (i.e., restraints, uniforms, CIF items, weapons, etc.)?

27). What transportation problems is the unit experiencing either to move troops or detainees during the operation?

28). What problems, if any, do you feel the unit has regarding manning or personnel resourcing in conducting Detention Operations?

29). Do you know of the procedures to get stress counseling (Psychiatrist, Chaplain, Medical)?

30). Are you aware of your requirement to report abuse or suspected abuse of detainees?

31). Do you feel you can freely report an incident of alleged Detainee abuse outside Command channels (IG, CID)

32). What procedures do you have to report suspected detainee abuse (IG, CID, Next Level Commander)

33). What procedures are in place for detainees to report alleged abuse?

34). What do you perceive as the mission of your unit? Describe the importance of your role in that mission.

35). Describe your working environment and living conditions since being in Theater.

36). Describe the unit command climate and Soldier morale. Has it changed or evolved since you have been in Theater?

37). Please provide by show of hands if you aware of any incidences of detainee or other abuse in your unit? (Those that raise their hands, need to be noted and interviewed individually afterwards using the ABUSE QUESTIONNAIRE)

e. **ABUSE QUESTIONNAIRE.**

1). What do you perceive as the mission of your unit? Describe the importance of your role in that mission.

2). Describe your working environment and living conditions since being in Theater.

3). Describe the unit command climate and Soldier morale. Has it changed or evolved since you have been in Theater

4). Are you aware of any incidences of detainee or other abuse in your unit?

5). ADVISEMENT OF RIGHTS (For military personnel)
The text of Article 31 provides as follows a. No person subject to this chapter may compel any person to incriminate himself or to answer any questions the answer to which may tend to incriminate him. b. No person subject to this chapter may interrogate or request any statement from an accused or a person suspected of an offense without first informing him of the nature of the accusation and advising him that he does not have to make any statement regarding the offense of which he is accused or suspected, and that any statement made by him may be used as evidence against him in a trial by court-martial. c. No person subject to this chapter may compel any person to make a statement or produce evidence before any military tribunal if the statement or evidence is not material to the issue and may tend to degrade him. d. No statement obtained from any person in violation of this article, or through the use of coercion, unlawful influence, or unlawful inducement, may be received in evidence against him in a trial by court-martial. (1.2, 1.6)

6). I am _____(grade, if any, and name), a member of the (DAIG). I am part of a team inspecting detainee operations, this is not a criminal investigation. I am reading you your rights because of a statement you made causes me to suspect that you may have committed _____. (specify offense, i.e. aggravated assault, assault, murder). Under Article 31, you have the right to remain silent, that is, say nothing at all. Any statement you make, oral or written, may be used as evidence against you in a trial by courts-martial or in other judicial or administrative proceedings. You have the right to consult a lawyer and to have a lawyer present during this interview. You have the right to military legal counsel free of charge. In addition to military counsel, you are entitled to civilian counsel of your own choosing, at your own expense. You may request a lawyer at any time during this interview. If you decide to answer questions, you may stop the questioning at any time. Do you understand your rights? Do you want a

lawyer? (If the answer is yes, cease all questions at this point). Are you willing to answer questions?

7). Describe what you understand happened leading up to and during the incident(s) of abuse.

8). Describe Soldier morale, feelings and emotional state prior to and after these incidents?

9). Was this incident reported to the chain of command? How, when & what was done? What would you have done?

10). How could the incident have been prevented?

11). Describe any unit training or other programs that you are aware of that teach leaders and Soldiers how to recognize and resolve combat stress.

12). What measures are in place to boost morale or to relieve stress?

13). What measures could the command enact to improve the morale and command climate of your unit?

3. **INSPECTION TOOLS.**

a. **Receipt at the US Military Controlled Detention Facilities Worksheet**

UNIT: _____ **DATE:** _____ **NAME:** _____

Receipt at the US Military Controlled Detention Facilities:
1. What means of transportation are Detainees delivered to the Detention Facility? How are they subdued? Are detainees receiving humane treatment? Are they immediately screened and searched upon arrival? Who is in Charge? (What Unit?)
Remarks:
2. Describe in Detail what the In-Processing Procedures are.
Remarks:
3. Describe in Detail what the Out-Processing Procedures are.
Remarks:
4. Describe security at the Interment Facility. What is the Guard to Detainee Ratio? Describe the Facility in Detail?

Remarks:					
5. Is the Facility using DA Form 2674-R (Strength Report) to maintain accountability of detainees?	Yes	No	Are the detainees' names listed on this form?	Yes	No
Remarks:					
6. Is the DA 4237-R used for Protected Persons?	Yes	No	Are there children annotated on the form?	Yes	No
Remarks: ((Ask if there compassionate Detainees ? (children?))					
7. What paperwork follows the Detainee: Is it completed to standard: If not, why? If not to standard, what happens?					
Remarks:					
8. Did you witness anyone taking photos or films of detainees outside the parameters of internment facilities administration or for intelligence/counterintelligence purposes?				Yes	No

Remarks:		
9. Are sick or wounded detainees kept separately and in the same manner as US Forces? Does the Facility have an Infirmary? Describe in Detail.	Yes	No
Remarks:		
10. Do detainees enjoy the latitude in the exercise of their religious practices?	Yes	No
Remarks:		
11. Are there interpreters at the Internment Facility? How many? What background checks are conducted?	Yes	No
Remarks:		
12. Are the following forms/requirements being used properly for Civilian Detainees	Yes	No
a. DA Form 1132 (Prisoners Personal Property)	Yes	No
b. DA Form 2677-R (Civilian Internee Identification Card)	Yes	No
c. Are Internment Serial Numbers assigned to each Civilian Internee?	Yes	No
d. DA Form 2678-R (Civilian Internee Notification of Address)	Yes	No
e. DA Form 2663-R (Fingerprint Card) or (BAT Process)	Yes	No
f. or any other forms used (possibly in lieu of) IAW local SOPs or Policy (CPA Apprehension Form?)	Yes	No

Remarks:		
13. What type of unit is in charge of operating the Internment Facility? Is there an adequate number of personnel running the Facility?	Yes	No
Remarks:		
14. Describe physical security at and around the Facility? Describe lighting systems. How about Sally Ports?		
Remarks:		
15. Describe the latrine facilities for Detainees' use. (Do they have access to it day and night and does it conform to the rules of hygiene and do females have separate facilities). How are they cleaned and how often and by whom ?		
Remarks:		
16. Describe the furnishings for sleeping and eating (does it include bedding/blankets)? Is there a means to launder clothing items for the Detainees at the Facility		
Remarks:		
17. Describe the Facility's Infrastructure.		
a. Electrical Distribution and Lighting.		
Remarks:		
b. Sewer or Sanitation System (Waste Water, if any).		
Remarks:		
c. Potable Water Supply (drinking).		
Remarks:		

d. Water for bathing and laundry.		
Remarks:		
e. Heating and Ventilation.		
Remarks:		
f Fire Prevention Measures.		
Remarks:		
g. Segregation based on Detainee Classification.		
Remarks:		
h. Vector/Animal/Pest Control.		
Remarks:		
18. Preventative Medicine Remarks.		
Remarks:		
19. Are Medical Records Maintained for each Detainee? Where are they kept?	Yes	No
Remarks:		
20. Where is the screening site? Where are detainees interrogated? Who interrogates/questions the detainees?		
Remarks:		

19. General Observations: (Include sketch of location/facility area).
SAFETY PROGRAM SCREENING/INTERROGATION SITE ADD RECEIVING/INPROCESSING STATION ADD INTERROGATION LOCATION IF APPLICABLE

b. **Receipt at the (BDE/DIV) Collection Point to Evacuation to US Military Controlled Detention Facilities Worksheet.**

UNIT: _____ **DATE:** _____ **NAME:** _____

Receipt at the (BDE/DIV) Collection Point to Evacuation to US Military Controlled Detention Facilities:					
1. Describe security at the Collection Point. What is the Guard to Detainee Ratio?				Ratio:	
Remarks:					
2. Is the Collection point using DD Form 629 to maintain accountability of detainees?	Yes	No	Are the detainees' names listed on this list?	Yes	No
Remarks:					
3. Did you witness anyone taking photos or films of detainees outside the parameters of internment facilities administration or for intelligence/counterintelligence purposes?				Yes	No
Remarks:					
4. Describe the Collection Point? Is it located near ammunition sites, fuel facilities, communications equipment, or other potential targets?				Yes	No
Remarks:					

5. Are sick or wounded detainees evacuated separ ately and in the same manner as US Forces? Are they classified by qualified medical personnel (walking wounded, litter, non-walking wounded)?	Yes	No
Remarks:		
6.. Do detainees enjoy the latitude in the exer cise of their religious practices?	Yes	No
Remarks:		
7. How long are detainees kept in the Collection point?		
Remarks:		
8. Are escorts provided a DD Form 629 with all the escorted detainees' names listed while evacuating them to US Military Controlled Detention facilities?		
Remarks:		
9. Are there interpreters at the Collection Point?	Yes	No
Remarks:		
10. Are detainees being evacuated to US Military Controlled Detention facilities? How soon after arrival at the CP? Can you describe the process of evacuation?	Yes	No
Remarks:		
11. Is DA Form 4137 being us ed to account for the detainee's personal property?	Yes	No
Remarks:		
12. What type of unit is in charge of operating the Collection point (MPs or other)? What type of unit does the guar d force consist of (MPs or others)? Is there an adequate number of personnel running the Collection Point?	Yes	No
Remarks:		
13. Describe your lighting systems at the Collection Point. How about heating dur ing the winter? What fire prevention/safety measures are in place?		
Remarks:		
14. Describe the latrine facilities for Detainees' use. (Do they have acc ess to it day and night and does it conform to the rules of hygiene and do fem ales have separate facilities). How are they cleaned and how often and by w hom? Where do they bathe and conduct other per sonal hygiene (this will depend how long it takes to evacuate Detainees to U.S. Military Controlled Detention Facilities--12 hours is the standard)?		

Remarks:
15. Describe the furnishings for sleeping and eating (does it include bedding/blankets)? Is there a means to launder clothing items for the Detainees at this Collection Point (this will depend how long it takes to evacuate Detainees to U.S. Military Controlled Detention Facilities--12 Hours is the standard).
Remarks:
16. How do the Detainees receive fresh water (Bottled water or Lister bag)? How are they fed (how often and what)?
Remarks:
17. What is the overall Description of the Collection Point? (Hardened Facility, tents, etc)
Remarks:
18. Where is the screening site? Where are detainees interrogated? Who interrogates/questions the detainees?
Remarks:
19. Describe Receiving/In-processing Station.
Remarks:
20. General Observations: (Include sketch of location/facility area).

c. **From Capture to the Collection Point Worksheet**

UNIT: _____ **DATE:** _____ **NAME:** _____

From Capture to the Collection Point					
1. Are detainees receiving humane treatment?				Yes	No
Remarks:					
2. Were detainees searched immediately upon capture?				Yes	No
Remarks:					
3. Was currency confiscated?	Yes	No	Did a commissioned officer approve the confiscation?	Yes	No
Remarks:					
4. Were detainees able to keep some personal effects, such as jewelry, protective mask and garments, helmets, clothing, ID Cards, badges of rank/nationality, etc?				Yes	No
Remarks:					
5. Were the detainees tagged using DD Form 2745? Was the required information entered onto the form (date of capture, grid coordinates of capture, capturing unit, and how the detainee was captured)?				Yes	No
Remarks:					
6. Is the DD Form 2745 properly divided into Parts A (attached to the detainee), B (retained by the capturing unit), and C (attached to the property of the detainee)?				Yes	No
Remarks:					
7. What other Forms and in-processing techniques are used and for what (CPA Apprehension Form?)					
Remarks:					
8. Are the detainees being interrogated/questioned soon after being captured? BY WHOM?				Yes	No
Remarks:					
9. Are wounded detainees receiving medical treatment?				Yes	No
Remarks:					
10. How are detainees evacuated to the Collection Points and how soon after capture?					
Remarks:					
11. General Observations:					

d. **PREVENTIVE MEDICINE SITE ASSESSMENT TOOL (FOR COLLECTION POINTS / INTERNMENT FACILITIES)**

NAME OF CP / FACILITY: _____ TYPE OF CP / FACILITY: _____
LOCATION (TOWN/CITY, COUNTRY): _____
_____
DETAINEE POPULATION: MEN _____ WOMEN _____

PERSONAL HYGIENE
SHOWERS

NUMBER OF SHOWERS: _____

SOAKAGE PITS / GOOD DRAINAGE / NO STANDING WATER: Y N

NON-POTABLE WATER SIGNS POSTED IN LOCAL LANGUAGE: Y N

SOAP / SHAMPOO & TOWELS PRESENT: Y N

CLEANLINESS: POOR FAIR GOOD EXCELLENT

FREQUENCY OF INSPECTION: DAILY WEEKLY MONTHLY

COMMENTS: _____
_____

HAND WASHING STATIONS

OUTSIDE ALL LATRINES: Y N

IN FOOD SERVICE AREA: Y N

SOAKAGE PITS / GOOD DRAINAGE / NO STANDING WATER: Y N

SOAP & TOWELS PRESENT: Y N

NON-POTABLE WATER SIGNS POSTED IN LOCAL LANGUAGE: Y N

CLEANLINESS: POOR FAIR GOOD EXCELLENT

FREQUENCY OF INSPECTION: DAILY WEEKLY MONTHLY

COMMENTS: _____

_____

LAUNDRY FACILITIES PRESENT ABSENT

SOAKAGE PITS / GOOD DRAINAGE / NO STANDING WATER: Y N

NON-POTABLE WATER SIGNS POSTED IN LOCAL LANGUAGE: Y N

CLEANLINESS: POOR FAIR GOOD EXCELLENT

FREQUENCY OF INSPECTION: DAILY WEEKLY MONTHLY

COMMENTS: _____

POTABLE WATER SUPPLY

QUANTITY AVAILABLE PER PERSON PER DAY (GALLONS): POTABLE _____

3-4 gal/person/day potable;3-15 gal/person/day non-potable NON-POTABLE ___

WATER SOURCE(S): SURFACE GROUND RAIN ROWPU

WATER CONTAINERS: 5-GAL CANS FABRIC DRUM TRAILER

SOAKAGE PITS / GOOD DRAINAGE / NO STANDING WATER: Y N

ALL SPIGOTS FUNCTIONAL: Y N

POTABLE WATER SIGNS POSTED IN LOCAL LANGUAGE: Y N

CONTAINER CLEANLINESS: POOR FAIR GOOD EXCELLENT

FREQUENCY OF INSPECTION: DAILY WEEKLY MONTHLY

COMMENTS: _____

FOOD SERVICE SANITATION

TYPE OF MEALS PROVIDED: MREs A/B/T RATIONS PREPARED

NUMBER OF MEALS SERVED PER DAY: _____

TRANSPORT VEHICLE CLEAN & COMPLETELY COVERED: Y N

FACILITY CLEANLINESS: POOR FAIR GOOD EXCELLENT

FREQUENCY OF INSPECTION: DAILY WEEKLY MONTHLY

COMMENTS: _____

IF HOT MEALS PREPARED:

REFRIG AT 45°F OR BELOW: Y N

ICE: APPROVED SOURCE / IN APPROPRIATE CONTAINER: Y N

FOOD CONTAINERS CLEAN & INSULATED: Y N

PALLETS FOR DRY STORAGE: Y N

FOOD NOT CONTAMINATED DURING PREP & SERVING: Y N

FOOD MAINTAINED AT CORRECT TEMP: Y N

(COLD < 45°F, HOT > 140°F)

LEFTOVERS PROPERLY DISPOSED: Y N

NO EVIDENCE OF SPOILAGE: Y N

FOOD THERMOMETERS USED: Y N

DISHWASHING THOROUGH & AT RIGHT TEMPS: Y N

WASTE CONTAINERS: COVERED / CLEAN / VERMIN-PROOF / EMPTIED OFTEN

FOOD SERVERS

PROPERLY TRAINED & DOCUMENTED: Y N

EVIDENCE OF COMMUNICABLE DISEASE: Y N

(SKIN INFECTION, RASH, CUT, BURN, RESP SYMPTOMS)

HANDS WASHED & GLOVED: Y N

HAIR RESTRAINTS (HATS / NETS): Y N

COMMENTS: _____

WASTE

NUMBER OF LATRINES: _____

(FM 4-25.12: 1 per 25 males, 1 per 17 females)

MALE _____

FEMALE _____

NOT SEPARATED _____

TYPE(S) OF LATRINES: CHEMICAL TRENCH/PIT BURN-OUT
OTHER

LATRINES LOCATED 100 YDS DOWNWIND OF FOOD SERVICE: Y N

LATRINES LOCATED 100 FT FROM GROUND WATER SOURCE(S): Y N

CLEANLINESS: POOR FAIR GOOD
EXCELLENT

FREQUENCY OF INSPECTION: DAILY WEEKLY MONTHLY

COMMENTS: _____

_____

GARBAGE STORED 100 FT FROM ANY WATER SOURCE: Y N

GARBAGE IS: BURIED INCINERATED HAULED
AWAY

CLEANLINESS: POOR FAIR GOOD
EXCELLENT

FREQUENCY OF INSPECTION: DAILY WEEKLY MONTHLY

COMMENTS: _____

_____

PEST CONTROL

SITE ON HIGH, WELL-DRAINED GROUND: Y N

SITE AT LEAST 1 MILE FROM STANDING WATER: Y N

BILLETS SCREENED: Y N

PESTICIDES AVAILABLE: Y N USED: Y N

INSECT REPELLENT AVAILABLE: Y N

SIGHTINGS OF LIVE OR DEAD RODENTS: Y N

DROPPINGS, GNAWINGS, BURROWS/HOLES, ODORS: Y N

EVIDENCE OF TRAPS, BAITS, OTHER CONTROLS: Y N

PRESENCE OF INSECTS: NONE FEW MANY

TYPE(S) OF INSECTS PRESENT: FLIES MOSQUITOES SAND
FLIES

FREQUENCY OF INSPECTION: DAILY WEEKLY MONTHLY

COMMENTS: _____

_____

WORK CONDITIONS

DETAINEES OBSERVED WORKING: Y N

IF YES: CLOTHING/PROTECTIVE EQUIPMENT APPROPRIATE: Y N

WET BULB MONITORED BY: UNIT PVNTMED METEOROLOGICAL SERVICE

WORK/REST CYCLES FOLLOWED: Y N

COMMENTS: _____

_____

QUARTERS (INTERIOR & EXTERIOR)

ADEQUATE SPACE, LIGHTING, CLIMATE CONTROL: Y N

ADEQUATE LIGHTING: Y N

ADEQUATE CLIMATE CONTROL: Y N

EVIDENCE OF RODENTS: Y N

FOOD DEBRIS/TRASH PRESENT: Y N

STANDING WATER PRESENT: Y N

VEGETATION WITHIN XX FT OF QUARTERS: Y N

CLEANLINESS: POOR FAIR GOOD EXCELLENT

FREQUENCY OF INSPECTION: DAILY WEEKLY MONTHLY

COMMENTS: _____

_____

FIELD SANITATION TEAM

APPOINTED: Y N TRAINED: Y N

SUPPLIES: Y N PERFORMING DUTIES: Y N

COLLECT COPIES OF (MOST RECENT? LAST 3?) PVNTMED INSPECTION REPORTS, INCLUDING SITE SURVEYS, FOOD SERVICE SANITATION INSPECTIONS, WATER ANALYSIS, PEST SURVEYS

e. **COMBAT / OPERATIONAL STRESS QUESTIONNAIRE**

Please answer all questions completely and honestly. Your responses will remain anonymous.

1. Rank E1-4 E5-6 E7-9 O1-3 O4-6
2. Type of Unit PLT CO BN BDE Other

Rate the following statements regarding morale and unit cohesion (1 = strongly disagree, 5 = strongly agree):

3. The members of my unit know that they can depend on each other 1 2 3 4 5
4. The members of my unit are cooperative with each other 1 2 3 4 5.
5. The members of my unit stand up for each other 1 2 3 4 5.
6. The members of my unit were adequately trained for this mission 1 2 3 4 5

Rate the following statements regarding your unit's leadership (1 = never, 5 = always):

7. In your unit, how often do NCOs/officers tell soldiers when they have done a good job? 1 2 3 4 5
8. In your unit, how often do NCOs/officers embarrass soldiers in front of other soldiers? 1 2 3 4 5
9. In your unit, how often do NCOs/officers try to look good to higher-ups by assigning extra 1 2 3 4 5 missions or details to soldiers?
10. In your unit, how often do NCOs/officers exhibit clear thinking and reasonable action under stress? 1 2 3 4 5

Rate the following statements regarding access to mental health care (1 = strongly disagree, 5 = strongly agree):

11. I don't know where to get help 1 2 3 4 5
12. It is difficult to get an appointment 1 2 3 4 5
13. It's too difficult to get to the location where the mental health specialist is 1 2 3 4 5
14. I don't trust mental health professionals 1 2 3 4 5
15. My leadership would treat me differently 1 2 3 4 5
16. My leaders would blame me for the problem 1 2 3 4 5
17. I would be seen as weak 1 2 3 4 5

Rate the following statements regarding personal issues at home (1 = strongly disagree, 5 = strongly agree):

18. My relationship with my spouse is very stable 1 2 3 4 5
19. My relationship with my spouse makes me happy 1 2 3 4 5
20. Do you and/or your spouse have any plans to separate or divorce? Y N
21. My unit's rear detachment supports my family 1 2 3 4 5
22. My unit's family readiness group supports my family 1 2 3 4 5

Combat exposure:

23. How many times have you been attacked or ambushed? Never 1-5 times 6-10 times >10 times
24. How many times have you received small arms fire? Never 1-5 times 6-10 times >10 times
25. How many times have you seen dead bodies or human remains? Never 1-5 times 6-10 times >10 times
26. How many times have you cleared/searched buildings or homes? Never 1-5 times 6-10 times >10 times
27. How many times have you been responsible for the death of an enemy combatant? Never 1-5 times 6-10 times >10 times

Rate the level of concern you have regarding the following (1 = not concerned at all, 5 = very concerned):

28. Being separated from family	1 2 3 4 5
29. Uncertain redeployment date	1 2 3 4 5
30. Duration of deployment	1 2 3 4 5
31. Lack of privacy	1 2 3 4 5
32. Boring and repetitive work	1 2 3 4 5
33. Living conditions	1 2 3 4 5

Rate the following statements regarding stress management training (1 = strongly disagree, 5 = strongly agree):

34. My training in handling the stresses of deployment was adequate	1 2 3 4 5
35. My training in recognizing stress in other soldiers was adequate	1 2 3 4 5

Thank you for your honest responses.

Appendix E

Standards

a. **Finding 1:**

(1) Finding: All interviewed and observed commanders, leaders, and Soldiers treated detainees humanely and emphasized the importance of the humane treatment of detainees.

(2) Standard: Standard of treatment for detainees in OPERATION ENDURING FREEDOM (OEF): Chairman, Joint Chiefs of Staff (CJCS) message dated 211933Z JAN 02 states that members of the Taliban militia and members of Al Qaida under the control of US Forces would be treated humanely and, to the extent appropriate and consistent with military necessity, in a manner consistent with the principles of the Geneva Conventions of 1949. The DAIG has therefore used the provisions of the Geneva Conventions as a benchmark against which to measure the treatment provided to detainees by U.S. Forces to determine if detainees were treated humanely. The use of these standards as benchmarks does not state or imply a position for the United States or U.S. Army on the legal status of its operations in OEF.

The DAIG refers to 3 key documents in this report. CJCS Message dated 211933Z JAN 02, provides the determination regarding the humane treatment of Al Qaida and Taliban detainees. Convention Relative to the Treatment of Prisoners of War of August 12, 1949 (GPW) is the international treaty that governs the treatment of prisoners of war, and Geneva Convention Relative to the Protection of Civilian Persons in Time of War (GC), 12 August 1949, is the international treaty that governs the treatment of civilian persons in time of war.

As the guidance did not define "humane treatment" but did state that the US would treat members of the Taliban militia and Al Qaida in a manner consistent with the Geneva Conventions, the DAIG determined that it would use Common Article 3 of the GCs as its floor measure of humane treatment, but would also include provisions of the Geneva Convention on the Treatment of Prisoners of War (GPW) and Geneva Convention Relative to the Protection of Civilian Persons in Time of War (GC) as other relevant indicia of "humane treatment." The use of this standard does not state or imply a position for the United States or U.S. Army on the legal status of its operations in OEF.

Standard of treatment for detainees in OPERATION IRAQI FREEDOM (OIF): OIF was an international armed conflict and therefore the provisions of the Geneva Conventions applied. Additionally, the United States was an occupying power and has acted in accordance with the obligations of an occupying power described in the Hague Convention No. IV Respecting the Laws and Customs of War on Land (H.IV), 18 October 1907, including, but not limited to, Articles 43-46 and 50; Geneva Convention Relative to the Treatment of Prisoners of War of August 12, 1949 (GPW), Geneva Convention Relative to the Protection of Civilian Persons in Time of War (GC), 12 August 1949. The GC supplements H.IV, providing the general standard of treatment at Article 27 and specific standards in subsequent Articles.

The minimum treatment provided by Common Article 3 of the Geneva Conventions is: 1) No adverse distinction based upon race, religion, sex, etc.; 2) No violence to life or person; 3) No taking hostages; 4) No degrading treatment; 5) No passing of sentences in absence of fair trial, and; 6) The wounded and sick must be cared for.

The specific language in the CJCS Message for OEF and the GPW/GC and H.IV follows:

CJCS Message dated 211933Z JAN 02, "Paragraph 3. The combatant commanders shall, in detaining Al Qaida and Taliban individuals under the control of the Department of Defense, treat them humanely and, to the extent appropriate and consistent with military necessity, in a manner consistent with the principles of the Geneva Conventions of 1949."

GPW/GC, Article 3 (Common Article 3) – "In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each party to the conflict shall be bound to apply, as a minimum, the following provisions:

1. Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, color, religion or faith, sex, birth or wealth, or any other similar criteria.

To this end the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons:

(a) Violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;
(b) Taking of hostages;
(c) Outrages upon personal dignity, in particular, humiliating and degrading treatment;
(d) The passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court affording all the judicial guarantees which are recognized as indispensable by civilized peoples.

2. The wounded and sick shall be collected and cared for. An impartial humanitarian body, such as the International Committee of the Red Cross, may offer its services to the Parties to the conflict. The Parties to the conflict should further endeavour to bring into force, by means of special agreements, all or part of the other provisions of the present Convention. The application of the preceding provisions shall not affect the legal status of the Parties to the conflict."

H.IV, Article 43 – "The authority of the legitimate power having in fact passed into the hands of the occupant, the latter shall take all the measures in his power to restore, and ensure, as far as possible, public order and safety, while respecting, unless absolutely prevented, the laws in force in the country.

H.IV, Article 44 – A belligerent is forbidden to force the inhabitants of territory occupied by it to furnish information about the army of the other belligerent, or about its means of defense.

H.IV, Article 45 – It is forbidden to compel the inhabitants of occupied territory to swear allegiance to the hostile Power.

H.IV, Article 46 – Family honour and rights, the lives of persons, and private property, as well as religious convictions and practice, must be respected. Private property cannot be confiscated.

H.IV, Article 47 – Pillage is formally forbidden."

H.IV, Article 50 – "No general penalty, pecuniary or otherwise, shall be inflicted upon the population on account of the acts of individuals for which they cannot be regarded as jointly and severally responsible."

GPW, Article 13 – "Prisoners of war must at all times be humanely treated. Any unlawful act or omission by the Detaining Power causing death or seriously endangering the health of a prisoner of war in its custody is prohibited, and will be regarded as a serious breach of the present Convention. In particular, no prisoner of war may be subjected to physical mutilation or to medical or scientific experiments of any kind which are not justified by the medical, dental or hospital treatment of the prisoner concerned and carried out in his interest. Likewise, prisoners of war must at all times be protected, particularly against acts of violence or intimidation and against insults and public curiosity.

GPW, Article 14 – Prisoners of war are entitled in all circumstances to respect for their persons and their honour. Women shall be treated with all the regard due to their sex and shall in all cases benefit by treatment as favourable as that granted to men. Prisoners of war shall retain the full civil capacity which they enjoyed at the time of their capture. The Detaining Power may not restrict the exercise, either within or without its own territory, of the rights such capacity confers except in so far as the captivity requires.

GPW, Article 15 – The Power detaining prisoners of war shall be bound to provide free of charge for their maintenance and for the medical attention required by their state of health.

GPW, Article 16 –Taking into consideration the provisions of the present Convention relating to rank and sex, and subject to any privileged treatment which may be accorded to them by reason of their state of health, age or professional qualifications, all prisoners of war shall be treated alike by the Detaining Power, without any adverse distinction based on race, nationality, religious belief or political opinions, or any other distinction founded on similar criteria."

GPW, Article 39 – "Every prisoner of war camp shall be put under the immediate authority of a responsible commissioned officer belonging to the regular armed forces of the Detaining Power. Such officer shall have in his possession a copy of the present Convention; he shall ensure that its provisions are known to the camp staff and the guard and shall be responsible, under the direction of his government, for its application. Prisoners of war, with the exception of officers, must salute and show to all officers of the Detaining Power the external marks of respect provided for by the regulations applying in their own forces. Officer prisoners of war are bound to salute only officers of a higher rank of the Detaining Power; they must, however, salute the camp commander regardless of his rank."

GPW, Article 41 – "In every camp the text of the present Convention and its Annexes and the contents of any special agreement provided for in Article 6, shall be posted, in the prisoners' own language, at places where all may read them. Copies shall be supplied, on request, to the prisoners who cannot have access to the copy which has been posted. Regulations, orders, notices and publications of every kind relating to the conduct of prisoners of war shall be issued to them in a language which they understand. Such regulations, orders and publications shall be posted in the manner described above and copies shall be handed to

the prisoners' representative. Every order and command addressed to prisoners of war individually must likewise be given in a language which they understand."

GC, Article 27 – "Protected persons 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. Women shall be especially protected against any attack on their honour, in particular against rape, enforced prostitution, or any form of indecent assault. Without prejudice to the provisions relating to their state of health, age and sex, all protected persons shall be treated with the same consideration by the Party to the conflict in whose power they are, without any adverse distinction based, in particular, on race, religion or political opinion. However, the Parties to the conflict may take such measures of control and security in regard to protected persons as may be necessary as a result of the war."

GC, Article 31 – "No physical or moral coercion shall be exercised against protected persons, in particular to obtain information from them or from third parties.

GC, Article 32 – The High Contracting Parties specifically agree that each of them is prohibited from taking any measure of such a character as to cause the physical suffering or extermination of protected persons in their hands. This prohibition applies not only to murder, torture, corporal punishments, mutilation and medical or scientific experiments not necessitated by the medical treatment of a protected person, but also to any other measures of brutality whether applied by civilian or military agents."

GC, Article 37 – "Protected persons who are confined pending proceedings or subject to a sentence involving loss of liberty, shall during their confinement be humanely treated."

GC, Article 41 – "Should the Power, in whose hands protected persons may be, consider the measures of control mentioned in the present Convention to be inadequate, it may not have recourse to any other measure of control more severe than that of assigned residence or internment, in accordance with the provisions of Articles 42 and 43. In applying the provisions of Article 39, second paragraph, to the cases of persons required to leave their usual places of residence by virtue of a decision placing them in assigned residence, by virtue of a decision placing them in assigned residence, elsewhere, the Detaining Power shall be guided as closely as possible by the standards of welfare set forth in Part III, Section IV of this Convention.

GC, Article 42 – The internment or placing in assigned residence of protected persons may be ordered only if the security of the Detaining Power makes it absolutely necessary. If any person, acting through the representatives of the Protecting Power, voluntarily demands internment, and if his situation renders this step necessary, he shall be interned by the Power in whose hands he may be.

GC, Article 43 – Any protected person who has been interned or placed in assigned residence shall be entitled to have such action reconsidered as soon as possible by an appropriate court or administrative board designated by the Detaining Power for that purpose. If the internment or placing in assigned residence is maintained, the court or administrative board shall periodically, and at least twice yearly, give consideration to his or her case, with a view to the favorable amendment of the initial decision, if circumstances permit. Unless the protected persons concerned object, the Detaining Power shall, as rapidly as possible, give the Protecting Power the names of any protected persons who have been interned or subjected to assigned

residence, or who have been released from internment or assigned residence. The decisions of the courts or boards mentioned in the first paragraph of the present Article shall also, subject to the same conditions, be notified as rapidly as possible to the Protecting Power."

GC, Article 68 – "Protected persons who commit an offence which is solely intended to harm the Occupying Power, but which does not constitute an attempt on the life or limb of members of the occupying forces or administration, nor a grave collective danger, nor seriously damage the property of the occupying forces or administration or the installations used by them, shall be liable to internment or simple imprisonment, provided the duration of such internment or imprisonment is proportionate to the offence committed. Furthermore, internment or imprisonment shall, for such offences, be the only measure adopted for depriving protected persons of liberty. The courts provided for under Article 66 of the present Convention may at their discretion convert a sentence of imprisonment to one of internment for the same period.

The penal provisions promulgated by the Occupying Power in accordance with Articles 64 and 65 may impose the death penalty on a protected person only in cases where the person is guilty of espionage, of serious acts of sabotage against the military installations of the Occupying Power or of intentional offences which have caused the death of one or more persons, provided that such offences were punishable by death under the law of the occupied territory in force before the occupation began.

The death penalty may not be pronounced on a protected person unless the attention of the court has been particularly called to the fact that since the accused is not a national of the Occupying Power, he is not bound to it by any duty of allegiance.

In any case, the death penalty may not be pronounced on a protected person who was under eighteen years of age at the time of the offence."

GC, Article 78 – "If the Occupying Power considers it necessary, for imperative reasons of security, to take safety measures concerning protected persons, it may, at the most, subject them to assigned residence or to internment. Decisions regarding such assigned residence or internment shall be made according to a regular procedure to be prescribed by the Occupying Power in accordance with the provisions of the present Convention. This procedure shall include the right of appeal for the parties concerned. Appeals shall be decided with the least possible delay. In the event of the decision being upheld, it shall be subject to periodical review, if possible every six months, by a competent body set up by the said Power. Protected persons made subject to assigned residence and thus required to leave their homes shall enjoy the full benefit of Article 39 of the present Convention.

GC, Article 79 – The Parties to the conflict shall not intern protected persons, except in accordance with the provisions of Articles 41, 42, 43, 68 and 78.

GC, Article 80 – Internees shall retain their full civil capacity and shall exercise such attendant rights as may be compatible with their status."

GC, Article 82 – "The Detaining Power shall, as far as possible, accommodate the internees according to their nationality, language and customs. Internees who are nationals of the same country shall not be separated merely because they have different languages. Throughout the duration of their internment, members of the same family, and in particular parents and children, shall be lodged together in the same place of internment, except when separation of a temporary nature is necessitated for reasons of employment or health or for the

purposes of enforcement of the provisions of Chapter IX of the present Section. Internees may request that their children who are left at liberty without parental care shall be interned with them. Wherever possible, interned members of the same family shall be housed in the same premises and given separate accommodation from other internees, together with facilities for leading a proper family life.

GC, Article 83 – The Detaining Power shall not set up places of internment in areas particularly exposed to the dangers of war. The Detaining Power shall give the enemy Powers, through the intermediary of the Protecting Powers, all useful information regarding the geographical location of places of internment. Whenever military considerations permit, internment camps shall be indicated by the letters IC, placed so as to be clearly visible in the daytime from the air. The Powers concerned may, however, agree upon any other system of marking. No place other than an internment camp shall be marked as such.

GC, Article 84 – Internees shall be accommodated and administered separately from prisoners of war and from persons deprived of liberty for any other reason.

GC, Article 85 – The Detaining Power is bound to take all necessary and possible measures to ensure that protected persons shall, from the outset of their internment, be accommodated in buildings or quarters which afford every possible safeguard as regards hygiene and health, and provide efficient protection against the rigours of the climate and the effects of the war. In no case shall permanent places of internment be situated in unhealthy areas or in districts, the climate of which is injurious to the internees. In all cases where the district, in which a protected person is temporarily interned, is an unhealthy area or has a climate which is harmful to his health, he shall be removed to a more suitable place of internment as rapidly as circumstances permit. The premises shall be fully protected from dampness, adequately heated and lighted, in particular between dusk and lights out. The sleeping quarters shall be sufficiently spacious and well ventilated, and the internees shall have suitable bedding and sufficient blankets, account being taken of the climate, and the age, sex, and state of health of the internees. Internees shall have for their use, day and night, sanitary conveniences which conform to the rules of hygiene, and are constantly maintained in a state of cleanliness. They shall be provided with sufficient water and soap for their daily personal toilet and for washing their personal laundry; installations and facilities necessary for this purpose shall be granted to them. Showers or baths shall also be available. The necessary time shall be set aside for washing and for cleaning. Whenever it is necessary, as an exceptional and temporary measure, to accommodate women internees who are not members of a family unit in the same place of internment as men, the provision of separate sleeping quarters and sanitary conveniences for the use of such women internees shall be obligatory.

GC, Article 86 – The Detaining Power shall place at the disposal of interned persons, of whatever denomination, premises suitable for the holding of their religious services."

GC, Article 88 – "In all places of internment exposed to air raids and other hazards of war, shelters adequate in number and structure to ensure the necessary protection shall be installed. In case of alarms, the measures internees shall be free to enter such shelters as quickly as possible, excepting those who remain for the protection of their quarters against the aforesaid hazards. Any protective measures taken in favour of the population shall also apply to them. All due precautions must be taken in places of internment against the danger of fire.

GC, Article 89 – Daily food rations for internees shall be sufficient in quantity, quality and variety to keep internees in a good state of health and prevent the development of nutritional

deficiencies. Account shall also be taken of the customary diet of the internees. Internees shall also be given the means by which they can prepare for themselves any additional food in their possession. Sufficient drinking water shall be supplied to internees. The use of tobacco shall be permitted. Internees who work shall receive additional rations in proportion to the kind of labour which they perform. Expectant and nursing mothers and children under fifteen years of age, shall be given additional food, in proportion to their physiological needs.

GC, Article 90 – When taken into custody, internees shall be given all facilities to provide themselves with the necessary clothing, footwear and change of underwear, and later on, to procure further supplies if required. Should any internees not have sufficient clothing, account being taken of the climate, and be unable to procure any, it shall be provided free of charge to them by the Detaining Power. The clothing supplied by the Detaining Power to internees and the outward markings placed on their own clothes shall not be ignominious nor expose them to ridicule. Workers shall receive suitable working outfits, including protective clothing, whenever the nature of their work so requires."

GC, Article 93 – "Internees shall enjoy complete latitude in the exercise of their religious duties, including attendance at the services of their faith, on condition that they comply with the disciplinary routine prescribed by the detaining authorities."

GC, Article 97 – "Internees shall be permitted to retain articles of personal use. Monies, cheques, bonds, etc., and valuables in their possession may not be taken from them except in accordance with established procedure. Detailed receipts shall be given therefor. The amounts shall be paid into the account of every internee as provided for in Article 98. Such amounts may not be converted into any other currency unless legislation in force in the territory in which the owner is interned so requires or the internee gives his consent. Articles which have above all a personal or sentimental value may not be taken away. A woman internee shall not be searched except by a woman. On release or repatriation, internees shall be given all articles, monies or other valuables taken from them during internment and shall receive in currency the balance of any credit to their accounts kept in accordance with Article 98, with the exception of any articles or amounts withheld by the Detaining Power by virtue of its legislation in force. If the property of an internee is so withheld, the owner shall receive a detailed receipt. Family or identity documents in the possession of internees may not be taken away without a receipt being given. At no time shall internees be left without identity documents. If they have none, they shall be issued with special documents drawn up by the detaining authorities, which will serve as their identity papers until the end of their internment. Internees may keep on their persons a certain amount of money, in cash or in the shape of purchase coupons, to enable them to make purchases."

GC, Article 99 – "Every place of internment shall be put under the authority of a responsible officer, chosen from the regular military forces or the regular civil administration of the Detaining Power. The officer in charge of the place of internment must have in his possession a copy of the present Convention in the official language, or one of the official languages, of his country and shall be responsible for its application. The staff in control of internees shall be instructed in the provisions of the present Convention and of the administrative measures adopted to ensure its application. The text of the present Convention and the texts of special agreements concluded under the said Convention shall be posted inside the place of internment, in a language which the internees understand, or shall be in the possession of the Internee Committee. Regulations, orders, notices and publications of every kind shall be communicated to the internees and posted inside the places of internment in a

language which they understand. Every order and command addressed to internees individually must, likewise, be given in a language which they understand."

GC, Article 100 – "The disciplinary regime in places of internment shall be consistent with humanitarian principles, and shall in no circumstances include regulations imposing on internees any physical exertion dangerous to their health or involving physical or moral victimization. Identification by tattooing or imprinting signs or markings on the body, is prohibited. In particular, prolonged standing and roll-calls, punishment drill, military drill and manoeuvres, or the reduction of food rations, are prohibited."

Army Regulation 190-8, Enemy Prisoners of War, Retained Personnel, Civilian Internees and Other Detainees, 1 October 1997, Chapter 1, paragraph 1-1, subparagraphs a and b. This regulation is a multi-service regulation implementing DOD Directive 2310.1 and incorporates Army Regulation 190-8 and 190-57 and SECNAV Instruction 3461.3, and Air Force Joint Instruction 31-304 and outlines policies, procedures, and responsibilities for treatment of enemy prisoners of war (EPW), retained personnel (RP), civilian internees (CI), and other detainees (OD) and implements international law for all military operations. The specific language in the regulation follows:

"1–1. Purpose

a. This regulation provides policy, procedures, and responsibilities for the administration, treatment, employment, and compensation of enemy prisoners of war (EPW), retained personnel (RP), civilian internees (CI) and other detainees (OD) in the custody of U.S. Armed Forces. This regulation also establishes procedures for transfer of custody from the United States to another detaining power.

b. This regulation implements international law, both customary and codified, relating to EPW, RP, CI, and ODs which includes those persons held during military operations other than war."

b. **Finding 2:**

(1) Finding: In the cases the DAIG reviewed, all detainee abuse occurred when one or more individuals failed to adhere to basic standards of discipline, training, or Army Values; in some cases abuse was accompanied by leadership failure at the tactical level.

(2) Standard: Standard of treatment for detainees in OPERATION ENDURING FREEDOM (OEF): Guidance was provided stating that members of the Taliban militia and members of Al Qaida under the control of U.S. Forces would be treated humanely and, to the extent appropriate and consistent with military necessity, in a manner consistent with the principles of the Geneva Conventions of 1949. The DAIG has therefore used the provisions of the Geneva Conventions as a benchmark against which to measure the treatment provided to detainees by U.S. Forces to determine if detainees were treated humanely. The use of these standards as benchmarks does not state or imply a position for the United States or U.S. Army on the legal status of its operations in OEF.

Chairman, Joint Chiefs of Staff (CJCS) Message dated 211933Z JAN 02, provides the determination regarding the humane treatment of Al Qaida and Taliban detainees. Convention Relative to the Treatment of Prisoners of War of August 12, 1949 (GPW) is the international treaty that governs the treatment of prisoners of war), and Geneva Convention Relative to the

Protection of Civilian Persons in Time of War (GC), August 12, 1949 is the international treaty that governs the treatment of civilian persons in time of war.

As the guidance did not define "humane treatment" but did state that the U.S. would treat members of the Taliban militia and Al Qaida in a manner consistent with the Geneva Conventions, the DAIG determined that it would use Common Article 3 of the GCs as its floor measure of humane treatment, but would also include provisions of the Geneva Convention on the Treatment of Prisoners of War (GPW) and Geneva Convention Relative to the Protection of Civilian Persons in Time of War (GC) as other relevant indicia of "humane treatment." The use of this standard does not state or imply a position for the United States or U.S. Army on the legal status of its operations in OEF.

Standard of treatment for detainees in OPERATION IRAQI FREEDOM (OIF): OIF was an international armed conflict and therefore the provisions of the Geneva Conventions applied. Additionally, the United States was an occupying power and has acted in accordance with the obligations of an occupying power described in the Hague Convention No. IV Respecting the Laws and Customs of War on Land (H.IV), Oct. 18, 1907, including, but not limited to, Articles 43-46 and 50; Geneva Convention Relative to the Treatment of Prisoners of War of August 12, 1949 (GPW); and Geneva Convention Relative to the Protection of Civilian Persons in Time of War (GC), August 12, 1949. The GC supplements H.IV, providing the general standard of treatment at Article 27 and specific standards in subsequent Articles.

The minimum treatment provided by Common Article 3 of the Geneva Conventions is: (1) No adverse distinction based upon race, religion, sex, etc.; (2) No violence to life or person; (3) No taking hostages; (4) No degrading treatment; (5) No passing of sentences in absence of fair trial, and; (6) The wounded and sick must be cared for.

The specific language in the CJCS Message for OEF and the GPW/GC and H.IV follows:

CJCS Message dated 211933Z JAN 02, "Paragraph 3. The combatant commanders shall, in detaining Al Qaida and Taliban individuals under the control of the Department of Defense, treat them humanely and, to the extent appropriate and consistent with military necessity, in a manner consistent with the principles of the Geneva Conventions of 1949."

GPW/GC, Article 3 (Common Article 3) – "In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each party to the conflict shall be bound to apply, as a minimum, the following provisions:

1. Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, color, religion or faith, sex, birth or wealth, or any other similar criteria.

To this end the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons:

(a) Violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;
(b) Taking of hostages;

(c) Outrages upon personal dignity, in particular, humiliating and degrading treatment;
(d) The passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court affording all the judicial guarantees which are recognized as indispensable by civilized peoples.

2. The wounded and sick shall be collected and cared for. An impartial humanitarian body, such as the International Committee of the Red Cross, may offer its services to the Parties to the conflict. The Parties to the conflict should further endeavour to bring into force, by means of special agreements, all or part of the other provisions of the present Convention. The application of the preceding provisions shall not affect the legal status of the Parties to the conflict."

GPW, Article 13 – "Prisoners of war must at all times be humanely treated. Any unlawful act or omission by the Detaining Power causing death or seriously endangering the health of a prisoner of war in its custody is prohibited, and will be regarded as a serious breach of the present Convention. In particular, no prisoner of war may be subjected to physical mutilation or to medical or scientific experiments of any kind which are not justified by the medical, dental or hospital treatment of the prisoner concerned and carried out in his interest. Likewise, prisoners of war must at all times be protected, particularly against acts of violence or intimidation and against insults and public curiosity."

GPW, Article 14 – Prisoners of war are entitled in all circumstances to respect for their persons and their honour. Women shall be treated with all the regard due to their sex and shall in all cases benefit by treatment as favourable as that granted to men. Prisoners of war shall retain the full civil capacity which they enjoyed at the time of their capture. The Detaining Power may not restrict the exercise, either within or without its own territory, of the rights such capacity confers except in so far as the captivity requires.

GPW, Article 15 – The Power detaining prisoners of war shall be bound to provide free of charge for their maintenance and for the medical attention required by their state of health.

GPW, Article 16 – Taking into consideration the provisions of the present Convention relating to rank and sex, and subject to any privileged treatment which may be accorded to them by reason of their state of health, age or professional qualifications, all prisoners of war shall be treated alike by the Detaining Power, without any adverse distinction based on race, nationality, religious belief or political opinions, or any other distinction founded on similar criteria."

GPW, Article 39 – "Every prisoner of war camp shall be put under the immediate authority of a responsible commissioned officer belonging to the regular armed forces of the Detaining Power. Such officer shall have in his possession a copy of the present Convention; he shall ensure that its provisions are known to the camp staff and the guard and shall be responsible, under the direction of his government, for its application. Prisoners of war, with the exception of officers, must salute and show to all officers of the Detaining Power the external marks of respect provided for by the regulations applying in their own forces. Officer prisoners of war are bound to salute only officers of a higher rank of the Detaining Power; they must, however, salute the camp commander regardless of his rank."

GPW, Article 41 – "In every camp the text of the present Convention and its Annexes and the contents of any special agreement provided for in Article 6, shall be posted, in the prisoners' own language, at places where all may read them. Copies shall be supplied, on request, to the prisoners who cannot have access to the copy which has been posted.

Regulations, orders, notices and publications of every kind relating to the conduct of prisoners of war shall be issued to them in a language which they understand. Such regulations, orders and publications shall be posted in the manner described above and copies shall be handed to the prisoners' representative. Every order and command addressed to prisoners of war individually must likewise be given in a language which they understand."

GC, Article 27 – "Protected persons 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. Women shall be especially protected against any attack on their honour, in particular against rape, enforced prostitution, or any form of indecent assault. Without prejudice to the provisions relating to their state of health, age and sex, all protected persons shall be treated with the same consideration by the Party to the conflict in whose power they are, without any adverse distinction based, in particular, on race, religion or political opinion. However, the Parties to the conflict may take such measures of control and security in regard to protected persons as may be necessary as a result of the war."

GC, Article 31 – "No physical or moral coercion shall be exercised against protected persons, in particular to obtain information from them or from third parties.

GC, Article 32 – The High Contracting Parties specifically agree that each of them is prohibited from taking any measure of such a character as to cause the physical suffering or extermination of protected persons in their hands. This prohibition applies not only to murder, torture, corporal punishments, mutilation and medical or scientific experiments not necessitated by the medical treatment of a protected person, but also to any other measures of brutality whether applied by civilian or military agents."

GC, Article 37 – "Protected persons who are confined pending proceedings or subject to a sentence involving loss of liberty, shall during their confinement be humanely treated."

GC, Article 41 – "Should the Power, in whose hands protected persons may be, consider the measures of control mentioned in the present Convention to be inadequate, it may not have recourse to any other measure of control more severe than that of assigned residence or internment, in accordance with the provisions of Articles 42 and 43. In applying the provisions of Article 39, second paragraph, to the cases of persons required to leave their usual places of residence by virtue of a decision placing them in assigned residence, by virtue of a decision placing them in assigned residence, elsewhere, the Detaining Power shall be guided as closely as possible by the standards of welfare set forth in Part III, Section IV of this Convention.

GC, Article 42 – The internment or placing in assigned residence of protected persons may be ordered only if the security of the Detaining Power makes it absolutely necessary. If any person, acting through the representatives of the Protecting Power, voluntarily demands internment, and if his situation renders this step necessary, he shall be interned by the Power in whose hands he may be.

GC, Article 43 – Any protected person who has been interned or placed in assigned residence shall be entitled to have such action reconsidered as soon as possible by an appropriate court or administrative board designated by the Detaining Power for that purpose. If the internment or placing in assigned residence is maintained, the court or administrative board shall periodically, and at least twice yearly, give consideration to his or her case, with a view to

the favorable amendment of the initial decision, if circumstances permit. Unless the protected persons concerned object, the Detaining Power shall, as rapidly as possible, give the Protecting Power the names of any protected persons who have been interned or subjected to assigned residence, or who have been released from internment or assigned residence. The decisions of the courts or boards mentioned in the first paragraph of the present Article shall also, subject to the same conditions, be notified as rapidly as possible to the Protecting Power."

GC, Article 68 – "Protected persons who commit an offence which is solely intended to harm the Occupying Power, but which does not constitute an attempt on the life or limb of members of the occupying forces or administration, nor a grave collective danger, nor seriously damage the property of the occupying forces or administration or the installations used by them, shall be liable to internment or simple imprisonment, provided the duration of such internment or imprisonment is proportionate to the offence committed. Furthermore, internment or imprisonment shall, for such offences, be the only measure adopted for depriving protected persons of liberty. The courts provided for under Article 66 of the present Convention may at their discretion convert a sentence of imprisonment to one of internment for the same period.

The penal provisions promulgated by the Occupying Power in accordance with Articles 64 and 65 may impose the death penalty on a protected person only in cases where the person is guilty of espionage, of serious acts of sabotage against the military installations of the Occupying Power or of intentional offences which have caused the death of one or more persons, provided that such offences were punishable by death under the law of the occupied territory in force before the occupation began.

The death penalty may not be pronounced on a protected person unless the attention of the court has been particularly called to the fact that since the accused is not a national of the Occupying Power, he is not bound to it by any duty of allegiance.

In any case, the death penalty may not be pronounced on a protected person who was under eighteen years of age at the time of the offence."

GC, Article 78 – "If the Occupying Power considers it necessary, for imperative reasons of security, to take safety measures concerning protected persons, it may, at the most, subject them to assigned residence or to internment. Decisions regarding such assigned residence or internment shall be made according to a regular procedure to be prescribed by the Occupying Power in accordance with the provisions of the present Convention. This procedure shall include the right of appeal for the parties concerned. Appeals shall be decided with the least possible delay. In the event of the decision being upheld, it shall be subject to periodical review, if possible every six months, by a competent body set up by the said Power. Protected persons made subject to assigned residence and thus required to leave their homes shall enjoy the full benefit of Article 39 of the present Convention.

GC, Article 79 – The Parties to the conflict shall not intern protected persons, except in accordance with the provisions of Articles 41, 42, 43, 68 and 78.

GC, Article 80 – Internees shall retain their full civil capacity and shall exercise such attendant rights as may be compatible with their status."

GC, Article 82 – "The Detaining Power shall, as far as possible, accommodate the internees according to their nationality, language and customs. Internees who are nationals of the same country shall not be separated merely because they have different languages.

Throughout the duration of their internment, members of the same family, and in particular parents and children, shall be lodged together in the same place of internment, except when separation of a temporary nature is necessitated for reasons of employment or health or for the purposes of enforcement of the provisions of Chapter IX of the present Section. Internees may request that their children who are left at liberty without parental care shall be interned with them. Wherever possible, interned members of the same family shall be housed in the same premises and given separate accommodation from other internees, together with facilities for leading a proper family life.

GC, Article 83 – The Detaining Power shall not set up places of internment in areas particularly exposed to the dangers of war. The Detaining Power shall give the enemy Powers, through the intermediary of the Protecting Powers, all useful information regarding the geographical location of places of internment. Whenever military considerations permit, internment camps shall be indicated by the letters IC, placed so as to be clearly visible in the daytime from the air. The Powers concerned may, however, agree upon any other system of marking. No place other than an internment camp shall be marked as such.

GC, Article 84 – Internees shall be accommodated and administered separately from prisoners of war and from persons deprived of liberty for any other reason.

GC, Article 85 – The Detaining Power is bound to take all necessary and possible measures to ensure that protected persons shall, from the outset of their internment, be accommodated in buildings or quarters which afford every possible safeguard as regards hygiene and health, and provide efficient protection against the rigours of the climate and the effects of the war. In no case shall permanent places of internment be situated in unhealthy areas or in districts, the climate of which is injurious to the internees. In all cases where the district, in which a protected person is temporarily interned, is an unhealthy area or has a climate which is harmful to his health, he shall be removed to a more suitable place of internment as rapidly as circumstances permit. The premises shall be fully protected from dampness, adequately heated and lighted, in particular between dusk and lights out. The sleeping quarters shall be sufficiently spacious and well ventilated, and the internees shall have suitable bedding and sufficient blankets, account being taken of the climate, and the age, sex, and state of health of the internees. Internees shall have for their use, day and night, sanitary conveniences which conform to the rules of hygiene, and are constantly maintained in a state of cleanliness. They shall be provided with sufficient water and soap for their daily personal toilet and for washing their personal laundry; installations and facilities necessary for this purpose shall be granted to them. Showers or baths shall also be available. The necessary time shall be set aside for washing and for cleaning. Whenever it is necessary, as an exceptional and temporary measure, to accommodate women internees who are not members of a family unit in the same place of internment as men, the provision of separate sleeping quarters and sanitary conveniences for the use of such women internees shall be obligatory.

GC, Article 86 – The Detaining Power shall place at the disposal of interned persons, of whatever denomination, premises suitable for the holding of their religious services."

GC, Article 88 – "In all places of internment exposed to air raids and other hazards of war, shelters adequate in number and structure to ensure the necessary protection shall be installed. In case of alarms, the measures internees shall be free to enter such shelters as quickly as possible, excepting those who remain for the protection of their quarters against the aforesaid hazards. Any protective measures taken in favour of the population shall also apply to them. All due precautions must be taken in places of internment against the danger of fire.

GC, Article 89 – Daily food rations for internees shall be sufficient in quantity, quality and variety to keep internees in a good state of health and prevent the development of nutritional deficiencies. Account shall also be taken of the customary diet of the internees. Internees shall also be given the means by which they can prepare for themselves any additional food in their possession. Sufficient drinking water shall be supplied to internees. The use of tobacco shall be permitted. Internees who work shall receive additional rations in proportion to the kind of labour which they perform. Expectant and nursing mothers and children under fifteen years of age, shall be given additional food, in proportion to their physiological needs.

GC, Article 90 – When taken into custody, internees shall be given all facilities to provide themselves with the necessary clothing, footwear and change of underwear, and later on, to procure further supplies if required. Should any internees not have sufficient clothing, account being taken of the climate, and be unable to procure any, it shall be provided free of charge to them by the Detaining Power. The clothing supplied by the Detaining Power to internees and the outward markings placed on their own clothes shall not be ignominious nor expose them to ridicule. Workers shall receive suitable working outfits, including protective clothing, whenever the nature of their work so requires."

GC, Article 93 – "Internees shall enjoy complete latitude in the exercise of their religious duties, including attendance at the services of their faith, on condition that they comply with the disciplinary routine prescribed by the detaining authorities."

GC, Article 97 – "Internees shall be permitted to retain articles of personal use. Monies, cheques, bonds, etc., and valuables in their possession may not be taken from them except in accordance with established procedure. Detailed receipts shall be given therefor. The amounts shall be paid into the account of every internee as provided for in Article 98. Such amounts may not be converted into any other currency unless legislation in force in the territory in which the owner is interned so requires or the internee gives his consent. Articles which have above all a personal or sentimental value may not be taken away. A woman internee shall not be searched except by a woman. On release or repatriation, internees shall be given all articles, monies or other valuables taken from them during internment and shall receive in currency the balance of any credit to their accounts kept in accordance with Article 98, with the exception of any articles or amounts withheld by the Detaining Power by virtue of its legislation in force. If the property of an internee is so withheld, the owner shall receive a detailed receipt. Family or identity documents in the possession of internees may not be taken away without a receipt being given. At no time shall internees be left without identity documents. If they have none, they shall be issued with special documents drawn up by the detaining authorities, which will serve as their identity papers until the end of their internment. Internees may keep on their persons a certain amount of money, in cash or in the shape of purchase coupons, to enable them to make purchases."

GC, Article 99 – "Every place of internment shall be put under the authority of a responsible officer, chosen from the regular military forces or the regular civil administration of the Detaining Power. The officer in charge of the place of internment must have in his possession a copy of the present Convention in the official language, or one of the official languages, of his country and shall be responsible for its application. The staff in control of internees shall be instructed in the provisions of the present Convention and of the administrative measures adopted to ensure its application. The text of the present Convention and the texts of special agreements concluded under the said Convention shall be posted inside the place of internment, in a language which the internees understand, or shall be in the

possession of the Internee Committee. Regulations, orders, notices and publications of every kind shall be communicated to the internees and posted inside the places of internment in a language which they understand. Every order and command addressed to internees individually must, likewise, be given in a language which they understand."

GC, Article 100 – "The disciplinary regime in places of internment shall be consistent with humanitarian principles, and shall in no circumstances include regulations imposing on internees any physical exertion dangerous to their health or involving physical or moral victimization. Identification by tattooing or imprinting signs or markings on the body, is prohibited. In particular, prolonged standing and roll-calls, punishment drill, military drill and manoeuvres, or the reduction of food rations, are prohibited."

H.IV, Article 43 – "The authority of the legitimate power having in fact passed into the hands of the occupant, the latter shall take all the measures in his power to restore, and ensure, as far as possible, public order and safety, while respecting, unless absolutely prevented, the laws in force in the country.

H.IV, Article 44 – A belligerent is forbidden to force the inhabitants of territory occupied by it to furnish information about the army of the other belligerent, or about its means of defense.

H.IV, Article 45 – It is forbidden to compel the inhabitants of occupied territory to swear allegiance to the hostile Power.

H.IV, Article 46 – Family honour and rights, the lives of persons, and private property, as well as religious convictions and practice, must be respected. Private property cannot be confiscated.

H.IV, Article 47 – Pillage is formally forbidden."

H.IV, Article 50 – "No general penalty, pecuniary or otherwise, shall be inflicted upon the population on account of the acts of individuals for which they cannot be regarded as jointly and severally responsible."

Army Regulation (AR) 190-8, Enemy Prisoners of War, Retained Personnel, Civilian Internees and Other Detainees, 1 October 1997, Chapter 1, paragraphs 1-5, subparagraphs *a*, *b*, and *c*; paragraph 2-1, subparagraph a *(1)(d)*; and paragraph 5-1, subparagraph (6), provides instruction on the overall treatment of detainees. This regulation is a multi-service regulation implementing DOD Directive 2310.1 and incorporates Army Regulation 190-8 and 190-57 and SECNAV Instruction 3461.3, and Air Force Joint Instruction 31-304 and outlines policies, procedures, and responsibilities for treatment of enemy prisoners of war (EPW), retained personnel (RP), civilian internees (CI), and other detainees (OD) and implements international law for all military operations. The specific language in the regulation follows:

"1–5. General protection policy

a. U.S. policy, relative to the treatment of EPW, CI and RP in the custody of the U.S. Armed Forces, is as follows:

(1) All persons captured, detained, interned, or otherwise held in U.S. Armed Forces custody during the course of conflict will be given humanitarian care and treatment from the moment they fall into the hands of U.S. forces until final release or repatriation."

"(4) The inhumane treatment of EPW, CI, RP is prohibited and is not justified by the stress of combat or with deep provocation. Inhumane treatment is a serious and punishable violation under international law and the Uniform Code of Military Justice (UCMJ)."

"*b.* All prisoners will receive humane treatment without regard to race, nationality, religion, political opinion, sex, or other criteria. The following acts are prohibited: murder, torture, corporal punishment, mutilation, the taking of hostages, sensory deprivation, collective punishments, execution without trial by proper authority, and all cruel and degrading treatment.

c. All persons will be respected as human beings. They will be protected against all acts of violence to include rape, forced prostitution, assault and theft, insults, public curiosity, bodily injury, and reprisals of any kind. They will not be subjected to medical or scientific experiments. This list is not exclusive. EPW/RP is to be protected from all threats or acts of violence."

"2-1. a. *(1) (d)* Prisoners may be interrogated in the combat zone. The use of physical or mental torture or any coercion to compel prisoners to provide information is prohibited.... Prisoners may not be threatened, insulted, or exposed to unpleasant or disparate treatment of any kind because of their refusal to answer questions."

"5-1 (6) The following acts are specifically prohibited:

(a) Any measures of such character as to cause the physical suffering or extermination of the CI. This prohibition applies not only to murder, torture, corporal punishment, mutilation, and medical or scientific experiments, but also to any other measure of brutality.

(b) Punishment of the CI for an offense they did not personally commit.

(c) Collective penalties and all measures of intimidation and terrorism against the CI.

(d) Reprisals against the CI and their property.

(e) The taking and holding of the CI as hostages."

AR 600–20, Army Command Policy, Chapter 1, paragraph 1-5, subparagraph c (1), and (4), prescribes the policies and responsibilities of command. The specific language in the regulation follows:

"c. Characteristics of command leadership.

The commander is responsible for establishing leadership climate of the unit and developing disciplined and cohesive units. This sets the parameters within which command will be exercised and, therefore, sets the tone for social and duty relationships within the command. Commanders are also responsible for the professional development of their soldiers. To this end, they encourage self-study, professional development, and continued growth of their subordinates' military careers.

(1) Commanders and other leaders committed to the professional Army ethic promote a positive environment. If leaders show loyalty to their soldiers, the Army, and the Nation, they

earn the loyalty of their soldiers. If leaders consider their soldiers' needs and care for their well-being, and if they demonstrate genuine concern, these leaders build a positive command climate."

"(4) Professionally competent leaders will develop respect for their authority by-

(a) Striving to develop, maintain, and use the full range of human potential in their organization. This potential is a critical factor in ensuring that the organization is capable of accomplishing its mission.

(b) Giving troops constructive information on the need for and purpose of military discipline. Articles in the UCMJ which require explanation will be presented in such a way to ensure that soldiers are fully aware of the controls and obligations imposed on them by virtue of their military service. (See Art 137, UCMJ.)

(c) Properly training their soldiers and ensuring that both soldiers and equipment are in the proper state of readiness at all times. Commanders should assess the command climate periodically to analyze the human dimension of combat readiness. Soldiers must be committed to accomplishing the mission through the unit cohesion developed as a result of a healthy leadership climate established by the command. Leaders at all levels promote the individual readiness of their soldiers by developing competence and confidence in their subordinates. In addition to being mentally, physically, tactically, and technically competent, soldiers must have confidence in themselves, their equipment, their peers, and their leaders. A leadership climate in which all soldiers are treated with fairness, justice, and equity will be crucial to development of this confidence within soldiers. Commanders are responsible for developing disciplined and cohesive units sustained at the highest readiness level possible."

c. Finding 3:

(1) Finding: Of all facilities inspected, only Abu Ghraib was determined to be undesirable for housing detainees because it is located near an urban population and is under frequent hostile fire, placing Soldiers and detainees at risk.

(2) Standard: Hague Convention No. IV Respecting the Laws and Customs of War on Land (H.IV), Oct. 18, 1907, Articles 43-46 and 50; and Geneva Convention Relative to the Protection of Civilian Persons in Time of War (GC), Aug 12, 1949, Articles 81, 83, 85, 88, 89, and 91 discuss the requirement to accommodate detainees in buildings or quarters which afford every possible safeguard regarding health and hygiene and the effects of war. The specific language in the GC follows:

GC Article 81 – "Parties to the conflict who intern protected persons shall be bound to provide free of charge for their maintenance, and to grant them also the medical attention required by their state of health. No deduction from the allowances, salaries or credits due to the internees shall be made for the repayment of these costs.

GC, Article 83 – "The Detaining Power shall not set up places of internment in areas particularly exposed to the dangers of war. ...

GC, Article 84 – Internees shall be accommodated and administered separately from prisoners of war and from persons deprived of liberty for any other reason.

GC, Article 85 – The Detaining Power is bound to take all necessary and possible measures to ensure that protected persons shall, from the outset of their internment, be accommodated in buildings or quarters which afford every possible safeguard as regards hygiene and health, and provide efficient protection against the rigors of the climate and the effects of the war. In no case shall permanent places of internment be situated in unhealthy areas or in districts, the climate of which is injurious to the internees. In all cases where the district, in which a protected person is temporarily interned, is an unhealthy area or has a climate which is harmful to his health, he shall be removed to a more suitable place of internment as rapidly as circumstances permit. The premises shall be fully protected from dampness, adequately heated and lighted, in particular between dusk and lights out. The sleeping quarters shall be sufficiently spacious and well ventilated, and the internees shall have suitable bedding and sufficient blankets, account being taken of the climate, and the age, sex, and state of health of the internees. Internees shall have for their use, day and night, sanitary conveniences which conform to the rules of hygiene, and are constantly maintained in a state of cleanliness. They shall be provided with sufficient water and soap for their daily personal toilet and for washing their personal laundry; installations and facilities necessary for this purpose shall be granted to them. Showers or baths shall also be available. The necessary time shall be set aside for washing and for cleaning. Whenever it is necessary, as an exceptional and temporary measure, to accommodate women internees who are not members of a family unit in the same place of internment as men, the provision of separate sleeping quarters and sanitary conveniences for the use of such women internees shall be obligatory."

GC, Article 88 – "In all places of internment exposed to air raids and other hazards of war, shelters adequate in number and structure to ensure the necessary protection shall be installed.

GC, Article 89 – Daily food rations for internees shall be sufficient in quantity, quality and variety to keep internees in a good state of health and prevent the development of nutritional deficiencies. Account shall also be taken of the customary diet of the internees. Internees shall also be given the means by which they can prepare for themselves any additional food in their possession. Sufficient drinking water shall be supplied to internees. ... "

GC Article 91 – "Every place of internment shall have an adequate infirmary, under the direction of a qualified doctor, where internees may have the attention they require, as well as appropriate diet. Isolation wards shall be set aside for cases of contagious or mental diseases. Maternity cases and internees suffering from serious diseases, or whose condition requires special treatment, a surgical operation or hospital care, must be admitted to any institution where adequate treatment can be given and shall receive care not inferior to that provided for the general population. Internees shall, for preference, have the attention of medical personnel of their own nationality. Internees may not be prevented from presenting themselves to the medical authorities for examination. The medical authorities of the Detaining Power shall, upon request, issue to every internee who has undergone treatment an official certificate showing the nature of his illness or injury, and the duration and nature of the treatment given. A duplicate of this certificate shall be forwarded to the Central Agency provided for in Article 140 Treatment, including the provision of any apparatus necessary for the maintenance of internees in good health, particularly dentures and other artificial appliances and spectacles, shall be free of charge to the internee."

Army Regulation 190-8, Enemy Prisoners of War, Retained Personnel, Civilian Internees and Other Detainees, 1 October 1997, Chapter 5, paragraph 5-2, subparagraph a, states that a safety program for civilian internees (CIs) will be established. Chapter 6, paragraph 6-1,

subparagraphs a & b, (1) through (4), states commanders' responsibilities regarding housing, caring for, and safeguarding CIs in facilities. This regulation is a multi-service regulation implementing DOD Directive 2310.1 and incorporates Army Regulation 190-8 and 190-57 and SECNAV Instruction 3461.3, and Air Force Joint Instruction 31-304 and outlines policies, procedures, and responsibilities for treatment of enemy prisoners of war (EPW), retained personnel (RP), civilian internees (CI), and other detainees (OD) and implements international law for all military operations. The specific language in the regulation follows:

"a. Establishment. A safety program for the CI will be established and administered in accordance with the policies prescribed in AR 385-10 and other pertinent safety directives.

"6–1. Internment Facility

a. Location. The theater commander will be responsible for the location of the CI internment facilities within his or her command. The CI retained temporarily in an unhealthy area or where the climate is harmful to their health will be removed to a more suitable place of internment as soon as possible.

b. Quarters. Adequate shelters to ensure protection against air bombardments and other hazards of war will be provided and precautions against fire will be taken at each CI camp and branch camp.

(1) All necessary and possible measures will be taken to ensure that CI shall, from the outset of their internment, be accommodated in buildings or quarters which afford every possible safeguard as regards hygiene and health, and provide efficient protection against the rigors of the climate and the effects of war. In no case shall permanent places of internment be placed in unhealthy areas, or in districts the climate of which is injurious to CI.

(2) The premises shall be fully protected from dampness, adequately heated and lighted, in particular between dusk and lights out. The sleeping quarters shall be sufficiently spacious and well ventilated, and the internees shall have suitable bedding and sufficient blankets, account being taken of the climate, and the age, sex and state of health of the internees.

(3) Internees shall have for their use, day and night, sanitary conveniences which conform to the rules of hygiene and are constantly maintained in a state of cleanliness. They shall be provided with sufficient water and soap for their daily personal hygiene and for washing their personal laundry; installations and facilities necessary for this purpose shall be provided. Showers or baths shall also be available. The necessary time shall be set aside for washing and for cleaning.

(4) CI shall be administered and housed separately from EPW/RP. Except in the case of families, female CI shall be housed in separate quarters and shall be under the direct supervision of women."

Field Manual (FM) 3-19.1, Military Police Operations, 31 January 2002, Chapter 4, paragraph 4-44, describes the capability of a modular internment/resettlement (I/R) Military Police (MP) battalion that is trained and equipped for an I/R mission. The specific language in the field manual follows:

"4-44. Although the CS MP unit initially handles EPWs/CIs, modular MP (I/R) battalions with assigned MP guard companies and supporting MWD teams are equipped and trained to

handle this mission for the long term. A properly configured modular MP (I/R) battalion can support, safeguard, account for, guard, and provide humane treatment for up to 4,000 EPWs/CIs; 8,000 dislocated civilians; or 1,500 US military prisoners."

FM 3-19.40, Military Police Internment/Resettlement Operations, 1 August 2001, Chapter 6, paragraphs 6-2 and 6-3, discuss the considerations of choosing sites for I/R facilities. The specific language in the field manual follows:

"6-2. The MP coordinate the location with engineers, logistical units, higher headquarters, and the HN. The failure to properly consider and correctly evaluate all factors may increase the logistical and personnel efforts required to support operations. If an I/R facility is improperly located, the entire internee population may require movement when resources are scarce. When selecting a site for a facility, consider the following:

- Will the interned population pose a serious threat to logistical operations if the tactical situation becomes critical?
- Is there a threat of guerrilla activity in the area?
- What is the attitude of the local population?
- What classification of internees will be housed at the site?
- What type of terrain surrounds the site, and will it help or hinder escapes?
- What is the distance from the MSR to the source of logistical support?
- What transportation methods are required and available to move internees, supplies, and equipment?

6-3. In addition, consider the—

- METT-TC.
- Proximity to probable target areas.
- Availability of suitable existing facilities (avoids unnecessary construction).
- Presence of swamps, mosquitoes, and other factors (including water drainage) that affect human health.
- Existence of an adequate, satisfactory source of potable water. The supply should meet the demands for consumption, food sanitation, personal hygiene, and sewage disposal.
- Availability of electricity. Portable generators can be used as standby and emergency sources of electricity.
- Distance to work if internees are employed outside the facility.
- Availability of construction material.
- Soil drainage."

d. Finding 4:

(1) Finding: Tactical commanders and leaders adapted to the environment and held detainees longer than doctrinally recommended due to the demand for timely, tactical intelligence.

(2) Standard: Army Regulation (AR) 190-8, Enemy Prisoners of War, Retained Personnel, Civilian Internees and Other Detainees, 1 October 1997, Chapter 2, paragraph 2-1, subparagraph a (d), states that prisoners may be interrogated in the combat zone; subparagraph a (e) states that prisoners will be evacuated as quickly as possible from the collecting points (CPs) to the Corps Holding Area (CHA). If evacuation is delayed the detaining

force will increase the level of humanitarian care provided at the CP. Chapter 3, paragraph 3-2, subparagraph b, states that CPs will operate under conditions similar to those prescribed for internment camps; paragraph 3-4, subparagraph e, requires enemy prisoners of war (EPWs) and retained persons (RP) to be housed under the same conditions as U.S. Forces residing in the same area; subparagraph i requires EPW/RP facilities to ensure a clean and healthy environment for detainees. Chapter 6, paragraph 6-1, subparagraph b, requires that internment facilities for CIs provide a safe and sanitary environment; paragraph 6-6, subparagraph g, requires facilities housing Civilian Internees (CI) to provide hygiene and sanitation measures in accordance with AR 40-5, Preventive Medicine. This regulation is a multi-service regulation implementing DOD Directive 2310.1 and incorporates Army Regulation 190-8 and 190-57 and SECNAV Instruction 3461.3, and Air Force Joint Instruction 31-304 and outlines policies, procedures, and responsibilities for treatment of EPW, RP, CI, and other detainees (OD) and implements international law for all military operations. The specific language in the regulation follows:

2-1. a. (d) – "Prisoners may be interrogated in the combat zone.

2-1. a. (e) – "Prisoners will be humanely evacuated from the combat zone and into appropriate channels as quickly as possible. . . . When military necessity requires delay in evacuation beyond a reasonable period of time, health and comfort items will be issued, such as food, potable water, appropriate clothing, shelter, and medical attention.

3-2. b. – ". . . Transit camps or collecting points will operate under conditions similar to those prescribed for permanent prisoner of war camps, and the prisoners will receive the same treatment as in permanent EPW camps.

3-4. e. – "EPW/RP will be quartered under conditions as favorable as those for the force of the detaining power billeted in the same area. The conditions shall make allowance for the habits and customs of the prisoners and shall in no case be prejudicial to their health. The forgoing shall apply in particular to the dormitories of EPW/RP as it regards both total surface and minimum cubic space and the general installation of bedding and blankets. Quarters furnished to EPW/RP must be protected from dampness, must be adequately lit and heated (particularly between dusk and lights-out), and must have adequate precautions taken against the dangers of fire. In camps accommodating both sexes, EPW/RP will be provided with separate facilities for women.

Field Manual (FM) 3-19.40, Military Police Internment/Resettlement Operations, 1 August 2001, Introduction, explains the role of MPs in establishing CPs. Chapter 3, paragraph 3-1, further explains the MP role in establishing CPs and CHAs; paragraph 3-3, states that MPs and MI interrogation teams should work closely at CPs and CHAs to make a determination of the potential intelligence value of detainees; paragraphs 3-37, 3-45 and 3-54, state that divisions will operate forward and central CPs as temporary holding areas until detainees are removed from the battlefield and transferred to the CHA. Doctrine states that detainees should remain at a forward CP no longer than 12 hours, and a central CP no longer than 24 hours. Paragraphs 3-41 to 3-43 identify planning considerations for division forward and central CPs. Doctrine identifies divisions providing minimum medical, preventive medical, logistics, personnel and infrastructure support to hold detainees for 12 hours at forward CPs and for 24 hours at central CPs. Paragraph 3-49 describes the Preventive Medicine (PVNTMED) support to a central CP. Paragraph 3-55 states that CHAs are more permanent than CPs and must be prepared to hold detainees for 72 hours. External support is required if CHAs are required to hold detainees for more than 72 hours. Chapter 5, paragraph 5-52, describes the sanitation

requirements for Civilian Internee (CI) populations. The specific language in the field manual follows:

Introduction -- "A large number of captives on the battlefield hampers maneuver units as they move to engage and destroy an enemy. To assist maneuver units in performing their mission—

- Division MP units operate CPs in the division AO.
- Corps MP units operate holding areas in the corps AO."

"3.1. The MP units accept captives from capturing units as far forward as possible, and captives are held in CPs and CHAs until they are removed from the battlefield. Normally, CPs are operated in the division AO and CHAs are operated in the corps AO; but they can be operated anywhere they are needed. The CPs and CHAs sustain and safeguard captives and ensure a minimum level of field processing and accountability. Wounded and sick captives receive medical treatment, and captives who require lifesaving medical attention are evacuated to the nearest medical facility.

3.3. The MP work closely with military intelligence (MI) interrogation teams at CPs and CHAs to determine if captives, their equipment, and their weapons have intelligence value. This process is accelerated when MI interrogation teams can observe captives during arrival and processing, and interrogators can also be used as interpreters during this phase. Before a captive is interviewed by MI personnel, he must have a Department of Defense (DD) Form 2745 (Figure 3-1) attached to him and be accounted for on DD Form 2708.

3-37. A division operates two types of CPs-forward and central.
A division MP company operates forward CPs in each maneuver brigade AO and a central CP in the division rear area. Both CPs are temporary areas designed to hold captives until they are removed from the battlefield. Forward CPs are positioned as far forward as possible to accept captives from maneuver elements. Central CPs accept captives from forward CPs and local units.

3-41. Medical support is provided by the MP company medical section. Additional medical support can be requested through the forward support battalion (FSB) to the brigade medical officer. The brigade OPORD includes specific actions and support (operational requirements) needed from non-MP units.

3-42. When a division MP company commander is tasked with planning and operating a forward CP, he-

- Coordinates with the unit responsible for the area.
- Conducts a recon of the area before selecting a location.
- Locates it far enough from the fighting to avoid minor shifts in the main battle area (MBA) (normally 5 to 10 kilometers).
- Notifies the BSA tactical operations center (TOC) and the PM operations section of the selected location (grid coordinates). The BSA TOC reports the location to the brigade TOC, and the brigade TOC notifies subordinate units.
- Coordinates with MI on co-locating an MI interrogation team at the CP.
- Provides potable water and, if required, food for captives.

3-43. A forward CP is seldom located near the indigenous population to prevent problems caused by the presence of captives in the area. A forward CP is usually a guarded,

roped-off area (concertina or razor tape) or a secure, fixed facility. The capture rate and the captive categories determine the size of forward CP.

3-45. Captives should not remain at a forward CP more than 12 hours before being escorted to the central CP.

3-49. The division PVNTMED section supports the central CP by—

- Monitoring drinking water and advising on disinfection procedures.
- Controlling animals and insects that carry disease.
- Ensuring that captives help prevent illness by—
  - Drinking enough water.
  - Wearing clothing that is suited for the weather and the situation.
  - Handling heating fuels carefully.
  - Avoiding contact of exposed skin to cold metal.
  - Using insect repellent, netting, and insecticides.
  - Taking approved preventive medication.
  - Using purification tablets when water quality is uncertain.
  - Disposing of bodily wastes properly.
  - Practicing personal hygiene.

3-54. Captives should not remain at the central CP more than 24 hours before being evacuated to the CHA.

3-55. A CHA (Figure 3-4) can hold more captives for longer periods of times than a central CP. Depending on the availability of MP units to establish I/R facilities, corps MP units must be prepared to hold captives at the CHA more than 72 hours. If the CHA keeps captives more than 72 hours, MP must plan and coordinate for the increased logistics and personnel required to operate a long-term facility. The decision to hold captives longer is based on METT-TC and the availability of forces. Captives remain in the CHA until they are evacuated to an I/R facility or until hostilities end."

e. **Finding 5:**

(1) Finding: Doctrine does not clearly specify the interdependent, and yet independent, roles, missions, and responsibilities of Military Police and Military Intelligence units in the establishment and operation of interrogation facilities.

(2) Standard: Department of Defense Directive (DoDD) 2310.1, DoD Program for Enemy Prisoners of War (EPOW) and Other Detainees, 18 August 1994, Paragraph 3.4, outlines the disposition of persons captured or detained and indicates who should operate collecting points, other holding facilities and installations. The specific language in the directive follows:

"Persons captured or detained by the U.S. Military Services shall normally be handed over for safeguarding to U.S. Army Military Police, or to detainee collecting points or other holding facilities and installations operated by U.S. Army Military Police as soon as practical. Detainees may be interviewed for intelligence collection purposes at facilities and installations operated by U.S. Army Military Police."

Joint Publication (JP) 1-02, Department of Defense Dictionary of Military and Associated Terms, 12 April 2001 (as amended through 23 March 2004), defines "tactical control", often abbreviated by the acronym "TACON". The specific language in the joint publication follows:

"tactical control — Command authority over assigned or attached forces or commands, or military capability or forces made available for tasking, that is limited to the detailed direction and control of movements or maneuvers within the operational area necessary to accomplish missions or tasks assigned. Tactical control is inherent in operational control. Tactical control may be delegated to, and exercised at any level at or below the level of combatant command. When forces are transferred between combatant commands, the command relationship the gaining commander will exercise (and the losing commander will relinquish) over these forces must be specified by the Secretary of Defense. Tactical control provides sufficient authority for controlling and directing the application of force or tactical use of combat support assets within the assigned mission or task. Also called TACON."

JP 2-01, Joint Intelligence Support to Military Operations, 20 November 1996, Appendix G, paragraph 1, subparagraph d, describes the organization and function of the Joint Interrogation and Debriefing Center (JIDC). The specific language in the joint publication follows:

"Joint Interrogation and Debriefing Center. The JFC normally tasks the Army component commander to establish, secure, and maintain an EPW camp system. Under some circumstances, particularly during MOOTW, the JFC may designate another component commander to be responsible for the EPW camp system. The subordinate joint force J-2 establishes a JIDC for follow-on exploitation. The establishment (when, where, and how) of the JIDC is highly situation dependent, with the main factors being the geographic nature of the JOA, the type and pace of military operations, the camp structure, and the number and type of the sources. The JIDC may be a central site where appropriate EPW are segregated for interrogation, or it may be more of a clearinghouse operation for dispatch of interrogators or debriefers to other locations.

• Organization. The JIDC interrogation and debriefing activities are managed by the subordinate joint force HUMINT staff section or HOC. The HOC will coordinate with the TFCICA within the J-2X for CI [counterintelligence] augmentation for exploitation of those personnel of CI [counterintelligence] interest, such as civil and/or military leadership, intelligence or political officers and terrorists. The staff is augmented by deployed DHS personnel, linguists and, as required, component personnel. The HUMINT appendix of Annex B (Intelligence) to the OPLAN or CONPLAN contains JIDC planning considerations.

• Responsibilities. Service component interrogators collect tactical intelligence from EPWs based on joint force J-2 criteria. EPWs (i.e., senior level EPWs) are screened by the components and those of further intelligence potential are identified and processed for follow-on interrogation and debriefing by the JIDC to satisfy theater strategic and operational requirements. In addition to EPW, the JIDC may also interrogate civilian detainees, and debrief refugees as well as other non-prisoner sources for operational and strategic information."

FM 3-31, Joint Force Land Component Commander Handbook (JFLCC), 13 December 2001, Appendix A, paragraph A-11, describes the roles of the Joint Interrogation Facility (JIF) and the Joint Interrogation and Debriefing Center (JIDC). The specific language in the field manual follows:

"The following may be established or requested by the JFLCC in addition to the J-2X [J-2 CI [counterintelligence] and HUMINT Support Element] and JACE [Joint Analysis and Control Element]:

Joint Interrogation Facility (JIF). JIF conducts initial screening and interrogation of EPWs, translation and exploitation of captured adversary documents, and debriefing of captured or detained US personnel released or escaped from adversary control. It coordinates exploitation of captured equipment with the JCMEC [Joint Captured Materiel Exploitation Center], documents with the JDEC [Joint Document Exploitation Center], and human sources with the JIDC [Joint Interrogation and Debriefing Center]. More than one JIF may be established in the JOA depending upon the anticipated number of EPWs.

JIDC. JIDC conducts follow-on exploitation of EPWs. EPWs are screened by the JIFs, and those of further intelligence potential are identified and forwarded to the JIDC for follow-on interrogation and debriefing in support of JTF and higher requirements. Besides EPWs, the JIDC may also interrogate civilian detainees, refugees, and other nonprisoner sources. JIDC activities are managed by the J-2X HOC [HUMINT Operations Cell]."

FM 34-52, Intelligence Interrogation, 28 September 1992, Preface, establishes this FM as the doctrinal foundation for interrogations of detainees. Chapter 1 defines and explains the purpose of interrogation. Chapter 2 describes the organization and operation of the Theater Interrogation Facility (TIF). The specific language in the field manual follows:

Preface – "This manual provides doctrinal guidance, techniques, and procedures governing employment of interrogators as human intelligence (HUMINT) collection assets in support of the commander's intelligence needs. It outlines the interrogator's role within the intelligence collection effort and the supported unit's day-to-day operations.

This manual is intended for use by interrogators as well as commanders, staff officers, and military intelligence (MI) personnel charged with the responsibility of the interrogation collection effort."

Chapter 1 – "Interrogation is the process of questioning a source to obtain the maximum amount of usable information. The goal of any interrogation is to obtain reliable information in a lawful manner, in a minimum amount of time, and to satisfy intelligence requirements of any echelon of command.

A good interrogation produces needed information, which is timely, complete, clear, and accurate."

Chapter 2 – "At echelons above corps (EAC), the MI company (I&E), MI battalion (C&E) or (I&E), MI brigade (EAC), will form the Theater Interrogation Facility (TIF). The TIF, which is commanded by an MI captain, provides interrogation support to the theater or joint command and to national level intelligence agencies. The TIF will—

- Be located within the main theater EPW internment facility.
- Be tailored organizationally to meet requirements of the theater and situation.
- Include interrogators, CI [counterintelligence] personnel, and intelligence analysts from the Army, Air Force, Marine Corps, and, in some cases, the Navy.
- Be organized similarly to the CIF; that is, by function.

- Have intelligence analysts to handle requirements and keep interrogators informed of changes in the operational or strategic situation.
- Maintain the capability to deploy "GO" teams to multiple theater EPW camps, as well as to forward deploy them to corps and ECB as needed.
- Provide experienced senior interrogation warrant officers and NCOs who are graduates of the Department of Defense (DOD) Strategic Debriefer Course (additional skill identifier 9N or N7) and physical plant for the Joint Debriefing Center (JDC), where exploitation of high-level (Category A) sources takes place on operational and strategic topics."

"THEATER INTERROGATION FACILITY

The EAC interrogation facility will normally be designated as the TIF. A TIF is staffed by US Army interrogators and analysts, with support from Air Force, Navy, Marine Corps, and other US national agencies as required. In a multinational operation, a combined interrogation facility may be established with allied interrogator augmentation. In addition to conventional theater Army operations, a TIF may be established to support a joint or unified command to meet theater requirements during crisis or contingency deployments.

MI battalion companies, MI brigade (EAC) provide US Army interrogation support to the EAC TIF. The mission of the TIF is to—

- Establish liaison with host nation (HN) commanders to achieve critical intelligence information in response to theater and national level intelligence collection requirements.

- Ensure communication between HN and US military TF commanders, and establish rapport with HN interrogation activities.

- Coordinate for national level collection requirements.

- Interrogate PWs, high-level political and military personnel, civilian internees, defectors, refugees, and displaced persons.

- Participate in debriefings of US and allied personnel who have escaped after being captured, or who have evaded capture.

- Translate and exploit selected CEDs.

- Assist in technical support activity (TSA) operations (see FM 34-5(S)).

The MI battalion (I&E) has an HHC for C^3, and three interrogation companies, of which one is Active Component (AC) and the other two are RC. The companies consist of two MI companies, I&E (EPW support) and one MI company, I&E (GS-EAC).

The two MI companies support EPW compound operations. Their elements are primarily for GS at EAC, but may be deployed for DS at corps and division. The MI company (I&E) (GS-EAC) provides priority interrogation and DOCEX support to corps and divisions, to the TIF, and to temporary EPW compounds as required.

A TIF is organized into a headquarters section, operations section, and two interrogation and DOCEX sections. It will normally have an attached TSA section from Operations Group, and a liaison team from the Joint Captured Materiel Exploitation Center (JCMEC). The JCMEC liaison team assists in exploiting sources who have knowledge of captured enemy weapons and equipment.

The headquarters section provides all command, administrative, logistical, and maintenance support to the TIF. It coordinates with—

- Commander, MI Battalion (I&E) for personnel status, administrative support, and logistical support prior to deployment.

- Battalion S3 for deployment of interrogation assets.

- Theater J2 for reporting procedures, operational situation update, and theater and national level intelligence requirements.

- Provost marshal for location of theater EPW camps, and for procedures to be followed by interrogators and MP for processing, interrogating, and internment.

- Commanders of theater medical support units and internment facility for procedures to treat, and clear for questioning, wounded EPWs.

- Commander, CI [counterintelligence] company, for CI [counterintelligence] requirements and joint interrogation and CI [counterintelligence] procedures.

OPERATIONS SECTION

This section (where ideally the officer in charge [OIC] has the 3Q additional skill identifier) is organized into the operations, OB, and communications elements. The operations section—

- Designates work areas for all TIF elements.

- Establishes and maintains TIF functional files.

- Establishes interrogation priorities.

- Maintains a daily log and journal.

- Disseminates incoming and outgoing distribution.

- Conducts liaison with local officials, adjacent and subordinate intelligence activities, CI [counterintelligence], MP, PSYOP, the JCMEC, Plans and Policy Directorate (J5), and provost marshal.

- Conducts coordination with holding area OIC or enclosure commander for screening site, medical support, access, movement, and evacuation procedures for EPWs.

- Conducts operations briefings when required.

- Manages screening operations.
- Manages EPW access for intelligence collection.
- Assigns control numbers (see DIAM 58-13).
- Supervises all intelligence collection activities within the TIF."

Army Regulation (AR) 190-8, Enemy Prisoners of War, Retained Personnel, Civilian Internees and Other Detainees, 1 October 1997, Chapter 2, paragraph 2-1, provides the regulatory guidance for interrogation of detainees in a combat zone. This regulation is a multi-service regulation implementing DOD Directive 2310.1 and incorporates Army Regulation 190-8 and 190-57 and SECNAV Instruction 3461.3, and Air Force Joint Instruction 31-304 and outlines policies, procedures, and responsibilities for treatment of enemy prisoners of war (EPW), retained personnel (RP), civilian internees (CI), and other detainees (OD) and implements international law for all military operations. The specific language in the regulation follows:

"(d) Prisoners may be interrogated in the combat zone. The use of physical or mental torture or any coercion to compel prisoners to provide information is prohibited. Prisoners may voluntarily cooperate with PSYOP personnel in the development, evaluation, or dissemination of PSYOP messages or products. Prisoners may not be threatened, insulted, or exposed to unpleasant or disparate treatment of any kind because of their refusal to answer questions. Interrogations will normally be performed by intelligence or counterintelligence personnel."

Field Manual (FM) 3-19.1, Military Police Operations, 31 January 2002, Chapter 4, paragraphs 4-42 and 4-43, describe the role of MP units in detainee operations and references MI. The specific language in the field manual follows:

"4-42. The Army is the Department of Defense's (DoD's) executive agent for all EPW/CI operations. Additionally, the Army is DoD's executive agent for long-term confinement of US military prisoners. Within the Army and through the combatant commander, the MP is tasked with coordinating shelter, protection, accountability, and sustainment for EPWs/CIs. The I/R function addresses MP roles when dealing with EPWs/CIs, dislocated civilians, and US military prisoners.

4-43. The I/R function is of humane as well as tactical importance. In any conflict involving US forces, safe and humane treatment of EPWs/CIs is required by international law. Military actions on the modern battlefield will result in many EPWs/CIs. Entire units of enemy forces, separated and disorganized by the shock of intensive combat, may be captured. This can place a tremendous challenge on tactical forces and can significantly reduce the capturing unit's combat effectiveness. The MP supports the battlefield commander by relieving him of the problem of handling EPWs/CIs with combat forces. The MP performs their I/R function of collecting, evacuating, and securing EPWs throughout the AO. In this process, the MP coordinates with MI to collect information that may be used in current or future operations."

FM 3-19.40, Military Police Internment/Resettlement Operations, 1 August 2001, Preface, establishes this FM as the doctrinal foundation for detainee operations. Chapter 2, paragraph 2-1, describes the role of the MP Battalion Commander. Chapter 3, paragraph 3-3, states the need for MP and MI to work closely, and paragraphs 3-64 to 3-66 describe the MP-MI

interaction at collecting points (CPs) and corps holding areas (CHAs). The specific language in the field manual follows:

"Field Manual (FM) 3-19.40 depicts the doctrinal foundation, principles, and processes that MP will employ when dealing with enemy prisoners of war (EPWs), civilian internees (CIs), US military prisoner operations, and MP support to civil-military operations (populace and resource control [PRC], humanitarian assistance [HA], and emergency services [ES]).

2-1. An MP battalion commander tasked with operating an I/R facility is also the facility commander. As such, he is responsible for the safety and well-being of all personnel housed within the facility. Since an MP unit may be tasked to handle different categories of personnel (EPW, CI, OD, refugee, and US military prisoner), the commander, the cadre, and support personnel must be aware of the requirements for each category.

3-3. The MP work closely with military intelligence (MI) interrogation teams at CPs and CHAs to determine if captives, their equipment, and their weapons have intelligence value.

3-64. To facilitate collecting enemy tactical information, MI may collocate interrogation teams at CPs and CHAs. This provides MI with direct access to captives and their equipment and documents. Coordination is made between MP and MI to establish operating procedures that include accountability. An interrogation area is established away from the receiving/processing line so that MI personnel can interrogate captives and examine their equipment and documents. If a captive or his equipment or documents are removed from the receiving/processing line, account for them on DD Form 2708 and DA Form 4137.

3-65. The MI interrogation teams screen captives at CPs and CHAs, looking for anyone who is a potential source of information. Screeners observe captives from an area close to the dismount point or processing area. As each captive passes, MI personnel examine the capture tag and look for branch insignias that indicate a captive with information to support command priority intelligence requirements (PIR) and information requirements (IR). They also look for captives who are willing or attempting to talk to guards; joining the wrong group intentionally; or displaying signs of nervousness, anxiety, or fear.

3-66. The MP assist MI screeners by identifying captives who may have answers that support PIR and IR. Because MP are in constant contact with captives, they see how certain captives respond to orders and see the type of requests they make. The MP ensure that searches requested by MI are conducted out of sight of other captives and that guards conduct same-gender searches."

FM 6-0, Mission Command: Command and Control of Army Forces, 11 August 2003, Appendix D, paragraph D-114, describes the responsibilities of the Provost Marshal (PM). The specific language in the field manual follows:

"PM responsibilities include—

- Internment and resettlement of EPWs and civilian internees, dislocated civilians, and US military prisoners, including their—
  - Collection.
  - Detention and internment.
  - Protection.
  - Sustainment.

▪ Evacuation.

• Coordinating for all logistic requirements relative to EPW and civilian internees, US military prisoners, and dislocated civilians (with the G-4).

• Coordinating on EPW and civilian internee pay support, and financial aspects of weapons bounty programs (with the finance officer and RM)."

FM 34-52, Intelligence Interrogation, 28 September 1992, Preface, establishes this FM as the doctrinal foundation for interrogations of detainees. Chapter 1 defines and explains the purpose of interrogation. Chapter 2 describes the role of MPs in the operation of CPs and CHAs. Chapter 3 describes the role of MPs in the MI screening process. Chapter 4 allows MI to assume control of detainees from MP for interrogation. The specific language in the field manual follows:

Preface – "This manual provides doctrinal guidance, techniques, and procedures governing employment of interrogators as human intelligence (HUMINT) collection assets in support of the commander's intelligence needs. It outlines the interrogator's role within the intelligence collection effort and the supported unit's day-to-day operations.

This manual is intended for use by interrogators as well as commanders, staff officers, and military intelligence (MI) personnel charged with the responsibility of the interrogation collection effort."

"Chapter 1 – Interrogation is the process of questioning a source to obtain the maximum amount of usable information. The goal of any interrogation is to obtain reliable information in a lawful manner, in a minimum amount of time, and to satisfy intelligence requirements of any echelon of command.

A good interrogation produces needed information, which is timely, complete, clear, and accurate."

"Chapter 2 – The division's central EPW collecting point is operated by division MP under the supervision of the division provost marshal.

The capturing unit escorts or transports EPWs or detainees to the nearest collecting point, and turns them over to the MP. Interrogators in DS of the brigade will screen and categorize all EPWs or detainees, question them, and report information obtained in response to brigade PIR, IR, and SIR.

The corps MP commander operates the corps EPW holding area and provides escort guard support to divisions for EPW evacuation in routine or medical channels.

"Chapter 3 – Screeners coordinate with MP holding area guards on their role in the screening process. The guards are told where the screening will take place, how EPWs and detainees are to be brought there from the holding area, and what types of behavior on their part will facilitate the screenings."

"Chapter 4 – MI assumes control from the MP when interrogators determine a captured item or EPW is of intelligence value."

f. **Finding 6:**

(1) Finding: Military Intelligence units are not resourced with sufficient interrogators and interpreters, to conduct timely detainee screenings and interrogations in the current operating environment, resulting in a backlog of interrogations and the potential loss of intelligence.

(2) Standard: Army Regulation (AR) 190-8, Enemy Prisoners of War, Retained Personnel, Civilian Internees and Other Detainees, 1 October 1997, Chapter 2, paragraph 2-1, provides the regulatory guidance for interrogation of detainees in a combat zone. This regulation is a multi-service regulation implementing DOD Directive 2310.1 and incorporates Army Regulation 190-8 and 190-57 and SECNAV Instruction 3461.3, and Air Force Joint Instruction 31-304 and outlines policies, procedures, and responsibilities for treatment of enemy prisoners of war (EPW), retained personnel (RP), civilian internees (CI), and other detainees (OD) and implements international law for all military operations. The specific language in the regulation follows:

"(d) Prisoners may be interrogated in the combat zone. The use of physical or mental torture or any coercion to compel prisoners to provide information is prohibited. Prisoners may voluntarily cooperate with PSYOP personnel in the development, evaluation, or dissemination of PSYOP messages or products. Prisoners may not be threatened, insulted, or exposed to unpleasant or disparate treatment of any kind because of their refusal to answer questions. Interrogations will normally be performed by intelligence or counterintelligence personnel."

Field Manual (FM) 3-19.40, Military Police Internment/Resettlement Operations, 1 August 2001, Chapters 2 and 3, paragraphs 2-48, 3-3, 3-13, 3-65 to 3-68, describe doctrine for Military Intelligence (MI) operations in internment/resettlement (I/R) facilities. The specific language in the field manual follows:

"2-48. Personnel assigned or attached to I/R facilities are trained on the care and control of housed personnel. They are fully cognizant of the provisions of the Geneva and UN Conventions and applicable regulations as they apply to the treatment of housed personnel. A formal training program should include—

- Principles and laws of land warfare, specifically provisions of Geneva and UN Conventions and HN laws and customs.
- Supervisory and human relations techniques.
- Methods of self-defense.
- The use of force, the ROE, and the ROI.
- Firearms qualification and familiarization.
- Public relations, particularly CONUS operations.
- First aid.
- Stress management techniques.
- Facility regulations and SOPs.
- Intelligence and counterintelligence techniques.
- Cultural customs and habits of internees."

"3-3. The MP work closely with military intelligence (MI) interrogation teams at CPs and CHAs to determine if captives, their equipment, and their weapons have intelligence value. This process is accelerated when MI interrogation teams can observe captives during arrival and processing, and interrogators can also be used as interpreters during this phase. Before a

captive is interviewed by MI personnel, he must have a Department of Defense (DD) Form 2745 (Figure 3-1) attached to him and be accounted for on DD Form 2708.

3-13. The MP coordinate with MI interrogation teams to determine which confiscated items have intelligence value. Personal items (diaries, letters from home, and family pictures) can be taken by MI teams for review and then returned to the proper owner via MP."

"INTERROGATION TEAMS

"3-65. The MI interrogation teams screen captives at CPs and CHAs, looking for anyone who is a potential source of information. Screeners observe captives from an area close to the dismount point or processing area. As each captive passes, MI personnel examine the capture tag and look for branch insignias that indicate a captive with information to support command priority intelligence requirements (PIR) and information requirements (IR). They also look for captives who are willing or attempting to talk to guards; joining the wrong group intentionally; or displaying signs of nervousness, anxiety, or fear.

3-66. The MP assist MI screeners by identifying captives who may have answers that support PIR and IR. Because MP are in constant contact with captives, they see how certain captives respond to orders and see the type of requests they make. The MP ensure that searches requested by MI are conducted out of sight of other captives and that guards conduct same-gender searches.

3-67. The MI screeners examine captured documents, equipment and, in some cases, personal papers (journals, diaries, and letters from home). They are looking for information that identifies a captive and his organization, mission, and personal background (family, knowledge, and experience). Knowledge of a captive's physical and emotional status or other information helps screeners determine his willingness to cooperate.

LOCATION

3-68. Consider the following when planning an MI screening site:

• The site is located where screeners can observe captives as they are segregated and processed. It is shielded from the direct view of captives and is far enough away that captives cannot overhear screeners' conversations.

• The site has an operation, administrative, and interrogation area. The interrogation area accommodates an interrogator, a captive, a guard, and an interpreter as well as furniture. Lights are available for night operations.

• Procedures are implemented to verify that sick and wounded captives have been treated and released by authorized medical personnel.

• Guards are available and procedures are implemented for escorting captives to the interrogation site.

• Procedures are published to inform screeners who will be moved and when they will be moved.

• Accountability procedures are implemented and required forms are available."

FM 3-31, Joint Force Land Component Commander Handbook (JFLCC), 13 December 2001, Appendix A, paragraph A-11, describes the role of the Joint Interrogation and Debriefing Center (JIDC). The specific language in the field manual follows:

"JIDC conducts follow-on exploitation of EPWs. EPWs are screened by the JIFs, and those of further intelligence potential are identified and forwarded to the JIDC for follow-on interrogation and debriefing in support of JTF and higher requirements. Besides EPWs, the JIDC may also interrogate civilian detainees, refugees, and other nonprisoner sources. JIDC activities are managed by the J-2X HOC."

FM 27-10, The Law of Land Warfare, 18 July 1956 (change 1, 15 July 1976), Paragraph 93, describes guidelines for the questioning of enemy prisoners of war (EPWs). The specific language in the field manual follows:

"Every prisoner of war, when questioned on the subject, is bound to give only his surname, first names and rank, date of birth, and army, regimental, personal or serial number, or failing this equivalent information. If he willfully infringes this rule, he may render himself liable to a restriction of the privileges accorded to his rank or status. Each Party to a conflict is required to furnish the persons under its jurisdiction who are liable to become prisoners of war, with an identity card showing the owner's surname, first names, rank, army, regimental, personal or serial number or equivalent information, and date of birth. The identity card may, furthermore, bear the signature or the fingerprints, or both, of the owner, and may bear, as well, any other information the Party to the conflict may wish to add concerning persons belonging to its armed forces. As far as possible the card shall measure 6.5 x 10 cm. and shall be issued in duplicate. The identity card shall be shown by the prisoner of war upon demand, but may in no case be taken away from him. No 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 who refuse to answer may not be threatened, insulted, or exposed to unpleasant or disadvantageous treatment of any kind."

FM 34-52, Intelligence Interrogation, 28 September 1992, Chapter 1, defines and explains the purpose of interrogation. The specific language in the field manual follows:

"Interrogation is the process of questioning a source to obtain the maximum amount of usable information. The goal of any interrogation is to obtain reliable information in a lawful manner, in a minimum amount of time, and to satisfy intelligence requirements of any echelon of command.

A good interrogation produces needed information, which is timely, complete, clear, and accurate."

Special Text (ST) 2-22.7 (FM 34-7-1), Tactical Human Intelligence and Counterintelligence Operations, 11 April 2002, Chapter 1, paragraphs 1-19, 1-21 to 1-25, provides the doctrinal basis for the structure and utilization of tactical human intelligence assets. The specific language in the special text follows:

"1-19. The requirement for collectors is based on the density of the potential source pool. The basic methodology of collection does not change in the urban environment; however, the density of the population results in a proportional increase in the number of collectors required. This need for additional assets has been illustrated by recent operations in Somalia, Haiti, Bosnia, and Kosovo."

"ARMY CORPS AND BELOW

1-21. Army HUMINT and CI assets organic at corps and below are uniquely qualified to be the primary collection asset in many of our future conflicts. They are organic to—

- Tactical exploitation battalions (TEBs) and the corps support battalions (CSBs) at the Corps MI brigade.
- MI battalions at division.
- MI companies at armored cavalry regiments (ACRs) and separate brigades (SEP BDEs).
- MI elements at Special Forces Groups (SFGs).

1-22. Army HUMINT and CI assets provide technologically enhanced exploitation of human sources and media. This exploitation provides valuable intelligence to meet the critical requirements affecting the MDMP. The simultaneous digital interaction between operational HUMINT and CI teams and analytical elements provides the deployed commander with near-instantaneous information. This rapid transmission of critical intelligence to the user gives the supported command an information edge and a more complete vision of the battlespace.

INTERIM BRIGADE COMBAT TEAM

1-23. The brigade's intelligence system is a flexible force of Intelligence, Surveillance, and Reconnaissance (ISR) personnel, organizations, and equipment. Individually and collectively, these assets provide commanders throughout the brigade with the capability to plan and direct ISR operations, collect and process information, produce relevant intelligence, and disseminate combat information and intelligence to those who need it, when they need it. The brigade and its subordinate units possess organic ISR assets that enable the above actions. Based on METT-TC considerations the brigade task organizes its organic ISR assets for the operation and, in addition, may receive additional ISR assets from corps, joint, and national organizations.

1-24. The brigade's tactical HUMINT assets include an S2X team, a tactical HUMINT platoon with two operational management teams (OMTs) and tactical HUMINT teams, and troop HUMINT collectors in the reconnaissance, surveillance, and target acquisition (RSTA) squadron. The functions and responsibilities of these assets are the same as at higher echelons. The mission of the Troop HUMINT collector is limited to providing tactical questioning and DOCEX in support of the squadron's multidimensional reconnaissance and surveillance (R&S) mission and identifying possible sources of interest for the tactical HUMINT platoon. The functions of the different teams and offices in tactical HUMINT are similar through the echelons where tactical HUMINT is conducted.

RESERVE COMPONENT INTEGRATION

1-25. Given the Army's current operational tempo and force structure, the integration of RC forces into the AC is a near certainty for future operational deployments. Commanders must identify their requirements early and establish proactive coordination (both in garrison and while deployed) with their RC counterparts to fully integrate them during all phases of training and operations."

ST 2-91.6 Small Unit Support to Intelligence, March 2004, Chapter 2, paragraphs 2-13 to 2-17, explains the use of interpreters in tactical interrogations. The specific language in the special text follows:

"2-13. The use of interpreters is an integral part of the information collection effort. Use of an interpreter is time consuming and potentially confusing. Proper use and control of an interpreter is a skill that must be learned and practiced to maximize the potential of collection.

2-14. Perhaps the most important guideline to remember is that an interpreter is essentially your mouthpiece; he says what you say, but in a different language. This sounds simple, but for those who have never worked with interpreters, problems can quickly develop.

2-15. Upon meeting your interpreter, it is important that you assess his proficiency in English. You need an interpreter with a firm grasp of English and the terminology you may encounter.

2-16. Interpreters are categorized as to capability and clearance they have been granted. The categories below are more fully detailed in Interpreter Ops, Multi-Service Reference Manual for Interpreter Operations, February 2004. This manual can be obtained from the Air Land Sea Application (ALSA) Center.

CATEGORIES OF INTERPRETERS

- CAT I Linguists - Locally hired personnel with an understanding of the English language. These personnel are screened and hired in-theater and do not possess a security clearance. During most operations, CAT I linguists are required to be re-screened by CI personnel on a scheduled basis. CAT I linguists should not be used for HUMINT collection operations.

- CAT II Linguists - CAT II linguists are United States citizens who have native command of the target language and near-native command of the English language. These personnel undergo a screening process, which includes a background check. Upon favorable findings, these personnel are granted an equivalent of a Secret Collateral clearance.

- CAT III Linguists - CAT III linguists are United States citizens who have native command of the target language and native command of the English language. These personnel undergo a screening process, which includes a special background check. Upon favorable findings, these personnel are granted an equivalent of a Top Secret (TS) clearance. CAT III linguists are used mostly for high-ranking official meetings and by strategic collectors.

2-17. The following are several tips that should prove useful when working with an interpreter.

Placement

- When standing, the interpreter should stand just behind you and to the side.
- When sitting, the interpreter should sit right beside you but not between you and the individual.

Body Language and Tone

- Have the interpreter translate your message in the tone you are speaking.

- Ensure the interpreter avoids making gestures.

Delivery

- Talk directly to the person with whom you are speaking, not the interpreter.
- Speak as you would in a normal conversation, not in the third person. For example, do not say, "Tell him that...." Rather say, "I understand that you..." and instruct the interpreter to translate as such.
- Speak clearly, avoid acronyms or slang, and break sentences uniformly to facilitate translation.
- Some interpreters will begin to translate while you are still speaking. This is frustrating for some people. If so, discuss the preference of translation with the interpreter.
- The most important principle to obey while using an interpreter is to remember that you control the conversation, not the interpreter.

Security

- Work on the premise that the interpreter is being debriefed by a threat intelligence service.
- Always assume the worst.
- Avoid careless talk.
- Avoid giving away personal details.
- Do not become emotionally involved!

Interpreter Checklist for Patrolling

- Tell the interpreter what you expect of him, and how you want him to do it.
- Tell the interpreter exactly what you want translated. The interpreter should translate all conversation between you and the individual without adding anything on his own.
- Just as questioning should be conducted in such a way as to disguise the true intent of the questioning from the source, you should not reveal intelligence requirements (FFIR, IR, or essential elements of friendly information [EEFI]) to the interpreter.

Brief the interpreter on actions to take at the halt or in the event of enemy contact."

g. **Finding 7:**

(1) Finding: Tactical Military Intelligence officers are not adequately trained on how to manage the full spectrum of the collection and analysis of human intelligence.

(2) Standard: Army Regulation 350-1, Army Training and Education, 9 April 2003, Chapter 3, paragraph 3-2, requires that TRADOC establish training and education goals and objectives for all Army personnel. The specific language in the regulation follows:

"Training proponents. These would include TRADOC schools and colleges, USAJFKSWC&S and AMEDDC&S and would perform the following.

(a) Develop courses based on established training and education goals and objectives as well as the duties, responsibilities, and missions their graduates will be assigned.

(b) Develop, evaluate, and train leader, technical, and tactical tasks that focus on missions for the size or type units to which graduates will be assigned.

(c) Provide progressive and sequential training.

(d) Provide personnel serving at the same organizational level with training consisting of the same tasks, conditions, and standards.

(e) Provide leader, technical, and tactical training that affords soldiers and DA civilians an opportunity to acquire the skills and knowledge needed to perform more complex duties and missions of greater responsibility."

Field Manual (FM) 7-0, Training the Force, 22 October 2002, Chapter 1, paragraph 1-29, gives overall guidance for the implementation of Professional Military Education (PME). The specific language in the field manual follows:

"Professional Military Education - PME develops Army leaders. Officer, warrant officer, and NCO training and education is a continuous, career-long, learning process that integrates structured programs of instruction—resident at the institution and non-resident via distributed learning at home station. PME is progressive and sequential, provides a doctrinal foundation, and builds on previous training, education and operational experiences. PME provides hands-on technical, tactical, and leader training focused to ensure leaders are prepared for success in their next assignment and higher-level responsibility.

• Officer Education System (OES). Army officers must lead and fight; be tactically and technically competent; possess leader skills; understand how the Army operates as a service, as well as a component of a joint, multinational, or interagency organization; demonstrate confidence, integrity, critical judgment, and responsibility; operate in a complex, uncertain, and rapidly changing environment; build effective teams amid continuous organizational and technological change; and solve problems creatively. OES develops officers who are self-aware and adaptive to lead Army units to mission success.

• Warrant Officer Education System (WOES). Warrant officers are the Army's technical experts. WOES develops a corps of highly specialized experts and trainers who are fully competent and proficient operators, maintainers, administrators, and managers of the Army's equipment, support activities, and technical systems.

• NCO Education System (NCOES). NCOES trains NCOs to lead and train soldiers, crews, and subordinate leaders who work and fight under their leadership. NCOES provides hands-on technical, tactical, and leader training focused to ensure that NCOs are prepared for success in their next assignment and higher-level responsibility.

• Functional Training. In addition to the preceding PME courses, there are functional courses available in both resident and non-resident distributed learning modes that enhance functional skills for specific duty positions. Examples are Battalion S2, Battalion Motor Officer, First Sergeant, Battle Staff NCO, and Airborne courses."

FM 34-52, Intelligence Interrogation, 28 September 1992, Chapter 1, Intelligence Disciplines, states that the Intelligence Electronic Warfare (IEW) system includes three MI disciplines. The specific language in the field manual follows:

"HUMINT -

HUMINT is obtained from information collected from human sources and consists of the following intelligence collection operations. Interrogation of EPWs, civilian detainees, insurgents, defectors, refugees, displaced persons and agents and suspected agents.

- Long-range surveillance patrols.
- Strategic debriefing
- Controlled collection operations
- Open-source exploitation, to include publications and broadcasts.
- Reports of contact from forward units.
- Observation and listening posts
- Low-level source operations (LLSO)
- HUMINT liaison contacts

HUMINT is vital in all combat operations, regardless of echelon or intensity of conflict. By nature, HUMINT lends itself to the collection of information about the enemy's thought processes and intentions. HUMINT can provide information on almost ant topic of intelligence interest, including order of battle (OB) factors, as well as scientific and technical (S&T) intelligence subjects. During operation Desert Storm, interrogators collected information which helped to -

- Develop a plan to breach Iraqi defensive belts.
- Confirm Iraqi supply line interdiction by coalition air strikes.
- Identify diminishing Iraqi troop morale.
- Identify a US Prisoner of war captured during the battle of Kanji."

h. **Finding 8:**

(1) Finding: The DAIG Team found that officially approved CJTF-7 and CJTF-180 policies and the early CJTF-180 practices generally met legal obligations under US law, treaty obligations and policy, if executed carefully, by trained soldiers, under the full range of safeguards. The DAIG Team found that policy was not clear and contained ambiguity. The DAIG Team found implementation, training, and oversight of these policies was inconsistent; the Team concluded, however, based on a review of cases through 9 June 2004 that no confirmed instance of detainee abuse resulted from the approved policies.

(2) Standard: Standard of treatment for detainees in OPERATION ENDURING FREEDOM (OEF): The Secretary of Defense determined that members of the Taliban militia and members of Al Qaida under the control of US Forces would be treated humanely and, to the extent appropriate and consistent with military necessity, in a manner consistent with the principles of the Geneva Conventions of 1949. The DAIG has therefore used the provisions of the Geneva Conventions as a benchmark against which to measure the treatment provided to detainees by U.S. Forces to determine if detainees were treated humanely. The use of these standards as benchmarks does not state or imply a position for the United States or U.S. Army on the legal status of its operations in OEF.

Chairman, Joint Chiefs of Staff (CJCS) Message dated 211933Z JAN 02, provides the determination regarding the humane treatment of Al Qaida and Taliban detainees. Convention Relative to the Treatment of Prisoners of War of August 12, 1949 (GPW) is the international

treaty that governs the treatment of prisoners of war, and Geneva Convention Relative to the Protection of Civilian Persons in Time of War (GC), August 12, 1949, is the international treaty that governs the treatment of civilian persons in time of war.

As the guidance did not define "humane treatment" but did state that the US would treat members of the Taliban militia and Al Qaida in a manner consistent with the Geneva Conventions, the DAIG determined that it would use Common Article 3 of the GCs as its floor measure of humane treatment, but would also include provisions of the Geneva Convention on the Treatment of Prisoners of War (GPW) and Geneva Convention Relative to the Protection of Civilian Persons in Time of War (GC) as other relevant indicia of "humane treatment." The use of this standard does not state or imply a position for the United States or U.S. Army on the legal status of its operations in OEF.

Standard of treatment for detainees in OPERATION IRAQI FREEDOM (OIF): OIF was an international armed conflict and therefore the provisions of the Geneva Conventions applied. Additionally, the United States was an occupying power and has acted in accordance with the obligations of an occupying power described in the Hague Convention No. IV Respecting the Laws and Customs of War on Land (H.IV), 18 October 1907, including, but not limited to, Articles 43-46 and 50; Geneva Convention Relative to the Treatment of Prisoners of War of August 12, 1949 (GPW), Geneva Convention Relative to the Protection of Civilian Persons in Time of War (GC), 12 August 1949. The GC supplements H.IV, providing the general standard of treatment at Article 27 and specific standards in subsequent Articles.

The minimum treatment provided by Common Article 3 of the Geneva Conventions is: 1) No adverse distinction based upon race, religion, sex, etc.; 2) No violence to life or person; 3) No taking hostages; 4) No degrading treatment; 5) No passing of sentences in absence of fair trial, and; 6) The wounded and sick must be cared for.

The specific language in the CJCS Message for OEF and the GPW/GC and H.IV follows:

CJCS Message dated 211933Z JAN 02, "Paragraph 3. The combatant commanders shall, in detaining Al Qaida and Taliban individuals under control of the Department of Defense, treat them humanely and, to the extent appropriate and consistent with military necessity, in a manner consistent with the principles of the Geneva Conventions of 1949."

GPW/GC, Article 3 (Common Article 3) – "In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each party to the conflict shall be bound to apply, as a minimum, the following provisions:

1. Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, color, religion or faith, sex, birth or wealth, or any other similar criteria.

To this end the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons:

(a) Violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;

(b) Taking of hostages;
(c) Outrages upon personal dignity, in particular, humiliating and degrading treatment;
(d) The passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court affording all the judicial guarantees which are recognized as indispensable by civilized peoples.

2. The wounded and sick shall be collected and cared for. An impartial humanitarian body, such as the International Committee of the Red Cross, may offer its services to the Parties to the conflict. The Parties to the conflict should further endeavour to bring into force, by means of special agreements, all or part of the other provisions of the present Convention. The application of the preceding provisions shall not affect the legal status of the Parties to the conflict."

Geneva Convention Relative to the Treatment of Prisoners of War, 12 August 1949, Part II, Article 13, requires that enemy prisoners of war (EPWs) be treated humanely at all times; Part III, Section I, Articles 13, 14, and 17, explain the protections afforded EPWs. The specific language in the convention follows:

"Article 13

Prisoners of war must at all times be humanely treated. Any unlawful act or omission by the Detaining Power causing death or seriously endangering the health of a prisoner of war in its custody is prohibited, and will be regarded as a serious breach of the present Convention. In particular, no prisoner of war may be subjected to physical mutilation or to medical or scientific experiments of any kind which are not justified by the medical, dental or hospital treatment of the prisoner concerned and carried out in his interest.

Likewise, prisoners of war must at all times be protected, particularly against acts of violence or intimidation and against insults and public curiosity.

Measures of reprisal against prisoners of war are prohibited.

Article 14

Prisoners of war are entitled in all circumstances to respect for their persons and their honour. Women shall be treated with all the regard due to their sex and shall in all cases benefit by treatment as favourable as that granted to men. Prisoners of war shall retain the full civil capacity which they enjoyed at the time of their capture. The Detaining Power may not restrict the exercise, either within or without its own territory, of the rights such capacity confers except in so far as the captivity requires."

Article 17

Every prisoner of war, when questioned on the subject, is bound to give only his surname, first names and rank, date of birth, and army, regimental, personal or serial number, or failing this, equivalent information. If he willfully infringes this rule, he may render himself liable to a restriction of the privileges accorded to his rank or status.

Each Party to a conflict is required to furnish the persons under its jurisdiction who are liable to become prisoners of war, with an identity card showing the owner's surname, first names, rank, army, regimental, personal or serial number or equivalent information, and date of

birth. The identity card may, furthermore, bear the signature or the fingerprints, or both, of the owner, and may bear, as well, any other information the Party to the conflict may wish to add concerning persons belonging to its armed forces. As far as possible the card shall measure 6.5 x 10 cm. and shall be issued in duplicate. The identity card shall be shown by the prisoner of war upon demand, but may in no case be taken away from him.

No 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 who refuse to answer may not be threatened, insulted, or exposed to any unpleasant or disadvantageous treatment of any kind.

Prisoners of war who, owing to their physical or mental condition, are unable to state their identity, shall be handed over to the medical service. The identity of such prisoners shall be established by all possible means, subject to the provisions of the preceding paragraph.

The questioning of prisoners of war shall be carried out in a language which they understand."

Geneva Convention Relative to the Protection of Civilian Persons in Time of War, 12 August 1949, Part III, Section I, Articles 31 32, and 100, prohibit coercion and abuse of civilian internees. The specific language in the convention follows:

"Article 31

No physical or moral coercion shall be exercised against protected persons, in particular to obtain information from them or from third parties.

Article 32

The High Contracting Parties specifically agree that each of them is prohibited from taking any measure of such a character as to cause the physical suffering or extermination of protected persons in their hands. This prohibition applies not only to murder, torture, corporal punishment, mutilation and medical or scientific experiments not necessitated by the medical treatment of a protected person but also to any other measures of brutality whether applied by civilian or military agents."

"Article 100

The disciplinary regime in places of internment shall be consistent with humanitarian principles, and shall internees any physical exertion dangerous to their health or involving physical or moral victimization. Identification by tattooing or imprinting signs or markings on the body, is prohibited. In particular, prolonged standing and roll-calls, punishment drill, military drill and manoeuvres, or the reduction of food rations, are prohibited."

Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 10 December 1984, Part I, Articles 1,2,10,11 and 16(1) define torture (1), the basic responsibilities of states under the convention (2), the requirement for training personnel on this convention (10), the need to conduct systematic reviews of interrogations rules, instructions, methods and practices (11), and the requirement to prevent acts not amounting to "torture"

committed with consent or acquiescence of a public official or other person in an official capacity (16). The specific language in the convention follows:

"Article 1

1. For the purposes of this Convention, the term "torture" means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.

2. This article is without prejudice to any international instrument or national legislation which does or may contain provisions of wider application.

Article 2

1. Each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction.

2. No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political in stability or any other public emergency, may be invoked as a justification of torture.

3. An order from a superior officer or a public authority may not be invoked as a justification of torture.

Article 10

1. Each State Party shall ensure that education and information regarding the prohibition against torture are fully included in the training of law enforcement personnel, civil or military, medical personnel, public officials and other persons who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment.

2. Each State Party shall include this prohibition in the rules or instructions issued in regard to the duties and functions of any such person.

Article 11

Each State Party shall keep under systematic review interrogation rules, instructions, methods and practices as well as arrangements for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment in any territory under its jurisdiction, with a view to preventing any cases of torture.

Article 16 (1)

Each State Party shall undertake to prevent in any territory under its jurisdiction other acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture as

defined in article I, when such acts are committed by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. In particular, the obligations contained in articles 10, 11, 12 and 13 shall apply with the substitution for references to torture of references to other forms of cruel, inhuman or degrading treatment or punishment.

US Reservations, Declarations and Understandings the Convention Against Torture. The United States Senate ratified the Convention Against Torture subject to certain reservations, declarations and understandings. Pertinent reservations and understandings are as follow:

Senate Reservations: (136 Cong Rec S 17486):

The Senate's advice and consent is subject to the following reservations:
(1) That the United States considers itself bound by the obligation under article 16 to prevent `cruel, inhuman or degrading treatment or punishment', only insofar as the term `cruel, inhuman or degrading treatment or punishment' means the cruel, unusual and inhumane treatment or punishment prohibited by the Fifth, Eighth, and/or Fourteenth Amendments to the Constitution of the United States.

Senate Understandings (136 Cong Rec S 17486):
The Senate's advice and consent is subject to the following understandings, which shall apply to the obligations of the United States under this Convention:

(1) (a) That with reference to article 1, the United States understands that, in order to constitute torture, an act must be specifically intended to inflict severe physical or mental pain or suffering and that mental pain or suffering refers to prolonged mental harm caused by or resulting from (1) the intentional infliction or threatened infliction of severe physical pain or suffering; (2) the administration or application, or threatened administration or application, of mind altering substances or other procedures calculated to disrupt profoundly the senses or the personality; (3) the threat of imminent death; or (4) the threat that another person will imminently be subjected to death, severe physical pain or suffering, or the administration or application of mind altering substances or other procedures calculated to disrupt profoundly the senses or personality.

(b) That the United States understands that the definition of torture in article 1 is intended to apply only to acts directed against persons in the offender's custody or physical control.

(c) That with reference to article 1 of the Convention, the United States understands that `sanctions' includes judicially-imposed sanctions and other enforcement actions authorized by United States law or by judicial interpretation of such law provided that such sanctions or actions are not clearly prohibited under international law.

(d) That with reference to article 1 of the Convention, the United States understands that the term `acquiescence' requires that the public official, prior to the activity constituting torture, have awareness of such activity and thereafter breach his legal responsibility to intervene to prevent such activity.

(e) That with reference to article 1 of the Convention, the Unites States understands that noncompliance with applicable legal procedural standards does not per se constitute torture.

Domestic Criminal Law: US Domestic Criminal law reflects treaty obligations and ratification reservations and understandings regarding torture in the adoption of 18 USCS §§2340, 2340A, which state:

18 USC§ 2340 Definitions
As used in this chapter [18 USCS §§ 2340 et seq.]-

(1) "torture" means an act committed by a person acting under the color of law specifically intended to inflict severe physical or mental pain or suffering (other than pain or suffering incidental to lawful sanctions) upon another person within his custody or physical control;

(2) "severe mental pain or suffering" means the prolonged mental harm caused by or resulting from-

(A) the intentional infliction or threatened infliction of severe physical pain or suffering;

(B) the administration or application, or threatened administration or application, of mind-altering substances or other procedures calculated to disrupt profoundly the senses or the personality;

(C) the threat of imminent death;

(D) the threat that another person will imminently be subjected to death, severe physical pain or suffering, or the administration or application of mind-altering substances or other procedures calculated to disrupt profoundly the senses or personality; and

(3) "United States" includes all areas under the jurisdiction of the United States including any of the places described in sections 5 and 7 of this title and section 46501(2) of title 49.

§ 2340A. Torture

(a) Offense. Whoever outside the United States commits or attempts to commit torture shall be fined under this title or imprisoned not more than 20 years, or both, and if death results to any person from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

(b) Jurisdiction. There is jurisdiction over the activity prohibited in subsection (a) if--
(1) the alleged offender is a national of the United States; or
(2) the alleged offender is present in the United States, irrespective of the nationality of the victim or alleged offender.

(c) Conspiracy. A person who conspires to commit an offense under this section shall be subject to the same penalties (other than the penalty of death) as the penalties prescribed for the offense, the commission of which was the object of the conspiracy.

Field Manual (FM) 34-52, Intelligence Interrogation, 28 September 1992, Chapter 1, explains the prohibitions against use of torture or coercion. Chapter 3 describes the interrogation approaches and techniques used by trained Army interrogators. The specific language in the field manual follows:

Chapter 1 – "One of the significant means used by the intelligence staff is the interrogation of the following:

- EPWs.
- Captured insurgents.
- Civilian internees.
- Other captured, detained, or retained persons.
- Foreign deserters or other persons of intelligence interest.

These persons are protected by the Geneva Conventions for the Protection of War Victims of August 12, 1949, as they relate to captured wounded and sick enemy personnel (GWS), retained enemy medical personnel and chaplains (GWS), enemy prisoners of war (GPW), and civilian internees (GC). Captured insurgents and other detained personnel whose status is not clear, such as suspected terrorists, are entitled to PW protection until their precise status has been determined by competent authority.

In conducting intelligence interrogations, the J2, G2, or S2 has primary staff responsibility to ensure these activities are performed in accordance with the GWS, GPW, and GC, as well as US policies, regarding the treatment and handling of the above-mentioned persons.

The GWS, GPW, GC, and US policy expressly prohibit acts of violence or intimidation, including physical or mental torture, threats, insults, or exposure to inhumane treatment as a means of or aid to interrogation.

Such illegal acts are not authorized and will not be condoned by the US Army. Acts in violation of these prohibitions are criminal acts punishable under the UCMJ. If there is doubt as to the legality of a proposed form of interrogation not specifically authorized in this manual, the advice of the command judge advocate should be sought before using the method in question.

Experience indicates that the use of prohibited techniques is not necessary to gain the cooperation of interrogation sources. Use of torture and other illegal methods is a poor technique that yields unreliable results, may damage subsequent collection efforts, and can induce the source to say what he thinks the interrogator wants to hear.

Revelation of use of torture by US personnel will bring discredit upon the US and its armed forces while undermining domestic and international support for the war effort. It also may place US and allied personnel in enemy hands at a greater risk of abuse by their captors. Conversely, knowing the enemy has abused US and allied PWs does not justify using methods of interrogation specifically prohibited by the GWS, GPW, or GC, and US policy.

Limitations on the use of methods identified herein as expressly prohibited should not be confused with psychological ploys, verbal trickery, or other nonviolent or noncoercive ruses used by the interrogator in the successful interrogation of hesitant or uncooperative sources.

The psychological techniques and principles in this manual should neither be confused with, nor construed to be synonymous with, unauthorized techniques such as brainwashing, physical or mental torture, or any other form of mental coercion to include drugs that may induce lasting and permanent mental alteration and damage.

Physical or mental torture and coercion revolve around eliminating the source's free will, and are expressly prohibited by GWS, Article 13; GPW, Articles 13 and 17; and GC, Articles 31 and 32. Torture is defined as the infliction of intense pain to body or mind to extract a confession or information, or for sadistic pleasure.

Examples of physical torture include—

- Electric shock.
- Infliction of pain through chemicals or bondage (other than legitimate use of restraints to prevent escape).
- Forcing an individual to stand, sit, or kneel in abnormal positions for prolonged periods of time.
- Food deprivation.
- Any form of beating.

Examples of mental torture include—

- Mock executions.
- Abnormal sleep deprivation.=
- Chemically induced psychosis.

Coercion is defined as actions designed to unlawfully induce another to compel an act against one's will. Examples of coercion include—

- Threatening or implying physical or mental torture to the subject, his family, or others to whom he owes loyalty.
- Intentionally denying medical assistance or care in exchange for the information sought or other cooperation.
- Threatening or implying that other rights guaranteed by the GWS, GPW, or GC will not be provided unless cooperation is forthcoming.

Chapter 3 – "The number of approaches used is limited only by the interrogator's skill. Almost any ruse or deception is usable as long as the provisions of the GPW, as outlined in Figure 1-4, are not violated.

An interrogator must not pass himself off as a medic, chaplain, or as a member of the Red Cross (Red Crescent or Red Lion). To every approach technique, there are literally hundreds of possible variations, each of which can be developed for a specific situation or source. The variations are limited only by the interrogator's personality, experience, ingenuity, and imagination.

3-7 There are four primary factors that must be considered when selecting tentative approaches:

- The source's mental and physical state. Is the source injured, angry, crying, arrogant, cocky, or frightened? If so, how can this state be best exploited during interrogation.
- The source's background. What is the source's age and level of military or civilian experience.
- The objective of the interrogation. How much time is available for the interrogation? Is the commander interested only in specific areas (PIR, IR, SIR)? Is this source knowledgeable enough to require a full OB interrogation?
- The interrogator himself. What abilities does he have that can be brought into play? What weaknesses does he have that may interfere with the interrogation? Can his personality adapt to the personality of the source?

APPROACH COMBINATIONS

With the exception of the direct approach, no other approach is effective by itself. Interrogators use different approach techniques or combine them into a cohesive, logical technique. Smooth transitions, sincerity, logic, and conviction almost always make a strategy work. The lack of will undoubtedly dooms it to failure. Some examples of combinations are—

Direct—futility—incentive.

Direct—futility—love of comrades.

Direct—fear-up (mild)—incentive.

The number of combinations are unlimited. Interrogators must carefully choose the approach strategy in the planning and preparation phase and listen carefully to what the source is saying (verbally or nonverbally) for leads the strategy chosen will not work. When this occurs, the interrogator must adapt to approaches he believes will work in gaining the source's cooperation.

The approach techniques are not new nor are all the possible or acceptable techniques discussed below. Everything the interrogator says and does must be in concert with the GWS, GPW, GC, and UCMJ. The approaches which have proven effective are—

- Direct.
- Incentive.
- Emotional.
- Increased fear-up.
- Pride and ego.

Direct Approach

The interrogator asks questions directly related to information sought, making no effort to conceal the interrogation's purpose. The direct approach, always the first to be attempted, is used on EPWs or detainees who the interrogator believes will cooperate.

This may occur when interrogating an EPW or detainee who has proven cooperative during initial screening or first interrogation. It may also be used on those with little or no security training. The direct approach works best on lower enlisted personnel, as they have little or no resistance training and have had minimal security training.

The direct approach is simple to use, and it is possible to obtain the maximum amount of information in the minimum amount of time. It is frequently employed at lower echelons when the tactical situation precludes selecting other techniques, and where the EPW's or detainee's mental state is one of confusion or extreme shock. Figure C-3 contains sample questions used in direct questioning.

The direct approach is the most effective. Statistics show in World War II, it was 90 percent effective. In Vietnam and OPERATIONS URGENT FURY, JUST CAUSE, and DESERT STORM, it was 95 percent effective.

Incentive Approach

The incentive approach is based on the application of inferred discomfort upon an EPW or detainee who lacks willpower. The EPW or detainee may display fondness for certain luxury items such as candy, fruit, or cigarettes. This fondness provides the interrogator with a positive means of rewarding the EPW or detainee for cooperation and truthfulness, as he may give or withhold such comfort items at his discretion. Caution must be used when employing this technique because—

- Any pressure applied in this manner must not amount to a denial of basic human needs under any circumstances. [NOTE: Interrogators may not withhold a source's rights under the GPW, but they can withhold a source's privileges.] Granting incentives must not infringe on these rights, but they can be things to which the source is already entitled. This can be effective only if the source is unaware of his rights or privileges.

- The EPW or detainee might be tempted to provide false or inaccurate information to gain the desired luxury item or to stop the interrogation.

The GPW, Article 41, requires the posting of the convention contents in the EPW's own language. This is an MP responsibility.

Incentives must seem to be logical and possible. An interrogator must not promise anything that cannot be delivered. Interrogators do not make promises, but usually infer them while sidestepping guarantees.

For example, if an interrogator made a promise he could not keep and he or another interrogator had to talk with the source again, the source would not have any trust and would probably not cooperate. Instead of clearly promising a certain thing, such as political asylum, an interrogator will offer to do what he can to help achieve the source's desired goal; as long as the source cooperates.

As with developing rapport, the incentive approach can be broken down into two incentives. The determination rests on when the source expects to receive the incentive offered.

- Short term—received immediately; for example, letter home, seeing wounded buddies.

- Long term—received within a period of time; for example, political asylum.

Emotional Approach

Through EPW or detainee observation, the interrogator can often identify dominant emotions which motivate. The motivating emotion may be greed, love, hate, revenge, or others. The interrogator employs verbal and emotional ruses in applying pressure to the EPW's or detainee's dominant emotions.

One major advantage of this technique is it is versatile and allows the interrogator to use the same basic situation positively and negatively.

For example, this technique can be used on the EPW who has a great love for his unit and fellow soldiers. The interrogator may take advantage of this by telling the EPW that by providing pertinent information, he may shorten the war or battle in progress and save many of his comrades' lives, but his refusal to talk may cause their deaths. This places the burden on the EPW or detainee and may motivate him to seek relief through cooperation.

Conversely, this technique can also be used on the EPW or detainee who hates his unit because it withdrew and left him to be captured, or who feels he was unfairly treated in his unit. In such cases, the interrogator can point out that if the EPW cooperate and specifies the unit's location, the unit can be destroyed, thus giving the EPW an opportunity for revenge. The interrogator proceeds with this method in a very formal manner.

This approach is likely to be effective with the immature and timid EPW.

Emotional Love Approach. For the emotional love approach to be successful, the interrogator must focus on the anxiety felt by the source about the circumstances in which he finds himself. The interrogator must direct the love the source feels toward the appropriate object: family, homeland, or comrades. If the interrogator can show the source what the source himself can do to alter or improve his situation, the approach has a chance of success.

This approach usually involves some incentive such as communication with the source's family or a quicker end to the war to save his comrades' lives. A good interrogator will usually orchestrate some futility with an emotional love approach to hasten the source's reaching the breaking point.

Sincerity and conviction are critical in a successful attempt at an emotional love approach as the interrogator must show genuine concern for the source, and for the object at which the interrogator is directing the source's emotion.

If the interrogator ascertains the source has great love for his unit and fellow soldiers, the interrogator can effectively exploit the situation. This places a burden on the source and may motivate him to seek relief through cooperation with the interrogator.

Emotional Hate Approach. The emotional hate approach focuses on any genuine hate, or possibly a desire for revenge, the source may feel. The interrogator must ascertain exactly what it is the source may hate so the emotion can be exploited to override the source's rational

side. The source may have negative feelings about his country's regime, immediate superiors, officers in general, or fellow soldiers.

This approach is usually most effective on members of racial or religious minorities who have suffered discrimination in military and civilian life. If a source feels he has been treated unfairly in his unit, the interrogator can point out that, if the source cooperates and divulges the location of that unit, the unit can be destroyed, thus affording the source revenge.

By using a conspiratorial tone of voice, the interrogator can enhance the value of this technique. Phrases, such as "You owe them no loyalty for the way they treated you," when used appropriately, can expedite the success of this technique.

Do not immediately begin to berate a certain facet of the source's background or life until your assessment indicates the source feels a negative emotion toward it.

The emotional hate approach can be used more effectively by drawing out the source's negative emotions with questions that elicit a thought-provoking response. For example, "Why do you think they allowed you to be captured?" or "Why do you think they left you to die?" Do not berate the source's forces or homeland unless certain negative emotions surface.

Many sources may have great love for their country, but may hate the regime in control. The emotional hate approach is most effective with the immature or timid source who may have no opportunity up to this point for revenge, or never had the courage to voice his feelings.

Fear-Up Approach

The fear-up approach is the exploitation of a source's preexisting fear during the period of capture and interrogation. The approach works best with young, inexperienced sources, or sources who exhibit a greater than normal amount of fear or nervousness. A source's fear may be justified or unjustified. For example, a source who has committed a war crime may justifiably fear prosecution and punishment. Be contrast, a source who has been indoctrinated by enemy propaganda may unjustifiably fear that he will suffer torture or death in or hand if captured.

This approach has the greatest potential to violate the law of war. Great care must be taken to avoid threatening or coercing a source which is in violation of the GPW, Article 17.

It is critical the interrogator distinguish what the source fears in order to exploit that fear. The way in which the interrogator exploits the source's fear depends on whether the source's fear is justified or unjustified.

Fear-Up (Harsh). In this approach, the interrogator behaves in an overpowering manner with a loud and threatening voice. The interrogator may even feel the need to throw objects across the room to heighten the source's implanted feelings of fear. Great care must be taken when doing this so any actions would not violate the prohibition on coercion and threats contained in the GPW, Article 17.

This technique is to convince the source he does indeed have something to fear; that he has no option but to cooperate. A good interrogator will implant in the source's mind that the interrogator himself is not the object to be feared, but is a possible way out of the trap.

Use the confirmation of fear only on sources whose fear is justified. During this approach, confirm to the source that he does indeed have a legitimate fear. Then convince the source that you are the source's best or only hope in avoiding or mitigating the object of his fear, such as punishment for his crimes.

You must take great care to avoid promising actions that are not in your power to grant. For example, if the source has committed a war crime, inform the source that the crime has been reported to the appropriate authorities and that action is pending. Next inform the source that, if he cooperates and tells the truth, you will report that he cooperated and told the truth to the appropriate authorities. You may add that you will also report his lack of cooperation. You may not promise that the charges against him will be dismissed because you have no authority to dismiss the charges.

Fear-Up (Mild). This approach is better suited to the strong, confident type of interrogator; there is generally no need to raise the voice or resort to heavy-handed, table-banging.

For example, capture may be a result of coincidence—the soldier was caught on the wrong side of the border before hostilities actually commenced (he was armed, he could be a terrorist)—or as a result of his actions (he surrendered contrary to his military oath and now a traitor to his country, and his forces will take care of the disciplinary action).

The fear-up (mild) approach must be credible. It usually involves some logical incentive.

In most cases, a loud voice is not necessary. The actual fear is increased by helping the source realize the unpleasant consequences the facts may cause and by presenting an alternative, which, of course, can be brought about by answering some simple questions.

The fear-up (harsh) approach is usually a dead end, and a wise interrogator may want to keep it in reserve as a trump card. After working to increase the source's fear, it would be difficult to convince him everything will be all right if the approach is not successful.

Fear-Down Approach

This technique is nothing more than calming the source and convincing him he will be properly and humanely treated, or telling him the war for him is mercifully over and he need not go into combat again. When used with a soothing, calm tone of voice, this often creates rapport and usually nothing else is needed to get the source to cooperate.

While calming the source, it is a good idea to stay initially with nonpertinent conversation and to avoid the subject which has caused the source's fear. This works quickly in developing rapport and communication, as the source will readily respond to kindness.

When using this approach, it is important the interrogator relate to the source at his perspective level and not expect the source to come up to the interrogator's level.

If the EPW or detainee is so frightened he has withdrawn into a shell or regressed to a less threatening state of mind, the interrogator must break through to him. The interrogator can do this by putting himself on the same physical level as the source; this may require some physical contact. As the source relaxes and begins to respond to kindness, the interrogator can begin asking pertinent questions.

This approach technique may backfire if allowed to go too far. After convincing the source he has nothing to fear, he may cease to be afraid and may feel secure enough to resist the interrogator's pertinent question. If this occurs, reverting to a harsher approach technique usually will bring the desired result quickly.

The fear-down approach works best if the source's fear is unjustified. During this approach, take specific actions to reduce the source's unjustified fear. For example, if the source believes that he will be abused while in your custody, make extra efforts to ensure that the source is well cared for, fed, and appropriately treated.

Once the source is convinced that he has no legitimate reason to fear you, he will be more inclined to cooperate. The interrogator is under no duty to reduce a source's unjustified fear. The only prohibition is that the interrogator may not say or do anything that directly or indirectly communicates to the source that he will be harmed unless he provides the requested information.

These applications of the fear approach may be combined to achieve the desire effect. For example, if a source has justified and unjustified fears, you may initially reduce the source's unfounded fears, and then confirm his legitimate fears. Again, the source should be convinced the interrogator is his best or only hop in avoiding or mitigating the object of his fear.

Pride and Ego Approach

The strategy of this approach is to trick the source into revealing desired information by goading or flattering him. It is effective with sources who have displayed weakness or feelings of inferiority. A real or imaginary deficiency voiced about the source, loyalty to his organization, or any other feature can provide a basis for this technique.

The interrogator accuses the source of weakness or implies he is unable to do a certain thing. This type of source is also prone to excuses and reasons why he did or did not do a certain thing, often shifting the blame to others. An example is opening the interrogation with the question, "Why did you surrender so easily when you could have escaped by crossing the nearby ford in the river?"

The source is likely to provide a basis for further questions or to reveal significant intelligence information if he attempts to explain his surrender in order to vindicate himself. He may give an answer such as, "No one could cross the ford because it is mined."

This technique can also be employed in another manner--by flattering the source into admitting certain information in order to gain credit. For example, while interrogating a suspected saboteur, the interrogator states: "This was a smooth operation. I have seen many previous attempts fail. I bet you planned this. Who else but a clever person like you would have planned it? When did you first decide to do the job?"

This technique is especially effective with the source who has been looked down upon by his superiors. The source has the opportunity to show someone he is intelligent.

A problem with the pride and ego approach is it relies on trickery. The source will eventually realize he has been tricked and may refuse to cooperate further. If this occurs, the interrogator can easily move into a fear-up approach and convince the source the questions he has already answered have committed him, and it would be useless to resist further.

The interrogator can mention it will be reported to the source's forces that he has cooperated fully with the enemy, will be considered a traitor, and has much to fear if he is returned to his forces.

This may even offer the interrogator the option to go into a love-of-family approach where the source must protect his family by preventing his forces from learning of his duplicity or collaboration. Telling the source you will not report that he talked or that he was a severe discipline problem is an incentive that may enhance the effectiveness of the approach.

Pride and Ego-Up Approach. This approach is most effective on sources with little or no intelligence, or on those who have been looked down upon for a long time. It is very effective on low-ranking enlisted personnel and junior grade officers, as it allows the source to finally show someone he does indeed have some "brains."

The source is constantly flattered into providing certain information in order to gain credit. The interrogator must take care to use a flattering somewhat-in-awe tone of voice, and speak highly of the source throughout this approach. This quickly produces positive feelings on the source's part, as he has probably been looking for this type of recognition all of his life.

The interrogator may blow things out of proportion using items from the source's background and making them seem noteworthy or important. As everyone is eager to hear praise, the source will eventually reveal pertinent information to solicit more laudatory comments from the interrogator.

Effective targets for a successful pride and ego-up approach are usually the socially accepted reasons for flattery, such as appearance and good military bearing. The interrogator should closely watch the source's demeanor for indications the approach is working. Some indications to look for are—

- Raising of the head.
- A look of pride in the eyes.
- Swelling of the chest.
- Stiffening of the back.

Pride and Ego-Down Approach. This approach is based on attacking the source's sense of personal worth. Any source who shows any real or imagined inferiority or weakness about himself, loyalty to his organization, or captured under embarrassing circumstances, can be easily broken with this approach technique.

The objective is for the interrogator to pounce on the source's sense of pride by attacking his loyalty, intelligence, abilities, leadership qualities, slovenly appearance, or any other perceived weakness. This will usually goad the source into becoming defensive, and he will try to convince the interrogator he is wrong. In his attempt to redeem his pride, the source will usually involuntarily provide pertinent information in attempting to vindicate himself.

A source susceptible to this approach is also prone to make excuses and give reasons why he did or did not do a certain thing, often shifting the blame to others. If the interrogator uses a sarcastic, caustic tone of voice with appropriate expressions of distaste or disgust, the source will readily believe him. Possible targets for the pride and ego-down approach are the source's—

- Loyalty.
- Technical competence.
- Leadership abilities.
- Soldierly qualities.
- Appearance.

The pride and ego-down approach is also a dead end in that, if unsuccessful, it is difficult for the interrogator to recover and move to another approach and reestablish a different type of rapport without losing all credibility.

Futility

In this approach, the interrogator convinces the source that resistance to questioning is futile. When employing this technique, the interrogator must have factual information. These facts are presented by the interrogator in a persuasive, logical manner. He should be aware of and able to exploit the source's psychological and moral weaknesses, as well as weaknesses inherent in his society.

The futility approach is effective when the interrogator can play on doubts that already exist in the source's mind. There are different variations of the futility approach. For example:

- Futility of the personal situation—"You are not finished here until you answer the question."

- Futility in that "everyone talks sooner or later."

- Futility of the battlefield situation.

- Futility in the sense if the source does not mind talking about history, why should he mind talking about his missions, they are also history.

If the source's unit had run out of supplies (ammunition, food, or fuel), it would be somewhat easy to convince him all of his forces are having the same logistical problems. A soldier who has been ambushed may have doubts as to how he was attacked so suddenly. The interrogator should be able to talk him into believing that the interrogator's forces knew of the EPW's unit location, as well as many more units.

The interrogator might describe the source's frightening recollections of seeing death on the battlefield as an everyday occurrence for his forces. Factual or seemingly factual information must be presented in a persuasive, logical manner, and in a matter-of-fact tone of voice.

Making the situation appear hopeless allows the source to rationalize his actions, especially if that action is cooperating with the interrogator. When employing this technique, the interrogator must not only have factual information but also be aware of and exploit the source's psychological, moral, and sociological weaknesses.

Another way of using the futility approach is to blow things out of proportion. If the source's unit was low on, or had exhausted, all food supplies, he can be easily led to believe all

of his forces had run out of food. If the source is hinging on cooperating, it may aid the interrogation effort if he is told all the other source's have cooperated.

The futility approach must be orchestrated with other approach techniques (for example, love of comrades). A source who may want to help save his comrades' lives may be convinced the battlefield situation is hopeless and they will die without his assistance.

The futility approach is used to paint a bleak picture for the prisoner, but it is not effective in and of itself in gaining the source's cooperation.

We Know All

This approach may be employed in conjunction with the "file and dossier" technique (discussed below) or by itself. If used alone, the interrogator must first become thoroughly familiar with available data concerning the source. To begin the interrogation, the interrogator asks questions based on this known data. When the source hesitates, refuses to answer, or provides an incorrect or incomplete reply, the interrogator provides the detailed answer.

When the source begins to give accurate and complete information, the interrogator interjects questions designed to gain the needed information. Questions to which answers are already known are also asked to test the source's truthfulness and to maintain the deception that the information is already known. By repeating this procedure, the interrogator convinces the source that resistance is useless as everything is already known.

After gaining the source's cooperation, the interrogator still tests the extent of cooperation by periodically using questions to which he has the answers; this is very necessary. If the interrogator does not challenge the source when he is lying, the source will know everything is not known, and he has been tricked. He may then provide incorrect answers to the interrogator's questions.

There are some inherent problems with the use of the "we know all" approach. The interrogator is required to prepare everything in detail, which is time consuming. He must commit much of the information to memory, as working from notes may show the limits of the information actually known.

File and Dossier

The file and dossier approach is used when the interrogator prepares a dossier containing all available information obtained from documents concerning the source or his organization. Careful arrangement of the material within the file may give the illusion it contains more data than actually there. The file may be padded with extra paper, if necessary. Index tabs with titles such as education, employment, criminal record, military service, and others are particularly effective.

The interrogator confronts the source with the dossiers at the beginning of the interrogation and explains intelligence has provided a complete record of every significant happening in the source's life; therefore, it would be useless to resist. The interrogator may read a few selected bits of known data to further impress the source.

If the technique is successful, the source will be intimidated by the size of the file, conclude everything is known, and resign himself to complete cooperation. The success of this

technique is largely dependent on the naiveté of the source, volume of data on the subject, and skill of the interrogator in convincing the source.

Establish Your Identity

This approach is especially adaptable to interrogation. The interrogator insists the source has been correctly identified as an infamous individual wanted by higher authorities on serious charges, and he is not the person he purports to be. In an effort to clear himself of this allegation, the source makes a genuine and detailed effort to establish or substantiate his true identity. In so doing, he may provide the interrogator with information and leads for further development.

The "establish your identity" approach was effective in Viet Nam with the Viet Cong and in OPERATIONS JUST CAUSE and DESERT STORM.

This approach can be used at tactical echelons. The interrogator must be aware if it is used in conjunction with the file and dossier approach, as it may exceed the tactical interrogator's preparation resources.

The interrogator should initially refuse to believe the source and insist he is the criminal wanted by the ambiguous higher authorities. This will force the source to give even more detailed information about his unit in order to convince the interrogator he is who he says he is. This approach works well when combined with the "futility" or "we know all" approach.

Repetition

This approach is used to induce cooperation from a hostile source. In one variation of this approach, the interrogator listens carefully to a source's answer to a question, and then repeats the question and answer several times. He does this with each succeeding question until the source become so thoroughly bored with the procedure he answers questions fully and candidly to satisfy the interrogator and gain relief from the monotony of this method.

The repetition technique must be judiciously used, as it will generally be ineffective when employed against introverted sources or those having great self-control. In fact, it may provide an opportunity for a source to regain his composure and delay the interrogation. In this approach, the use of more than one interrogator or a tape recorder has proven effective.

Rapid Fire

This approach involves a psychological ploy based upon the principles that—

- Everyone likes to be heard when he speaks.
- It is confusing to be interrupted in mid-sentence with an unrelated question.

This approach may be used by one or simultaneously by two or more interrogators in questioning the same source. In employing this technique, the interrogator asks a series of questions in such a manner that the source does not have time to answer a question completely before the next one is asked.

This confuses the source and he will tend to contradict himself, as he has little time to formulate his answers. The interrogator then confronts the source with the inconsistencies causing further contradictions.

In many instances, the source will begin to talk freely in an attempt to explain himself and deny the interrogator's claims of inconsistencies. In this attempt, the source is likely to reveal more than he intends, thus creating additional leads for further exploitation. This approach may be orchestrated with the pride and ego-down or fear-up approaches.

Besides extensive preparation, this approach requires an experienced and competent interrogator, with comprehensive case knowledge and fluency in the source's language.

Silent

This approach may be successful when used against the nervous or confident source. When employing this technique, the interrogator says nothing to the source, but looks him squarely in the eye, preferably with a slight smile on his face. It is important not to look away from the source but force him to break eye contact first.

The source may become nervous, begin to shift in his chair, cross and recross his legs, and look away. He may ask questions, but the interrogator should not answer until he is ready to break the silence. The source may blurt out questions such as, "Come on now, what do you want with me?"

When the interrogator is ready to break silence, he may do so with some nonchalant questions such as, "You planned this operation for a long time, didn't you? Was it your idea?" The interrogator must be patient when using this technique. It may appear the technique is not succeeding, but usually will when given a reasonable chance.

Change of Scene

The idea in using this approach is to get the source away from the atmosphere of an interrogation room or setting. If the interrogator confronts a source who is apprehensive or frightened because of the interrogation environment, this technique may prove effective.

In some circumstances, the interrogator may be able to invite the source to a different setting for coffee and pleasant conversation. During the conversation in this more relaxed environment, the interrogator steers the conversation to the topic of interest. Through this somewhat indirect method, he attempts to elicit the desired information. The source may never realize he is being interrogated.

Another example in this approach is an interrogator poses as a compound guard and engages the source in conversation, thus eliciting the desired information."

i. **Finding 9:**

(1) Finding: Interviewed leaders and Soldiers stated the unit's morale (71%) and command climate (68%) had steadily improved due to competent leadership, caring of Soldiers by leaders, and better working and living conditions as the theater matured.

(2) Standard: Army Regulation (AR) 600–20, Army Command Policy, 13 May 2002, Chapter 1, paragraph 1-5, subparagraph c (1) and (4)(c), prescribes the policies and responsibilities of command. The specific language in the regulation follows:

"c. Characteristics of command leadership.

(1) Commanders and other leaders committed to the professional Army ethic promote a positive environment. If leaders show loyalty to their soldiers, the Army, and the Nation, they earn the loyalty of their soldiers. If leaders consider their soldiers' needs and care for their well-being, and if they demonstrate genuine concern, these leaders build a positive command climate.

"(4) Professionally competent leaders will develop respect for their authority by-

"*(c)* Properly training their soldiers and ensuring that both soldiers and equipment are in the proper state of readiness at all times. Commanders should assess the command climate periodically to analyze the human dimension of combat readiness. Soldiers must be committed to accomplishing the mission through the unit cohesion developed as a result of a healthy leadership climate established by the command. Leaders at all levels promote the individual readiness of their soldiers by developing competence and confidence in their subordinates. In addition to being mentally, physically, tactically, and technically competent, soldiers must have confidence in themselves, their equipment, their peers, and their leaders. A leadership climate in which all soldiers are treated with fairness, justice, and equity will be crucial to development of this confidence within soldiers. Commanders are responsible for developing disciplined and cohesive units sustained at the highest readiness level possible."

j. Finding 10:

(1) Finding: Detainee administration, internment, and intelligence exploitation policy and doctrine does not address detainee operations conducted in the current operating environment, which has a higher demand for human intelligence exploitation at the tactical level and the need for additional classifications of detainees.

(2) Standard: Standard of treatment for detainees in OPERATION ENDURING FREEDOM (OEF): Chairman, Joint Chiefs of Staff (CJCS) message dated 211933Z JAN 02 states that members of the Taliban militia and members of Al Qaida under the control of US Forces would be treated humanely and, to the extent appropriate and consistent with military necessity, in a manner consistent with the principles of the Geneva Conventions of 1949. The DAIG has therefore used the provisions of the Geneva Conventions as a benchmark against which to measure the treatment provided to detainees by U.S. Forces to determine if detainees were treated humanely. The use of these standards as benchmarks does not state or imply a position for the United States or U.S. Army on the legal status of its operations in OEF.

CJCS Message dated 211933Z JAN 02, provides the determination regarding the humane treatment of Al Qaida and Taliban detainees. Convention Relative to the Treatment of Prisoners of War of August 12, 1949 (GPW) is the international treaty that governs the treatment of prisoners of war; and Geneva Convention Relative to the Protection of Civilian Persons in Time of War (GC), August 12, 1949 is the international treaty that governs the treatment of civilian persons in time of war.

As the guidance did not define "humane treatment" but did state that the US would treat members of the Taliban militia and Al Qaida in a manner consistent with the Geneva Conventions, the DAIG determined that it would use Common Article 3 of the GCs as its floor measure of humane treatment, but would also include provisions of the Geneva Convention on the Treatment of Prisoners of War (GPW) and Geneva Convention Relative to the Protection of Civilian Persons in Time of War (GC) as other relevant indicia of "humane treatment." The use of this standard does not state or imply a position for the United States or U.S. Army on the legal status of its operations in OEF.

Standard of treatment for detainees in OPERATION IRAQI FREEDOM (OIF): OIF was an international armed conflict and therefore the provisions of the Geneva Conventions applied. Additionally, the United States was an occupying power and has acted in accordance with the obligations of an occupying power described in the Hague Convention No. IV Respecting the Laws and Customs of War on Land (H.IV), Oct. 18, 1907, including, but not limited to Articles 43-46 and 50; Geneva Convention Relative to the Treatment of Prisoners of War of August 12, 1949 (GPW), Geneva Convention Relative to the Protection of Civilian Persons in Time of War (GC), August 12, 1949. The GC supplements H.IV, providing the general standard of treatment at Article 27 and specific standards in subsequent Articles.

The minimum treatment provided by Common Article 3 of the Geneva Conventions is: (1) No adverse distinction based upon race, religion, sex, etc.; (2) No violence to life or person; (3) No taking hostages; (4) No degrading treatment; (5) No passing of sentences in absence of fair trial, and; (6) The wounded and sick must be cared for.

The specific language in the CJCS Message for OEF and the GPW/GC and H.IV follows:

CJCS Message dated 211933Z JAN 02, "Paragraph 3. The combatant commanders shall, in detaining Al Qaida and Taliban individuals under the control of the Department of Defense, treat them humanely and, to the extent appropriate and consistent with military necessity, in a manner consistent with the principles of the Geneva Conventions of 1949."

GPW/GC, Article 3 (Common Article 3) – "In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each party to the conflict shall be bound to apply, as a minimum, the following provisions:

1. Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, color, religion or faith, sex, birth or wealth, or any other similar criteria.

To this end the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons:

(a) Violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;
(b) Taking of hostages;
(c) Outrages upon personal dignity, in particular, humiliating and degrading treatment;

(d) The passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court affording all the judicial guarantees which are recognized as indispensable by civilized peoples.

2. The wounded and sick shall be collected and cared for. An impartial humanitarian body, such as the International Committee of the Red Cross, may offer its services to the Parties to the conflict. The Parties to the conflict should further endeavour to bring into force, by means of special agreements, all or part of the other provisions of the present Convention. The application of the preceding provisions shall not affect the legal status of the Parties to the conflict."

The following specific provisions of GPW and GC apply:

"Article 18 – All effects and articles of personal use, except arms, horses, military equipment and military documents, shall remain in the possession of prisoners of war, likewise their metal helmets and gas masks and like articles issued for personal protection. Effects and articles used for their clothing or feeding shall likewise remain in their possession, even if such effects and articles belong to their regulation military equipment. At no time should prisoners of war be without identity documents. The Detaining Power shall supply such documents to prisoners of war who possess none. Badges of rank and nationality, decorations and articles having above all a personal or sentimental value may not be taken from prisoners of war. Sums of money carried by prisoners of war may not be taken away from them except by order of an officer, and after the amount and particulars of the owner have been recorded in a special register and an itemized receipt has been given, legibly inscribed with the name, rank and unit of the person issuing the said receipt. Sums in the currency of the Detaining Power, or which are changed into such currency at the prisoner's request, shall be placed to the credit of the prisoner's account as provided in Article 64. The Detaining Power may withdraw articles of value from prisoners of war only for reasons of security; when such articles are withdrawn, the procedure laid down for sums of money impounded shall apply. Such objects, likewise sums taken away in any currency other than that of the Detaining Power and the conversion of which has not been asked for by the owners, shall be kept in the custody of the Detaining Power and shall be returned in their initial shape to prisoners of war at the end of their captivity.

Article 19 – Prisoners of war shall be evacuated, as soon as possible after their capture, to camps situated in an area far enough from the combat zone for them to be out of danger. Only those prisoners of war who, owing to wounds or sickness, would run greater risks by being evacuated than by remaining where they are, may be temporarily kept back in a danger zone. Prisoners of war shall not be unnecessarily exposed to danger while awaiting evacuation from a fighting zone."

Department of Defense Directive (DoDD) 2310.1, DoD Program for Enemy Prisoners of War (EPOW) and Other Detainees, 18 August 1994, Paragraph 3.3, requires the application of appropriate legal status, transfer and release authority and authorization. Paragraph 3.4 directs the handing over of detainees to Military Police and provides for intelligence collection. Paragraph 4.4 assigns responsibility for treatment, classification, administrative processing, and custody for detainees. The specific language in the directive follows:

"3.3 Captured or detained personnel shall be accorded an appropriate legal status under international law. Persons captured or detained may be transferred to or from the care, custody, and control of the U.S. Military Services only on approval of the Assistant Secretary of Defense for International Security Affairs (ASD(ISA)) and as authorized by the Geneva Conventions

Relative to the Treatment of Prisoners of War and for the Protection of Civilian Persons in Time of War (references (d) and (e)).

3.4 Persons captured or detained by the U.S. Military Services shall normally be handed over for safeguarding to U.S. Army Military Police, or to detainee collecting points or other holding facilities and installations operated by U.S. Army Military Police as soon as practical. Detainees may be interviewed for intelligence collection purposes at facilities and installations operated by U.S. Army Military Police."

"4.4. The Commanders of the Unified Combatant Commands shall:

4.4.2. Provide for the proper treatment, classification, administrative processing, and custody of those persons captured or detained by the Military Services under their command and control. "Department of Defense Directive (DoDD) 2310.1, DoD Program for Enemy Prisoners of War (EPOW) and Other Detainees, 18 August 1994, Paragraph 1.1, reissues responsibility, specifically assigning the Army as Executive Agent for the DoD Program for Enemy Prisoners of War (EPOW) and Other Detainees. The specific language in the directive follows:

"1.1. Reissues reference (a) to update policy and responsibilities within the Department of Defense for a program to ensure implementation of the international law of war, both customary and codified, about EPOW, to include the enemy sick or wounded, retained personnel, civilian internees (CIs), and other detained personnel (detainees). Detainees include, but are not limited to, those persons held during operations other than war."

Under Secretary of Defense Memorandum, SUBJECT: Responsibility for Detainees in Association with the Global War on Terrorism, 17 January 2002, assigns the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict (ASD(SO/LIC)) responsibility for DoD policies and plans related to persons detained in the Global War on Terrorism. The specific language in the memorandum follows:

"Effective immediately, ASD(SO/LIC) assumes responsibility for overall development, coordination, approval and promulgation of major DoD policies and plans related to persons detained in association with the Global War on Terrorism. This includes development, coordination, approval, and promulgation of major DoD policies, and new courses of action with DoD Components and other Federal Agencies as necessary.

DoD Directive 2310.1 will be adjusted to reflect this decision."

Army Regulation (AR) 25-30, The Army Publishing Program, 16 March 2004, Glossary, defines the term "Army regulation." And field manual The specific language in the regulation follows:

"Army regulation

A directive that sets forth missions, responsibilities, and policies, delegates authority, sets objectives, and prescribes mandated procedures to ensure uniform compliance with those policies. Mandated procedures in Army regulations are required and authoritative instructions that contain the detail needed to make sure basic policies are carried out uniformly throughout the Army. These mandated procedures also ensure uniform implementation of public law, policy

guidance, and instructions from higher headquarters or other Government agencies such as the JCP, OMB, or Department of Defense."

"Field manual.

A DA publication that contains doctrine and training principles with supporting tactics, techniques, and/or procedures and describes how the Army and its organizations function in terms of missions, organizations, personnel, and equipment. FMs implement ratified international standardization agreements. FMs may also contain informational or reference material relative to military operations and training and may be used to publish selected alliance doctrinal publications that are not readily integrated into other doctrinal literature."

AR 190-8, Enemy Prisoners of War, Retained Personnel, Civilian Internees and Other Detainees, 1 October 1997, Chapter 1, paragraph 1-1, subparagraphs a and b, implement DoDD 2310.1 and incorporates Army Regulation 190-8 and 190-57 and SECNAV Instruction 3461.3, and Air Force Joint Instruction 31-304. It establishes policies and planning guidance for the treatment, care, accountability, legal status, and administrative procedures for Enemy Prisoners of War, Civilian Internees, Retained Persons, and Other Detainees and implements international law for all military operations. The specific language in the regulation follows:

"Summary. This regulation implements Department Of Defense Directive 2310.1 and establishes policies and planning guidance for the treatment, care, accountability, legal status, and administrative procedures for Enemy Prisoners of War, Civilian Internees, Retained Persons, and Other Detainees. This regulation is a consolidation of Army Regulation 190-8 and Army Regulation 190-57 and incorporates SECNAV Instruction 3461.3 and Air Force Joint Instruction 31-304. Policy and procedures established herein apply to the services and their capabilities to the extent that they are resourced and organized for enemy prisoner of war operations.

Applicability. This is a multi-service regulation. It applies to the Army, Navy, Air Force and Marine Corps and to their Reserve components when lawfully ordered to active duty under the provisions of Title 10 United States Code.

"a. This regulation provides policy, procedures, and responsibilities for the administration, treatment, employment, and compensation of enemy prisoners of war (EPW), retained personnel (RP), civilian internees (CI) and other detainees (OD) in the custody of U.S. Armed Forces. This regulation also establishes procedures for transfer of custody from the United States to another detaining power.

b. This regulation implements international law, both customary and codified, relating to EPW, RP, CI, and ODs, which includes those persons, held during military operations other than war. The principal treaties relevant to this regulation are:

(1) The 1949 Geneva Convention Relative to the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (GWS).

(2) The 1949 Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea (GWS SEA).

(3) The 1949 Geneva Convention Relative to the Treatment of Prisoners of War (GPW).

(4) The 1949 Geneva Convention Relative to the Protection of Civilian Persons in Time of War (GC), and In the event of conflicts or discrepancies between this regulation and the Geneva Conventions, the provisions of the Geneva Conventions take precedence."

Field Manual (FM) 3-19.1, Military Police Operations, 31 January 2002, Chapter 4, paragraphs 4-42 to 4-45, describe the role of MP units in detainee operations. The specific language in the field manual follows:

"4-42. The Army is the Department of Defense's (DOD's) executive agent for all EPW/CI operations. Additionally, the Army is DOD's executive agent for longterm confinement of US military prisoners. Within the Army and through the combatant commander, the MP are tasked with coordinating shelter, protection, accountability, and sustainment for EPWs/CIs. The I/R function addresses MP roles when dealing with EPWs/CIs, dislocated civilians, and US military prisoners.

4-43. The I/R function is of humane as well as tactical importance. In any conflict involving US forces, safe and humane treatment of EPWs/CIs is required by international law. Military actions on the modern battlefield will result in many EPWs/CIs. Entire units of enemy forces, separated and disorganized by the shock of intensive combat, may be captured. This can place a tremendous challenge on tactical forces and can significantly reduce the capturing unit's combat effectiveness. The MP support the battlefield commander by relieving him of the problem of handling EPWs/CIs with combat forces. The MP perform their I/R function of collecting, evacuating, and securing EPWs throughout the AO. In this process, the MP coordinate with MI to collect information that may be used in current or future operations.

4-44. Although the CS MP unit initially handles EPWs/CIs, modular MP (I/R) battalions with assigned MP guard companies and supporting MWD teams are equipped and trained to handle this mission for the long term. A properly configured modular MP (I/R) battalion can support, safeguard, account for, guard, and provide humane treatment for up to 4,000 EPWs/CIs; 8,000 dislocated civilians; or 1,500 US military prisoners.

EPW/CI HANDLING

4-45. The MP are tasked with collecting EPWs/CIs from combat units as far forward as possible. The MP operate collection points and holding areas to temporarily secure EPWs/CIs until they can be evacuated to the next higher echelon's holding area. The MP escort-guard company assigned to the MP brigade (I/R) evacuate the EPWs/CIs from the corps's holding area to the COMMZ's internment facilities. The MP safeguard and maintain accountability, protect, and provide humane treatment for all personnel under their care."

FM 3-19.4, Military Police Leaders' Handbook, 2 August 2002, Preface, addresses detainee operations doctrine at the platoon level. The specific language in the field manual follows:

"This field manual (FM) addresses military police (MP) maneuver and mobility support (MMS), area security (AS), internment and resettlement (I/R), law and order (L&O), and police intelligence operations (PIO) across the full spectrum of Army operations. Although this manual includes a discussion of corps and division MP elements, it primarily focuses on the principles of platoon operations and the tactics, techniques, and procedures (TTP) the platoon uses to accomplish its mission."

FM 3-19.40, Military Police Internment/Resettlement Operations, 1 August 2001, Preface, establishes this FM as the doctrinal foundation for detainee operations. Chapter 2, paragraph 2-1, provides explains the role of the MP battalion commander. Chapter 3, paragraphs 3-1 to 3-3, 3-5, and 3-6, describes the basic requirements for the handling, securing, and accounting for EPWs and CIs; paragraphs 3-14 to 3-17 describe the procedures for handling property and tagging EPWs and CIs. Chapter 4 describes detailed administrative procedures for enemy prisoners of war (EPWs), including evacuation, receiving, processing, personnel files, internment serial number (ISN) issuance, information flow, facility assignment, classification, control and discipline, transfer between facilities, host nation or allied forces, and repatriation; the introduction outlines this content. Chapter 5 describes procedures for civilian internees (CIs), including specifying who is a CI, general protection requirements, authorization to intern, administrative responsibilities, receiving, processing, flow of information, security, control and discipline; the introduction explains the difference between CIs and EPWs. The specific language in the field manual follows The specific language in the field manual follows:

"Field Manual (FM) 3-19.40 depicts the doctrinal foundation, principles, and processes that MP will employ when dealing with enemy prisoners of war (EPWs), civilian internees (CIs), US military prisoner operations, and MP support to civil-military operations (populace and resource control [PRC], humanitarian assistance [HA], and emergency services [ES])."

"2-1. An MP battalion commander tasked with operating an I/R facility is also the facility commander. As such, he is responsible for the safety and well-being of all personnel housed within the facility. Since an MP unit may be tasked to handle different categories of personnel (EPW, CI, OD, refugee, and US military prisoner), the commander, the cadre, and support personnel must be aware of the requirements for each category.

3-1. The MP units accept captives from capturing units as far forward as possible, and captives are held in CPs and CHAs until they are removed from the battlefield. Normally, CPs are operated in the division AO and CHAs are operated in the corps AO; but they can be operated anywhere they are needed. The CPs and CHAs sustain and safeguard captives and ensure a minimum level of field processing and accountability. Wounded and sick captives receive medical treatment, and captives who require lifesaving medical attention are evacuated to the nearest medical facility.

3-2. The MP establishes listening posts (LPs), observation posts (OPs), guard posts, and fighting positions to protect captives and prevent their escape. Captured soldiers are trained to believe that escape from captivity is their duty; therefore, they must be closely guarded. Consider the morale and physical condition of captives when determining the number of guards needed. Guards must be prepared to use and maintain firm control and security.

3-3. The MP work closely with military intelligence (MI) interrogation teams at CPs and CHAs to determine if captives, their equipment, and their weapons have intelligence value. This process is accelerated when MI interrogation teams can observe captives during arrival and processing, and interrogators can also be used as interpreters during this phase. Before a captive is interviewed by MI personnel, he must have a Department of Defense (DD) Form 2745 (Figure 3-1) attached to him and be accounted for on DD Form 2708.

3-5. Processing begins when US forces capture or detain an individual. The processing is accomplished in the CZ for security, control, intelligence, and the welfare of captives in evacuation channels. This is referred to as *field processing*. The capturing unit begins field processing by using the Five Ss and T procedure (search, segregate, silence, speed,

safeguard, and tag). At the CP or the CHA, MP continue processing with the principles of STRESS (search, tag, report, evacuate, segregate, and safeguard).

3-6. After receiving a captive from a capturing unit, MP are responsible for safeguarding and accounting for the captive at each stage of his removal from the battlefield. The processing procedure begins upon capture and continues until the captive reaches the I/R facility and is released. The process of identifying and tagging a captive helps US forces control and account for him as they move rearward from the battlefield. Before a captive is interned, repatriated, or released, MP at the I/R facility must provide full-scale processing.

3-14. Property Accountability. When seizing property from a captive—

- Bundle it or place it in a bag to keep it intact and separate from other captives' possessions.
- Prepare DA Form 4137 for confiscated and impounded property.
- Prepare a receipt for currency and negotiable instruments to be signed by the captive and the receiver. Use cash collection vouchers so that the value can be credited to each captive's account. List currency and negotiable instruments on the captive's personal-property list, but treat them as impounded property.
- Keep the original receipt with the property during evacuation. Give the captive a copy of the receipt, and tell him to keep it to expedite the return of his property.
- Have MI sign for property on DA Form 4137 and for captives on DD Form 2708.
- Return confiscated property to supply after it is cleared by MI teams. Items kept by MI because of intelligence value are forwarded through MI channels.
- Evacuate retained items with the captive when he moves to the next level of internment.
- Maintain controlled access to confiscated and impounded property.

3-15. Tag each captive with a DD Form 2745. The MP at CPs and CHAs check each tag for the—

- Date and time of capture.
- Capturing unit.
- Place of capture.
- Circumstances of the capture.

The remaining information on the tag is included as it becomes available.

3-16. A DD Form 2745 is a perforated, three-part form that is individually serial-numbered. It is constructed of durable, waterproof, tear-resistant material with reinforced eyeholes on Parts A and C. Part A is attached to the captive with wire or string, Part B is maintained by the capturing unit for their records, and Part C is attached to confiscated property so that the owner can be identified later.

3-17. The MP at division CPs ensure that a DD Form 2745 is placed on each captive who arrives at the CP without one. They may direct the capturing unit to complete a capture tag before accepting the prisoner into the CP. The MP—

- Make a statement on the tag if the captive arrived without it.
- Instruct the captive not to remove or alter the tag.
- Annotate the tag's serial number and the captive's name on a locally developed manifest."

Chapter 4, Introduction – "The MP are responsible for evacuating EPWs from division CPs to CHAs and then to internment facilities (normally located in the COMMZ). This chapter

addresses procedures for properly handling, processing, and safeguarding EPWs. The procedures outlined in this chapter are also applicable to RPs.

Chapter 5, Introduction – "A CI internment facility runs parallel to an EPW internment facility, with some differences.
A CI—

- Is protected under the provisions of the GC.
- Does not meet the criteria for classification as an EPW or an RP.
- Is considered a security risk.
- Needs protection because he committed an offense against the detai ning power (insurgents, criminals, or other persons)."

FM 34-52, Intelligence Interrogation, 28 September 1992, Preface, establishes this FM as the doctrinal foundation for interrogations of detainees. The specific language in the field manual follows:

"This manual provides doctrinal guidance, techniques, and procedures governing employment of interrogators as human intelligence (HUMINT) collection assets in support of the commander's intelligence needs. It outlines the interrogator's role within the intelligence collection effort and the supported unit's day-to-day operations.

This manual is intended for use by interrogators as well as commanders, staff officers, and military intelligence (MI) personnel charged with the responsibility of the interrogation collection effort."

ARTEP 19-546-MTP, Mission Training Plan for the Headquarters and Headquarters Company Military Police Battalion (Internment/Resettlement), 10 April 1999, Chapter 1, paragraph 1-4, subparagraph a, outlines training doctrine for I/R battalions. The specific language in the ARTEP follows:

"1-4. Mission and Tasks.

a. The battalion's critical mission is to provide command, staff planning, administration, and logistical support for the operation of an Internment/Resettlement facility for either Enemy Prisoner of War/Civilian Internees (EPW/CI), or US Military Prisoners. It also provides direct supervision of battalion functions: Personnel, Medical, Supply, and Food Services. This MTP is composed of major activities that the unit must execute to accomplish the mission."

k. **Finding 11:**

(1) Finding: Shortfalls in both the Military Police and Military Intelligence organizational structures resulted in the tactical unit commanders adjusting their tactics, techniques, and procedures to conduct detainee operations.

(2) Standard: Field Manual (FM) 3-19.1, Military Police Operations, 31 January 2002, Chapter 7, paragraph 7-9, requires corps augmentation for sustained operations and for special operations such as dealing with di slocated civilians, and refugee internment or resettlement. Paragraphs 7-13, 7-14, 7-17, 7-21, and paragraph 7-26 discusses the employment of the different division Military Police companies, by the type of division to which they are assigned. The specific language in the fiel d manual follows:

"7-9. In the division (where flexible support of an austere force is crucial), the division PM must have a clear understanding of situational awareness. To obtain current information for projecting MP needs in the division area, he must be mobile and be able to conduct split-cell operations. The assets available to the PM include the division MP company and at least one corps MP company. Corps augmentation is required for sustained operations and for special operations such as river crossings, dealing with dislocated civilians, and refugee internment or resettlement. The division PM coordinates with the corps PM and the MP brigade or CID commanders for— • Evacuating and guarding EPWs/CIs from division to corps."

"7-13. The Army of Excellence (AOE) heavy division MP company has six platoons. Three platoons provide support to each maneuver brigade and are designated as DS. The other three platoons are designated as GS platoons. One MP platoon provides security for the division main CP; one provides security for the division's EPW central collection point; and one performs other MP operations within the division rear.

7-14. The GS MP platoons' AOs are configured based on METT-TC and the availability of MP augmentation from the corps. The DS MP platoons' AOs coincide with the supported maneuver brigade's boundary. Each platoon headquarters locates within its brigade's support area or any other area where it can best provide and receive support. To accomplish its mission, each DS platoon requires a minimum of two squads, each with three teams. One squad operates the EPW/CI collection point. The other squads perform MMS and AS operations. All MP platoons are capable of performing all five MP functions. However, performance of these functions is prioritized based on METT-TC and the division commander's concept of operations. The division PM, the company commander, and METT-TC dictate how these platoons should be tasked-organized to accomplish the mission."

"7-17. The company has three GS platoons to support the division. No platoons are provided to the maneuver brigade. One platoon is normally located in the vicinity of the division main CP so that its resources can help support CP security. Another platoon locates in the DSA and operates the division EPW/ CI collection point. The last platoon has an AO configured according to METT-TC and the commander's priority of MP missions. Each GS MP platoon has a headquarters and three squads, each with two teams. The PM section is located in the vicinity of the division main CP. The exact location is based on the current operational status and on METT-TC.

"7-21. The nature of airborne operations makes the capture of EPWs likely. Therefore, during the first stage of the assault phase, the priority of MP support is given to EPW operations. After assembling the DZ or LZ, the MP collect EPWs captured during the assault. Combat elements are relieved of EPWs as far forward as possible. In airborne operations, EPWs are held for later movement to a central collection point. During the first stage of the assault, the MP perform limited straggler and refugee control and undertake AS operations, when possible.

"7-26. When possible, habitually aligned platoons remain with their brigades, and corps assets perform GS missions. However, when no corps assets are available and two division platoons are employed as stated above, the two remaining platoons conduct division EPW collection-point operations and other MP functions based on METT-TC. Normally, the EPW platoon and the MP company headquarters colocate in the DSA. As required (and based on METT-TC), airflow planning includes EPW/CI evacuation from the AATF/FOB collection point back to the DSA. The PM section operates from the division rear CP to facilitate I/R operations and to coordinate MMS and AS with key logistical staff. Due to potentially extreme distances on

the air assault battlefield, the DPM normally locates with the division main CP to serve as a key G3 battle-staff member and to coordinate PIO with the G2."

FM, 3-19.40, Military Police Internment/Resettlement Operations, 1 August 2001, Chapter 3, addresses the responsibility of division Military Police (MP) units to operate collecting points and to assist maneuver units as they move through the battlefield and perform their mission. Paragraph 3-1 assigns MP units the responsibility to accept captives from capturing units as far forward as possible, but allowing them to operate anywhere they are needed. Paragraph 3-3 describes how MP personnel work closely with the Military Intelligence (MI) interrogators to determine if detainees and their possessions have any intelligence value. Paragraph 3-5 outlines the beginning of detainee processing when U.S. Armed Forces detain an individual in the combat zone. Paragraph 3-64 provides information to facilitate collecting enemy tactical information and how MI may collocate interrogation teams at collecting points and Corps Holding Area to collect intelligence information. The specific language in the field manual follows:

"A large number of captives on the battlefield hampers maneuver units as they move to engage and destroy an enemy. To assist maneuver units in performing their mission— • Division MP units operate CPs in the division AO. • Corps MP units operate holding areas in the corps AO."

"3-1. The MP units accept captives from capturing units as far forward as possible, and captives are held in CPs and CHAs until they are removed from the battlefield. Normally, CPs are operated in the division AO and CHAs are operated in the corps AO; but they can be operated anywhere they are needed. The CPs and CHAs sustain and safeguard captives and ensure a minimum level of field processing and accountability. Wounded and sick captives receive medical treatment, and captives who require lifesaving medical attention are evacuated to the nearest medical facility."

"3-3. The MP work closely with military intelligence (MI) interrogation teams at CPs and CHAs to determine if captives, their equipment, and their weapons have intelligence value. This process is accelerated when MI interrogation teams can observe captives during arrival and processing, and interrogators can also be used as interpreters during this phase. Before a captive is interviewed by MI personnel, he must have a Department of Defense (DD) Form 2745 (Figure 3-1) attached to him and be accounted for on DD Form 2708."

"3-5. Processing begins when US forces capture or detain an individual. The processing is accomplished in the CZ for security, control, intelligence, and the welfare of captives in evacuation channels. This is referred to as field processing. The capturing unit begins field processing by using the Five Ss and T procedure (search, segregate, silence, speed, safeguard, and tag). At the CP or the CHA, MP continue processing with the principles of STRESS (search, tag, report, evacuate, segregate, and safeguard)."

"3-64. To facilitate collecting enemy tactical information, MI may collocate interrogation teams at CPs and CHAs. This provides MI with direct access to captives and their equipment and documents. Coordination is made between MP and MI to establish operating procedures that include accountability. An interrogation area is established away from the receiving/processing line so that MI personnel can interrogate captives and examine their equipment and documents. If a captive or his equipment or documents are removed from the receiving/processing line; account for them on DD Form 2708 and DA Form 4137."

FM, 34-52, Intelligence Interrogation, 28 September 1992, Chapter 1, definition of Interrogation, pages 1-6 and 1-7, Objective, pages 1-7, discuss the interrogator should not concentrate on the objective to the extent he overlooks or fails to recognize and exploit other valuable information extracted from the source. Chapter 2, page 2-1, Composition and Structure, discusses that the interrogation architecture is a seamless system that supports operations from brigade to theater level. Page 2-2, Interrogation below division, addresses the first interrogation could take place at brigade level to receive tactical information that will provide immediate value to the unit on the ground. Page 2-3, Division interrogation assets, provides an overview of the capabilities a division Military Intelligence battalion provides to a division. Page 2-4, Interrogation Teams, provides the composition of an interrogation team and is normally employed as part of the MI company teams. Page 2-12, Interrogation at Brigade and Below, describes that an MI battalion interrogator can be attached temporarily to the committed battalion to assist in exploiting information immediately from the enemy prisoner of war (EPW). Page 2-22, Theater Interrogation Facility, describe the purpose of the Theater Interrogation Facility and that it is staffed by U.S. Army interrogators, with support from Air Force, Navy, Marine Corps, and other U.S. national agencies as required. Page 3-1, provides the criteria for selecting personnel to be interrogated. Page 3-2, Screening, explains the screening to select a source to interrogate. Page 3-2, Prepare to conduct screenings, describe the coordination and roles between the screeners and MP holding area guards. Page 3-2, Document Screening, outlines when examining documents, the screener should identify topics on which EPWs and detainees have pertinent information that may contain indications of pertinent knowledge and potential cooperation. Page 3-2, Personnel Screening, recommends if time permits, that screeners should question holding area personnel about the EPWs and detainees who might identify sources or answer the supported commander's priority intelligence requirements (PIR) and intelligence requirements (IR). Page 3-29, Interrogation with an Interpreter, provides what needs to take place before, during, and after an interrogation. Page 3-30 Conduct the Interrogation, outlines the steps the interrogators need to take when an interpreter does not follow the guidance of the interrogator during an interrogation. The specific language in the field manual follows:

Page 1-6. "Definition of Interrogation. Interrogation is the process of questioning a source to obtain the maximum amount of usable information. The goal of any interrogation is to obtain reliable information in a lawful manner, in a minimum amount of time, and satisfy intelligence requirements of any echelon of command. Sources may be - civilian internees, insurgents, EPWs, defectors, refugees, displaced persons, agents or suspected agents, other non-US personnel. A good interrogation produces needed information which is timely, complete, clear, and accurate. An interrogation involved the interaction of two personalities - the source and the interrogator."

Page 1-7. "Objective. Each interrogation must be conducted for a definite purpose. The interrogator must keep this purpose firmly in mind as he proceeds to obtain usable information to satisfy the assigned requirement, and thus contribute to the success of the unit's mission..... In either case, the interrogator must use the objective as a basis for planning and conducting the interrogation. He should attempt to prevent the source from becoming aware of the true objective of the interrogation. The interrogator should not concentrate on the objective to the extent he overlooks or fails to recognize and exploit other valuable information extracted from the source."

Page 2-1. "Composition and Structure. The interrogation architecture (interrogators and interrogation units) is a seamless system that supports operations from brigade to theater level. The dynamic warfighting doctrine requires interrogation units be highly mobile and have

automation and communication equipment to report information to the supported commander. The MI commander must ensure interrogators have the necessary equipment to accomplish their wartime mission. The MI commander retains overall responsibility for interrogators assigned to his unit. The manner in which these interrogators are controlled depends on how the MI unit is task organized for combat."

Page 2-2, "Interrogation Below Division. The first interrogation could take place at brigade. Interrogation teams are attached temporarily to brigades in enemy contact when determined appropriate by the division G2. These teams come from the interrogation section of the parent division. Interrogation personnel are organic to separate brigades and armored cavalry regiments (ACRs). Interrogation at brigade level is strictly tactical and deals with information of immediate value.

Interrogation personnel in DS to brigade will be collocated or immediately adjacent to the division forward EPW collecting point in the brigade support area (BSA). For MI units to receive S2 support, the collecting point and interrogation site will be collocated and accessible to the command post (CP)."

Page 2-3, "Division Interrogation Assets. An MI battalion is organic to each division. It provides combat intelligence, EW, and OPSEC support to light or heavy infantry and airborne or air assault division. The MI battalion provides special support the G2 needs to produce combat intelligence. Interrogation personnel organic to the MI battalions compose the interrogation support element."

Page 2-4, "Interrogation Teams. Each interrogation team consists of a team leader (warrant officer), NCO assistant team leader, and three team members. Teams are normally employed as part of the MI company teams which provide IEW support to the brigades."

Page 2-12. "Interrogation at Brigade and Below. Interrogators are not usually attached below brigade level unless the combat situation requires limited tactical interrogation at battalion or lower. In this event, skilled interrogators from the MI battalion will be attached temporarily to committed battalions. They will assist in exploiting EPW immediately upon capture to extract information needed in support of the capturing unit.

Interrogations at battalion or lower are brief and concerned only with information bearing directly on the combat mission of the capturing unit. The following are examples of circumstance warranting an interrogation:

- A unit or landing force assigned an independent mission in which the S2 is primarily responsible for collecting information necessary to fulfill the unit's mission. Immediate tactical intelligence is necessary for mission accomplishment.

- There is a definite need for interrogation at the lower level to permit rapid reaction based on information obtained.

- It is advantageous to have an EPW point out enemy defense and installation from observation points in forward areas."

Page 2-22. "Theater Interrogation Facility. The EAC interrogation facility will normally be designated as the TIF. A TIF is staffed by US Army interrogators and analysts, with support from Air Force, Navy, Marine Corps, and other US national agencies as required. In a

multinational operation, a combined interrogation facility may be established with allied interrogators augmentation. In addition to conventional theater Army operations, a TIF may be established to support a joint or unified command to meet theater requirements during crisis or contingency deployments.

MI battalion companies, MI brigade (EAC) provide US Army interrogation support to the EAC TIF. The mission of the TIF is to-

- Interrogate PWs, high-level political and military personnel, civilian internees, defectors, refugees, and displace persons."

"A TIF is organized into a headquarters section, operations section, and two interrogation and DOCEX sections. It will normally have an attached TSA section from Operations Group, and a liaison team from the Joint Captured Materiel Exploitation Center (JCMEC). The JCMEC liaison team assists in exploiting sources who have knowledge of captured enemy weapons and equipment.

- Provost marshal for location of theater EPW camps, and for procedures to be followed by interrogators and MP for processing, interrogating, and internment."

Page 3-1. "Interrogation Process. Criteria for selecting personnel to be interrogated vary with the - commander's collection requirements. Time limitations. Number and types of potential sources available. Exact circumstance surrounding the employment of US Forces. In this regard, source selection is important in conducting interrogation at tactical echelons of command because of the proximity to enemy elements, number and conditions of detainees, and time restrictions."

Page 3-2. "Screening. Screening is the selection of sources for interrogation. It must be conducted at every echelon to-Determine source cooperativeness and knowledgeability. Determine which sources can best satisfy the commander's PIR and IR in a timely manner."

Page 3-2. "Prepare to Conduct Screenings. Screeners coordinate MP holding area guards on their role in the screening process. The guards are told where the screening will take place, how EPWs, and detainees are to be brought there from the holding area, and what types of behavior on their part will facilitate the screening."

Page 3-2. "Document Screening. If time permits, screeners should go to the holding area and examine all available documents pertaining to the EPWs and detainees. They should look for signs that certain EPWs and detainees are willing, or can be induced, to cooperate with the interrogators. Previous screening and interrogation reports and EPW personnel records are important."

Page 3-2. "Personnel Screening. If time permits, screeners should question holding area personnel about the EPWs and detainees. Since these personnel are in almost constant contact with the EPWs and detainees, their descriptions of specific ones can help identify sources who might answer the supported commander's PIR and IR. Screeners should identify and note those EPWs and detainees whose appearance and behavior indicate they are willing to cooperate immediately or are unlikely to cooperate ever."

Page 3-29. "Interrogation With an Interpreter. Interrogation through an interpreter is time consuming because the interpreter must repeat everything said by the interrogator and source.

The interrogator must brief the interpreter before the interrogation can begin. An interrogation with an interpreter will go through all five phases of the interrogation process. After the interrogation is over, the interrogator will evaluate the interpreter."

Page 3-30. "Conduct the Interrogation. During the interrogation, the interrogator corrects the interpreter if he violates any standards on which he was briefed. For example, if the interpreter injects his own ideas into the interrogation, he must be corrected.

"Corrections should be made in a low-key manner. At no time should the interrogator rebuke his interpreter sternly or loudly while they are with the source. The interrogator should never argue with the interpreter in the presence of the source. If a major correction must be made, the interrogator and the interpreter should leave the interrogation site temporarily, and only when necessary."

I. Finding 12:

(1) Finding: There was no Theater Detainee Reporting Center (TDRC) acting as the central, theater-level agency responsible for detainee accountability, resulting in a lack of detainee personnel and data management.

(2) Standard: Standard of treatment for detainees in OPERATION ENDURING FREEDOM (OEF): Chairman, Joint Chiefs of Staff (CJCS) message dated 211933Z JAN 02 states that members of the Taliban militia and members of Al Qaida under the control of US Forces would be treated humanely and, to the extent appropriate and consistent with military necessity, in a manner consistent with the principles of the Geneva Conventions of 1949. The DAIG has therefore used the provisions of the Geneva Conventions as a benchmark against which to measure the treatment provided to detainees by U.S. Forces to determine if detainees were treated humanely. The use of these standards as benchmarks does not state or imply a position for the United States or U.S. Army on the legal status of its operations in OEF.

CJCS Message dated 211933Z JAN 02, provides the determination regarding the humane treatment of Al Qaida and Taliban detainees. Convention Relative to the Treatment of Prisoners of War of August 12, 1949 (GPW) is the international treaty that governs the treatment of prisoners of war; and Geneva Convention Relative to the Protection of Civilian Persons in Time of War (GC), August 12, 1949 is the international treaty that governs the treatment of civilian persons in time of war.

As the guidance did not define "humane treatment" but did state that the US would treat members of the Taliban militia and Al Qaida in a manner consistent with the Geneva Conventions, the DAIG determined that it would use Common Article 3 of the GCs as its floor measure of humane treatment, but would also include provisions of the Geneva Convention on the Treatment of Prisoners of War (GPW) and Geneva Convention Relative to the Protection of Civilian Persons in Time of War (GC) as other relevant indicia of "humane treatment." The use of this standard does not state or imply a position for the United States or U.S. Army on the legal status of its operations in OEF.

Standard of treatment for detainees in OPERATION IRAQI FREEDOM (OIF): OIF was an international armed conflict and therefore the provisions of the Geneva Conventions applied. Additionally, the United States was an occupying power and has acted in accordance with the obligations of an occupying power described in the Hague Convention No. IV Respecting the Laws and Customs of War on Land (H.IV), Oct. 18, 1907, including, but not limited to Articles

43-46 and 50; Geneva Convention Relative to the Treatment of Prisoners of War of August 12, 1949 (GPW), Geneva Convention Relative to the Protection of Civilian Persons in Time of War (GC), August 12, 1949. The GC supplements H.IV, providing the general standard of treatment at Article 27 and specific standards in subsequent Articles.

The minimum treatment provided by Common Article 3 of the Geneva Conventions is: (1) No adverse distinction based upon race, religion, sex, etc.; (2) No violence to life or person; (3) No taking hostages; (4) No degrading treatment; (5) No passing of sentences in absence of fair trial, and; (6) The wounded and sick must be cared for.

The specific language in the CJCS Message for OEF and the GPW/GC and H.IV follows:

CJCS Message dated 211933Z JAN 02, "Paragraph 3. The combatant commanders shall, in detaining Al Qaida and Taliban individuals under the control of the Department of Defense, treat them humanely and, to the extent appropriate and consistent with military necessity, in a manner consistent with the principles of the Geneva Conventions of 1949."

GPW/GC, Article 3 (Common Article 3) – "In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each party to the conflict shall be bound to apply, as a minimum, the following provisions:

1. Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, color, religion or faith, sex, birth or wealth, or any other similar criteria.

To this end the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons:

(a) Violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;
(b) Taking of hostages;
(c) Outrages upon personal dignity, in particular, humiliating and degrading treatment;
(d) The passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court affording all the judicial guarantees which are recognized as indispensable by civilized peoples.

2. The wounded and sick shall be collected and cared for. An impartial humanitarian body, such as the International Committee of the Red Cross, may offer its services to the Parties to the conflict. The Parties to the conflict should further endeavour to bring into force, by means of special agreements, all or part of the other provisions of the present Convention. The application of the preceding provisions shall not affect the legal status of the Parties to the conflict."

The following specific provisions of GPW and GC apply:

"Article 18 – All effects and articles of personal use, except arms, horses, military equipment and military documents, shall remain in the possession of prisoners of war, likewise their metal helmets and gas masks and like articles issued for personal protection. Effects and

articles used for their clothing or feeding shall likewise remain in their possession, even if such effects and articles belong to their regulation military equipment. At no time should prisoners of war be without identity documents. The Detaining Power shall supply such documents to prisoners of war who possess none. Badges of rank and nationality, decorations and articles having above all a personal or sentimental value may not be taken from prisoners of war. Sums of money carried by prisoners of war may not be taken away from them except by order of an officer, and after the amount and particulars of the owner have been recorded in a special register and an itemized receipt has been given, legibly inscribed with the name, rank and unit of the person issuing the said receipt. Sums in the currency of the Detaining Power, or which are changed into such currency at the prisoner's request, shall be placed to the credit of the prisoner's account as provided in Article 64. The Detaining Power may withdraw articles of value from prisoners of war only for reasons of security; when such articles are withdrawn, the procedure laid down for sums of money impounded shall apply. Such objects, likewise sums taken away in any currency other than that of the Detaining Power and the conversion of which has not been asked for by the owners, shall be kept in the custody of the Detaining Power and shall be returned in their initial shape to prisoners of war at the end of their captivity.

Article 19 – Prisoners of war shall be evacuated, as soon as possible after their capture, to camps situated in an area far enough from the combat zone for them to be out of danger. Only those prisoners of war who, owing to wounds or sickness, would run greater risks by being evacuated than by remaining where they are, may be temporarily kept back in a danger zone. Prisoners of war shall not be unnecessarily exposed to danger while awaiting evacuation from a fighting zone."

Department of Defense Directive (DoDD), 2310.1, DoD Program for Enemy Prisoners of War (EPOW) and Other Detainees, 18 August 1994, Paragraph 1.2, designates the Secretary of the Army as Executive Agent for detainee operations; paragraph 4.2.5 establishes information coordination requirements for the Executive Agent for detainee operations. The specific language in the directive follows:

"1.2. Designates the Secretary of the Army as the Executive Agent for the Department of Defense for the administration of the DoD EPOW Detainee Program.

"4.2.5. Provide, in coordination with the ASD(ISA), appropriate reports to the OSD, the Chairman of the Joint Chiefs of Staff, and information or reports to other U.S. Government Agencies or Components, to include the Congress of the United States, or to the International Committee of the Red Cross."

Army Regulation (AR) 190-8, Enemy Prisoners of War, Retained Personnel, Civilian Internees and Other Detainees, 1 October 1997, Chapter 1, paragraph 1-7, subparagraph b, requires specific data elements to be collected and stored by the National Prisoner of War Information Center (NPWIC, now called the National Detainee Recording Center (NDRC)). Paragraph 1-8, subparagraphs a and b, assigns the Branch Prisoner of War Information Center (Branch PWIC, now called the Theater Detainee Reporting Center (TDRC)) as the field agency for maintaining information on persons and property within an assigned theater of operations or in Continental United States (CONUS) and outlines the Branch PWIC's primary responsibilities. Chapter 2, paragraph 2-1, subparagraph a (1) (b), explains how prisoners are to be tagged. Paragraph 2-2, subparagraph b (1), requires the use of DA Form 4137 for accounting for large sums of money and property taken from captured persons. This regulation is a multi-service regulation implementing DOD Directive 2310.1 and incorporates Army Regulation 190-8 and 190-57 and SECNAV Instruction 3461.3, and Air Force Joint Instruction 31-304 and outlines

policies, procedures, and responsibilities for treatment of enemy prisoners of war (EPW), retained personnel (RP), civilian internees (CI), and other detainees (OD) and implements international law for all military operations. The specific language in the regulation follows:

1-7. b. – "Obtain and store information concerning EPW, CI and RP, and their confiscated personal property. Information will be collected and stored on each EPW, CI, and RP captured and detained by U.S. Armed Forces. This includes those EPW, RP, who were captured by the United States but are in custody of other powers and those who have been released or repatriated. EPW, CI and RP cannot be forced to reveal any information however they are required to provide their name, rank, serial number and date of birth. The Geneva Convention requires the NPWIC to collect and store the following information for EPW, RP:

(1) Complete name.
(2) ISN.
(3) Rank.
(4) Serial number.
(5) Date of birth.
(6) City of birth.
(7) Country of birth.
(8) Name and address of next of kin.
(9) Date of capture.
(10) Place of capture.
(11) Capturing unit.
(12) Circumstances of capture.
(13) Location of confiscated personal property.
(14) Nationality.
(15) General statement of health.
(16) Nation in whose armed services the individual is serving.
(17) Name and address of a person to be notified of the individual's capture.
(18) Address to which correspondence may be sent.
(19) Certificates of death or duly authenticated lists of the dead.
(20) Information showing the exact location of war graves together with particulars of the dead.
(21) Notification of capture.
(22) List of personal articles of value not restored upon repatriation."

1-8. a. – "The Branch PWIC functions as the field operations agency for the NPWIC. It is the central agency responsible to maintain information on all EPW, CI and RP and their personal property within an assigned theater of operations or in CONUS.

1-8. b. – The Branch PWIC serves as the theater repository for information pertaining to:

(1) Accountability of EPW, CI, and RP and implementation of DOD policy.
(2) Providing initial and replacement block ISN assignments to theater EPW, CI and RP processing organizations, and requests replacement ISN's from the NPWIC.
(3) Obtaining and storing information concerning all EPW, CI and RP, in the custody of U.S. Armed Forces, those captured by U.S. Armed Forces and transferred to other powers for internment (either temporarily or permanently), those EPW and RP transferred to CONUS for internment, and EPW, CI and RP released or repatriated. Obtaining and storing information about CI kept in the custody of U.S. Armed Forces within its assigned theater of operations who are subjected to assigned residence, interned, or released."

2-1. a. (1) (b) – "All prisoners of war and retained persons will, at the time of capture, be tagged using DD Form 2745.

2-2. b. (1) – Appropriate intelligence sources will be notified when EPW and RP are found in possession of large sums of U.S. or foreign currency. A receipt DA Form 4137 will be prepared to account for all property that is taken from the EPW. Copies of DD Form 629 (Receipt for Prisoner or Detained Person) and DA Form 4137 will be maintained to establish positive accountability of the EPW and their property and can be used to substantiate proper care and treatment at a later time. DA Form 4137 will be used to account for property released before final disposition is ordered. Records of disposition of property will be evacuated with prisoners for inclusion in their personnel records."

Field Manual (FM) 3-19.40, Military Police Internment/Resettlement Operations, 1 August 2001, Chapter 3, paragraphs 3-45 and 3-54, establish the 12-hour forward collecting point and 24-hour central collecting point doctrine. The specific language in the field manual follows:

"3-45. Captives should not remain at a forward CP more than 12 hours before being escorted to the central CP.

3-54. Captives should not remain at the central CP more than 24 hours before being evacuated to the CHA."

m. **Finding 13:**

(1) Finding: The ongoing Military Intelligence Force Design Update is better suited to conduct simultaneous and sustained human intelligence missions in the current and future operating environment.

(2) Standard: Army Regulation (AR) 71-32, Force Development and Documentation—Consolidated Policies, 3 March 1997, Paragraph 2-1, subparagraph f, establishes the Deputy Chief of Staff for Operations and Plans (DCSOPS) responsibility for The Army Authorization Documents System-Redesign (TAADS-R) systems, which provides Army Modified Table of Organization and Equipment (MTOE) and Table of Distribution and Allowance (TDA) units with authorization documents containing the HQDA-approved organizational structure, personnel and equipment requirements and authorizations. Paragraph 2-2, subparagraph x, directs the Commander of U.S. Army Force Management Support Agency (USAFMSA) to act as executive agent for TAADS-R and review, develop, and publish MTOEs and TDAs. Paragraph 2-26, subparagraphs a-c, requires the Commander of U.S. Army Training and Doctrine Command (TRADOC) to develop and validate battlefield requirements and use the force design update process to document needed changes. TRADOC develops organizational concepts and designs. TRADOC provides USAFMSA the approved organization designs for the development of a Table of Organization and Equipment (TOE). Paragraph 4-1, subparagraphs b, c, and e, describe the TOE as the result of the combat development process and documents wartime capabilities, organizational structure, personnel and equipment. Paragraph 4-4 describes the concept for TOE review and revision. In this case the TOE revision documents a more effective organizational design. The specific language in the regulation follows:

"2–1. Deputy Chief of Staff for Operations and Plans (DCSOPS)
The DCSOPS will—

"*f.* Have HQDA responsibility for TAADS-R and, after appropriate HQDA coordination, will—

"(2) Develop and manage the Army force structure.

"(4) In coordination with the DCSPER and the DCSLOG publish and enforce policy and procedures to document requirements for and authorization of, organizations, personnel, and equipment.

"(6) Serve as the final HQDA approval authority for authorization documents.

"2–2. CDR, U.S. Army Force Management Support Agency (USAFMSA)
CDR, USAFMSA will—

"*x.* Act as executive agent for the operation of the TAADS-R and perform the following:

"(9) Perform technical review of Active Army and Reserve Component (RC) MTOE and TDA.

(10) Develop MTOEs for all Active Army and RC MTOE organizations under the CENDOC concept.

(11) Provide a foundation for manning the force, quantitatively and qualitatively, principally through detailed manpower requirements determination programs such as MARC, manpower staffing guides, organizational and manpower studies, and the MS3.

"(17) Maintain and distribute current files of all authorization documents (MTOEs and TOEs). Furnish authorization documentation data to HQDA and agencies/activities using TAADS.

"2–26. CG, U.S. Army Training and Doctrine Command (TRADOC)
In addition to the responsibilities in paragraph 2–19, the CG, TRADOC will—

a. Lead the Army in developing and validating battlefield requirements and use the force design update (FDU) process as the semiannual Army process to update organizational concepts and designs.

b. Develop organizational concepts and designs.

c. Provide USAFMSA completed unit reference sheets for FDU approved organization designs as the basis for TOE development.

"4–1. Concepts

"*b.* The TOE is the end product document of the Army's combat development process. It merges, in one document, the results of the requirements determination process...

"*c.* TOEs are the primary basis for stating Army requirements. This document heavily impacts the budget, the training base, efficiency, operational readiness, and overall management of Army resources.

"e. The TOE system is characterized by incremental TOEs that prescribe the wartime mission, capabilities, organizational structure, and minimum mission essential personnel and equipment requirements for military units. They portray the doctrinal modernization path (MODPATH) of a unit over time from the least modernized configuration to the most modernized.

"4–4. TOE review and revision

TOEs are normally revised as required to accommodate changes to doctrine, introduction of new equipment, or to incorporate more effective designs. Some TOEs are replaced by new organizations. Those TOEs that do not fall into the above categories will be reviewed not less than every three years from the date of approval."

AR 381–20, The Army Counterintelligence Program, 15 November 1993, Glossary, defines the terms counterintelligence, counterintelligence operations, and counterintelligence special agent. The term Military Occupational Specialty (MOS) refers to the type of training and skills of a Soldier in a specific specialty. In this report the DAIG Team uses the abbreviation CI to refer to Civilian Internees; the Military Intelligence mission of counterintelligence will not be abbreviated as CI except when quoted directly from Military Intelligence policy/doctrine paragraph(s) referring to counterintelligence, as in the following. The specific language in the regulation follows:

"counterintelligence

1. Information gathered and activities conducted to protect against espionage, other intelligence activities, sabotage or assassinations conducted for or on behalf of foreign powers, organizations, or persons, or international terrorist activities, but not including personnel, physical, document or communications security programs. Synonymous with foreign counterintelligence. (ICS Glossary)

2. Those activities which are concerned with identifying and counteracting the threat to security posed by foreign intelligence services or organizations, or by individuals engaged in espionage, sabotage, sedition, subversion or terrorism.

"counterintelligence operations

Activities taken to hinder the multidisciplinary activities of foreign intelligence and security services, and to cause FIS to doubt the validity of its own analysis.

"counterintelligence special agent

Soldiers holding the SSI 35E, MOS 351B or 97B, and civilian employees in the GS–0132 career field, who have successfully completed a CI [counterintelligence] officer/agent course, who are authorized USAI badges and credentials, and who are assigned to conduct CI [counterintelligence] investigations and operations. Also known as CI [counterintelligence] agent or MI agent."

Field Manual (FM) 34-60, Counterintelligence, 3 October 1995, Chapter 1, describes the Army counterintelligence mission as preventing other organizations and agencies from gathering information on Army organizations and agencies. Counterintelligence operations is a force protection factor and includes counter-human intelligence (C-HUMINT), counter-signals

intelligence (C-SIGINT), and counter-imagery intelligence (C-IMINT) functions. In this report the DAIG Team uses the abbreviation CI to refer to Civilian Internees; the Military Intelligence mission of counterintelligence will not be abbreviated as CI except when quoted directly from Military Intelligence policy/doctrine paragraph(s) referring to counterintelligence, as in the following. The specific language in the field manual follows:

"MISSION

The CI [counterintelligence] mission is authorized by Executive Order (EO) 12333, implemented by AR 381-20. The Army conducts aggressive, comprehensive, and coordinated CI [counterintelligence] activities worldwide. The purpose is to detect, identify, assess, counter, neutralize, or exploit threat intelligence collection efforts. This mission is accomplished during peacetime and all levels of conflict. Many CI [counterintelligence] functions, shown in Figure 1-1, are conducted by echelons above corps (EAC); some by echelons corps and below (ECB); and some are conducted by both. Those CI [counterintelligence] assets found at ECB respond to tactical commanders. EAC assets respond primarily to commanders of intelligence units while supporting all commanders within their theater or area of operations (AO).

"The essence of the Army's CI [counterintelligence] mission is to support force protection. By its nature, CI [counterintelligence] is a multidiscipline (C-HUMINT, C-SIGINT, and C-IMINT) function designed to degrade threat intelligence and targeting capabilities. Multidiscipline counterintelligence (MDCI) is an integral and equal part of intelligence and electronic warfare (IEW). MDCI operations support force protection through OPSEC, deception, and rear area operations across the range of military operations. For more information on IEW operations, see FM 34-1."

ST 2-22.7, Tactical Human Intelligence and Counter intelligence Operations, 11 April 2002, Paragraphs 1-1 and 1-7, describe the relationship between human intelligence (HUMINT) and counterintelligence and the function of Tactical HUMINT. Paragraph 1-10 defines the term HUMINT Collector. Additionally, the unit's counterintelligence mission is a force protection factor. In this report the DAIG Team uses the abbreviation CI to refer to Civilian Internees; the Military Intelligence mission of counterintelligence will not be abbreviated as CI except when quoted directly from Military Intelligence policy/doctrine paragraph(s) referring to counterintelligence, as in the following. The specific language in the manual follows:

"1-1. HUMINT and CI [counterintelligence] have distinctly different missions. HUMINT collectors gather information to answer intelligence and information requirements while CI [counterintelligence] personnel help protect the force from an adversary's intelligence collection efforts. HUMINT collectors and CI [counterintelligence] personnel bring unique sets of skills to any mission. At times each discipline may uncover information relating to the other's primary mission. Although HUMINT collectors and CI [counterintelligence] personnel appear to have similar functions, because the common denominator is human interaction, each discipline has its own area of expertise.

"1-7. Tactical HUMINT is the task organization of HUMINT collection assets and CI [counterintelligence] assets into combined teams to accomplish the mission of both disciplines at the tactical level (echelon corps and below). This task organization supports the force protection plan and answers the commander's intelligence requirements by employing -

- "CI [counterintelligence] agents to conduct focused identification, collection, analysis, recommendation of countermeasures, and production against FISS technical means and other adversary intelligence collection threats.

- "HUMINT collectors to conduct focused collection, analysis, and production on the adversary's composition, strength, dispositions, tactics, equipment, personnel, personalities, capabilities, and intentions.

"1-10. HUMINT collectors are personnel who, by training or in certain specific positions, are tasked with collecting information for intelligence use from people or related documents. A HUMINT source is any person who can provide information to answer collection requirements. [Unless otherwise noted in this manual, the term "HUMINT collector" refers to personnel in MOSs 351E and 97E. The term "CI [counterintelligence] collector" or "CI [counterintelligence] agent" refers to 35E, 351B, and 97B personnel.] The HUMINT and CI [counterintelligence] force is organized, trained, and equipped to provide timely and relevant answers to information requirements at each echelon. While HUMINT and CI [counterintelligence] have a different focus, in most deployment scenarios they work best in a collaborative effort."

n. **Finding 14:**

(1) Finding: The ongoing Military Police Force Design Update provides a force structure for internment/resettlement operations that has the flexibility and is better suited to conduct sustained detainee operations in the current and future operating environments.

(2) Standard: Army Regulation (AR) 71-32, Force Development and Documentation—Consolidated Policies, 3 March 1997, Paragraph 2-1, subparagraph f, establishes the Deputy Chief of Staff for Operations and Plans (DCSOPS) responsibility for The Army Authorization Documents System-Redesign (TAADS-R) systems, which provides Army Modified Table of Organization and Equipment (MTOE) and Table of Distribution and Allowance (TDA) units with authorization documents containing the HQDA-approved organizational structure, personnel and equipment requirements and authorizations. Paragraph 2-2, subparagraph f, requires Commander of U.S. Army Force Management Support Agency (USAFMSA) to review, evaluate, and coordinate all changes to force structure documents with effected Major Commands (MACOMs) and the U.S. Army Training and Doctrine Command (TRADOC) proponent. Paragraph 2-26, subparagraphs a-c, requires the Commander of U.S. Army Training and Doctrine Command (TRADOC) to develop and validate battlefield requirements and use the force design update process to document needed changes. TRADOC develops organizational concepts and designs. TRADOC provides USAFMSA the approved organization designs for the development of a Table of Organization and Equipment (TOE). Paragraph 4-1, subparagraphs b, c, and e, describe the TOE as the result of the combat development process and documents wartime capabilities, organizational structure, personnel and equipment. Paragraph 4-4 describes the concept for TOE review and revision. In this case the TOE revision documents a more effective organizational design. Paragraph 8-4, Table 8-1, gives the characteristics of an MTOE: a unit or organization with the ability to perform sustained Combat, Combat Support (CS), or Combat Service Support (CSS) missions; and the characteristics of a TDA: a unit or organization performing a mission at a fixed location. The Active Component (AC) units qualified to conduct internment/resettlement (I/R) operations are organized in TDAs and are not designed for deployment. Reserve Component (RC) units conducting I/R operations are organized in MTOEs for deployment. The specific language in the regulation follows:

"2–1. Deputy Chief of Staff for Operations and Plans (DCSOPS)
The DCSOPS will—

"*f.* Have HQDA responsibility for TAADS-R and, after appropriate HQDA coordination, will—

"(2) Develop and manage the Army force structure.

"(4) In coordination with the DCSPER and the DCSLOG publish and enforce policy and procedures to document requirements for and authorization of, organizations, personnel, and equipment.

"(6) Serve as the final HQDA approval authority for authorization documents.

"2–2. CDR, U.S. Army Force Management Support Agency (USAFMSA)
CDR, USAFMSA will—

"*f.* Review and evaluate all proposed TOE changes. Coordinate requests for TOE changes with the affected MACOM and proponent schools. Recommend approval to HQDA if appropriate.

"2–26. CG, U.S. Army Training and Doctrine Command (TRADOC)
In addition to the responsibilities in paragraph 2–19, the CG, TRADOC will—

a. Lead the Army in developing and validating battlefield requirements and use the force design update (FDU) process as the semiannual Army process to update organizational concepts and designs.

b. Develop organizational concepts and designs.

c. Provide USAFMSA completed unit reference sheets for FDU approved organization designs as the basis for TOE development.

"4–1. Concepts

"*b.* The TOE is the end product document of the Army's combat development process. It merges, in one document, the results of the requirements determination process...

"*c.* TOEs are the primary basis for stating Army requirements. This document heavily impacts the budget, the training base, efficiency, operational readiness, and overall management of Army resources.

"*e.* The TOE system is characterized by incremental TOEs that prescribe the wartime mission, capabilities, organizational structure, and minimum mission essential personnel and equipment requirements for military units. They portray the doctrinal modernization path (MODPATH) of a unit over time from the least modernized configuration to the most modernized.

"4–4. TOE review and revision

TOEs are normally revised as required to accommodate changes to doctrine, introduction of new equipment, or to incorporate more effective designs. Some TOEs are replaced by new organizations. Those TOEs that do not fall into the above categories will be reviewed not less than every three years from the date of approval.

"8–4. Type of organization

Criteria in Table 8–1 will be used to determine whether an organization should be documented as a MTOE, TDA, or AUGTDA.

"MTOE – The unit or organization is required to perform combat, CS, or CSS missions on a continuing basis.

"TDA – The unit or organization is part of a fixed support establishment, for example, installation, garrison."

AR 190-8, Enemy Prisoners of War, Retained Personnel, Civilian Internees and Other Detainees, 1 October 1997, Paragraph 1-1, subparagraph a, establishes the regulation as the source for policy for enemy prisoners of war (EPW), retained personnel (RP), civilian internees (CI) and other detainees (OD). The policy (written in 1997) is based on the Cold War model of an organized EPW population that is cooperative. The policy does not address the confinement of high-risk detainees. Paragraph 1-4, subparagraph g, establishes that EPW, RP, CI, and OD will be handed over to the Military Police (MP) or facilities run by the MPs. The regulation states that MPs have units specifically organized to perform the long-term functions associated with EPW/CI internment. The force structure of MP units does not support this requirement. The Glossary, Section II, defines the following terms: EPW, RP, CI, OD, and Detainee. The MP Corps has not yet developed or defined the term High Risk Detainee. This regulation is a multi-service regulation implementing DOD Directive 2310.1 and incorporates Army Regulation 190-8 and 190-57 and SECNAV Instruction 3461.3, and Air Force Joint Instruction 31-304 and outlines policies, procedures, and responsibilities for treatment of EPWs, RPs, CIs, and ODs and implements international law for all military operations. The specific language in the regulation follows:

"1–1. Purpose

a. This regulation provides policy, procedures, and responsibilities for the administration, treatment, employment, and compensation of enemy prisoners of war (EPW), retained personnel (RP), civilian internees (CI) and other detainees (OD) in the custody of U.S. Armed Forces. This regulation also establishes procedures for transfer of custody from the United States to another detaining power.

"1–4. Responsibilities

"*g. Combatant Commanders, Task Force Commanders and Joint Task Force Commanders.* Combatant Commanders, Task Force Commanders and Joint Task Force Commanders have the overall responsibility for the EPW, CI and RP program, operations, and contingency plans in the theater of operation involved to ensure compliance with international law of war. DOD Directive 2310.1 provides that persons captured or detained by the U.S. Military Services shall normally be handed over for safeguarding to U.S. Army Military Police, or

to detainee collecting points or other holding facilities and installations operated by U.S. Army Military Police as soon as practical. U.S. Army Military Police have units specifically organized to perform the long-term functions associated with EPW/CI internment.

"Glossary

"Section II Terms

"Civilian Internee(s). A civilian who is interned during armed conflict or occupation for security reasons or for protection or because he has committed an offense against the detaining power.

"Detainee. A term used to refer to any person captured or otherwise detained by an armed force.

"Enemy Prisoner of War. A detained person as defined in Articles 4 and 5 of the Geneva Convention Relative to the Treatment of Prisoners of War of August 12, 1949. In particular, one who, while engaged in combat under orders of his or her government, is captured by the armed forces of the enemy. As such, he or she is entitled to the combatant's privilege of immunity from the municipal law of the capturing state for warlike acts which do not amount to breaches of the law of armed conflict. For example, a prisoner of war may be, but is not limited to, any person belonging to one of the following categories who has fallen into the power of the enemy: a member of the armed forces, organized militia or volunteer corps; a person who accompanies the armed forces without actually being a member thereof; a member of a merchant marine or civilian aircraft crew not qualifying for more favorable treatment; or individuals who, on the approach of the enemy, spontaneously take up arms to resist invading forces.

"Other Detainee (OD). Persons in the custody of the U.S. Armed Forces who have not been classified as an EPW (article 4, GPW), RP (article 33, GPW), or CI (article 78, GC), shall be treated as EPWs until a legal status is ascertained by competent authority."

Field Manual (FM) 3-19.1, Military Police Operations, 31 January 2002, Paragraph 1-3, describes the doctrine review process the MP Corps underwent in 1996 and establishes and separates the internment and resettlement (I/R) function from the EPW mission. Paragraph 4-42 requires the Army to act as the Department of Defense's (DoD) Executive Agent for long-term confinement of U.S. Armed Forces prisoners. The paragraph goes on to address the MPs role in I/R functions, but does not address long-term confinement as an I/R function. The MP Corps does not address the doctrinal requirement for long-term I/R confinement or confinement of high-risk detainees. Paragraph 4-44 states the ratios by type of detainee that an MP (I/R) Battalion can support. This formula does not address confinement of high-risk detainees. The specific language in the field manual follows:

"1-3. In 1996, the MP Corps went through a doctrinal review process to determine if it was properly articulating its multiple performance capabilities in support of US forces deployed worldwide (see Appendix B). The review process identified the need to restructure and expand the EPW mission to include handling US military prisoners and all dislocated civilians. This new emphasis transformed the EPW mission into the internment and resettlement (I/R) function. The review process also identified the need to shift from missions to functions. In the past, the four battlefield missions adequately described MP capabilities in a mature theater against a

predictable, echeloned threat. However, that landscape is no longer valid. Accordingly, the four MP battlefield missions have become the following five MP functions:

- Maneuver and mobility support (MMS).
- AS.
- L&O.
- I/R.
- Police intelligence operations (PIO).

"4-42. The Army is the Department of Defense's (DOD's) executive agent for all EPW/CI operations. Additionally, the Army is DOD's executive agent for longterm confinement of US military prisoners. Within the Army and through the combatant commander, the MP are tasked with coordinating shelter, protection, accountability, and sustainment for EPWs/CIs. The I/R function addresses MP roles when dealing with EPWs/CIs, dislocated civilians, and US military prisoners.

"4-44. Although the CS MP unit initially handles EPWs/CIs, modular MP (I/R) battalions with assigned MP guard companies and supporting MWD teams are equipped and trained to handle this mission for the long term. A properly configured modular MP (I/R) battalion can support, safeguard, account for, guard, and provide humane treatment for up to 4,000 EPWs/CIs; 8,000 dislocated civilians; or 1,500 US military prisoners."

FM 3-19.40, Military Police Internment/Resettlement Operations, 1 August 2001, Paragraph 1-13, states the objectives of I/R operations and the types of detainees expected. The terms refer to EPW, CI, RP, OD, dislocated civilian (DC), and U.S. Armed Forces prisoners. At the time this doctrine was written (August 2001) the MP Corps had not yet developed or defined the term high-risk detainee. The specific language in the field manual follows:

"1-13. The objectives of I/R operations are to process, handle, care for, account for, and secure—

- EPWs.
- CIs.
- RPs.
- ODs
- DCs.
- US military prisoners."

o. **Finding 15:**

(1) Finding: Three of 4 inspected internment/resettlement facilities, and many of the collecting points, had inadequate force protection measures, Soldier working conditions, detainees living conditions, and did not meet the minimum preventive medical treatment requirements.

(2) Standard: Standard of treatment for detainees in OPERATION ENDURING FREEDOM (OEF): CJCS message dated 211933Z JAN 02 states that members of the Taliban militia and members of Al Qaida under the control of U.S. Forces would be treated humanely and, to the extent appropriate and consistent with military necessity, in a manner consistent with the principles of the Geneva Conventions of 1949. The DAIG has therefore used the provisions of the Geneva Conventions as a benchmark against which to measure the treatment provided to detainees by U.S. Forces to determine if detainees were treated humanely. The use of these

standards as benchmarks does not state or imply a position for the United States or U.S. Army on the legal status of its operations in OEF.

CJCS Message dated 211933Z JAN 02, provides the determination regarding the humane treatment of Al Qaida and Taliban detainees. Convention Relative to the Treatment of Prisoners of War of August 12, 1949 (GPW) is the international treaty that governs the treatment of prisoners of war, and Geneva Convention Relative to the Protection of Civilian Persons in Time of War (GC), August 12, 1949, is the international treaty that governs the treatment of civilian persons in time of war.

As the guidance did not define "humane treatment" but did state that the U.S. would treat members of the Taliban militia and Al Qaida in a manner consistent with the Geneva Conventions, the DAIG determined that it would use Common Article 3 of the GCs as its floor measure of humane treatment, but would also include provisions of the Geneva Convention on the Treatment of Prisoners of War (GPW) and Geneva Convention Relative to the Protection of Civilian Persons in Time of War (GC) as other relevant indicia of "humane treatment." The use of this standard does not state or imply a position for the United States or U.S. Army on the legal status of its operations in OEF.

Standard of treatment for detainees in OPERATION IRAQI FREEDOM (OIF): OIF was an international armed conflict and therefore the provisions of the Geneva Conventions applied. Additionally, the United States was an occupying power and has acted in accordance with the obligations of an occupying power described in the Hague Convention No. IV Respecting the Laws and Customs of War on Land (H.IV), Oct. 18, 1907, including, but not limited to, Articles 43-46 and 50; Geneva Convention Relative to the Treatment of Prisoners of War of August 12, 1949 (GPW); and Geneva Convention Relative to the Protection of Civilian Persons in Time of War (GC), August 12, 1949. The GC supplements H.IV, providing the general standard of treatment at Article 27 and specific standards in subsequent Articles.

The minimum treatment provided by Common Article 3 of the Geneva Conventions is: (1) No adverse distinction based upon race, religion, sex, etc.; (2) No violence to life or person; (3) No taking hostages; (4) No degrading treatment; (5) No passing of sentences in absence of fair trial, and; (6) The wounded and sick must be cared for.

The specific language in the CJCS Message for OEF and the GPW/GC and H.IV follows:

CJCS Message dated 211933Z JAN 02, "Paragraph 3. The combatant commanders shall, in detaining Al Qaida and Taliban individuals under the control of the Department of Defense, treat them humanely and, to the extent appropriate and consistent with military necessity, in a manner consistent with the principles of the Geneva Conventions of 1949."

GPW/GC, Article 3 (Common Article 3) – "In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each party to the conflict shall be bound to apply, as a minimum, the following provisions:

1. Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, color, religion or faith, sex, birth or wealth, or any other similar criteria.

To this end the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons:

(a) Violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;
(b) Taking of hostages;
(c) Outrages upon personal dignity, in particular, humiliating and degrading treatment;
(d) The passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court affording all the judicial guarantees which are recognized as indispensable by civilized peoples.

2. The wounded and sick shall be collected and cared for. An impartial humanitarian body, such as the International Committee of the Red Cross, may offer its services to the Parties to the conflict. The Parties to the conflict should further endeavour to bring into force, by means of special agreements, all or part of the other provisions of the present Convention. The application of the preceding provisions shall not affect the legal status of the Parties to the conflict."

Hague Convention No. IV Respecting the Laws and Customs of War on Land (H.IV.), Oct. 18, 1907, Articles 43-46 and 50; and Geneva Convention Relative to the Protection of Civilian Persons in Time of War (GC), Aug 12, 1949, Articles 81, 83, 85, 88, 89, and 91 discuss the requirement to accommodate detainees in buildings or quarters which afford every possible safeguard regarding health and hygiene and the effects of war. The specific language in the GC follows:

GC Article 81 – "Parties to the conflict who intern protected persons shall be bound to provide free of charge for their maintenance, and to grant them also the medical attention required by their state of health. No deduction from the allowances, salaries or credits due to the internees shall be made for the repayment of these costs."

GC, Article 83 – "The Detaining Power shall not set up places of internment in areas particularly exposed to the dangers of war. ..."

GC, Article 85 – "The Detaining Power is bound to take all necessary and possible measures to ensure that protected persons shall, from the outset of their internment, be accommodated in buildings or quarters which afford every possible safeguard as regards hygiene and health, and provide efficient protection against the rigors of the climate and the effects of the war. In no case shall permanent places of internment be situated in unhealthy areas or in districts, the climate of which is injurious to the internees. In all cases where the district, in which a protected person is temporarily interned, is an unhealthy area or has a climate which is harmful to his health, he shall be removed to a more suitable place of internment as rapidly as circumstances permit. The premises shall be fully protected from dampness, adequately heated and lighted, in particular between dusk and lights out. The sleeping quarters shall be sufficiently spacious and well ventilated, and the internees shall have suitable bedding and sufficient blankets, account being taken of the climate, and the age, sex, and state of health of the internees. Internees shall have for their use, day and night, sanitary conveniences which conform to the rules of hygiene, and are constantly maintained in a state of cleanliness. They shall be provided with sufficient water and soap for their daily personal toilet and for washing their personal laundry; installations and facilities necessary for this purpose shall be granted to them. Showers or baths shall also be available. The necessary time shall be

set aside for washing and for cleaning. Whenever it is necessary, as an exceptional and temporary measure, to accommodate women internees who are not members of a family unit in the same place of internment as men, the provision of separate sleeping quarters and sanitary conveniences for the use of such women internees shall be obligatory."

GC, Article 88 – "In all places of internment exposed to air raids and other hazards of war, shelters adequate in number and structure to ensure the necessary protection shall be installed. ..."

GC, Article 89 – "Daily food rations for internees shall be sufficient in quantity, quality and variety to keep internees in a good state of health and prevent the development of nutritional deficiencies. Account shall also be taken of the customary diet of the internees. Internees shall also be given the means by which they can prepare for themselves any additional food in their possession. Sufficient drinking water shall be supplied to internees. ... "

GC Article 91 – "Every place of internment shall have an adequate infirmary, under the direction of a qualified doctor, where internees may have the attention they require, as well as appropriate diet. Isolation wards shall be set aside for cases of contagious or mental diseases. Maternity cases and internees suffering from serious diseases, or whose condition requires special treatment, a surgical operation or hospital care, must be admitted to any institution where adequate treatment can be given and shall receive care not inferior to that provided for the general population. Internees shall, for preference, have the attention of medical personnel of their own nationality. Internees may not be prevented from presenting themselves to the medical authorities for examination. The medical authorities of the Detaining Power shall, upon request, issue to every internee who has undergone treatment an official certificate showing the nature of his illness or injury, and the duration and nature of the treatment given. A duplicate of this certificate shall be forwarded to the Central Agency provided for in Article 140 Treatment, including the provision of any apparatus necessary for the maintenance of internees in good health, particularly dentures and other artificial appliances and spectacles, shall be free of charge to the internee."

GPW, Article 29 – "The Detaining Power shall be bound to take all sanitary measures necessary to ensure the cleanliness and healthfulness of camps and to prevent epidemics.

Prisoners of war shall have for their use, day and night, conveniences which conform to the rules of hygiene and are maintained in a constant state of cleanliness. In any camps in which women prisoners of war are accommodated, separate conveniences shall be provided for them.

Also, apart from the baths and showers with which the camps shall be furnished, prisoners of war shall be provided with sufficient water and soap for their personal toilet and for washing their personal laundry; the necessary installations, facilities and time shall be granted them for that purpose."

Army Regulation (AR) 40-5, Preventive Medicine, 15 October 1990, Chapter 14, paragraph 14-3, subparagraph a, requires field sanitation teams at all company-level units. The specific language in the regulation follows:

"a. Functions. As a minimum, units deploying to the field will—

(1) Before deployment, appoint a field sanitation team with responsibilities defined in b below.

(2) Before deployment, incorporate PMM into SOPs.

(3) Have the capability to use pesticides and vegetation controls.

(4) Bury and/or burn wastes to prevent the breeding of insects and rodents. Consult the environmental coordinator or PVNTMED personnel to ensure compliance with local environmental regulations and laws during field exercises.

(5) Protect food during storage and preparation to prevent contamination (TB MED 530).

(6) Monitor unit water sources to assure adequate supplies and disinfection.

(7) Arrange for maintenance of immunizations and prophylaxis.

(8) Use other appropriate measures under FM 21–10 / AFM 161–10.

(9) Assure command supervision of individual PMM.

(10) Request assistance for problems exceeding unit capabilities.

(11) Deploy to the field with field sanitation equipment listed in table 14–1."

Army Regulation (AR) 190-8, Enemy Prisoners of War, Retained Personnel, Civilian Internees and Other Detainees, 1 October 1997, Chapter 1, paragraph 1-4, subparagraph g (6) (a), discusses sanitary aspects of food service and the need to provide potable water and vector control. Chapter 3, paragraph 3-2, subparagraph b, requires internment/resettlement (I/R) facilities and collecting points (CPs) to operate under the same standards of hygiene and sanitation. Paragraph 3-4, subparagraph e, requires enemy prisoners of war/retained personnel (EPW/RP) to be housed under the same conditions as US forces residing in the same area; subparagraph i requires EPW/RP facilities to ensure a clean and healthy environment for detainees. Chapter 5, paragraph 5-2, subparagraph a, states that a safety program for civilian internees (CIs) will be established. Chapter 6, paragraph 6-1, subparagraph b, discusses minimum standards to house (CIs). Paragraph 6-5 discusses subsistence requirement for CIs, and paragraph 6-6 covers medical care and sanitation. This regulation is a multi-service regulation implementing DoD Directive 2310.1 and incorporates Army Regulation 190-8 and 190-57 and SECNAV Instruction 3461.3, and Air Force Joint Instruction 31-304 and outlines policies, procedures, and responsibilities for treatment of enemy prisoners of war (EPW), retained personnel (RP), civilian internees (CI), and other detainees (OD) and implements international law for all military operations. The specific language in the regulation follows:

3-2. b. – "Prisoners will not normally be interned in unhealthy areas, or where the climate proves to be injurious to them, and will be removed as soon as possible to a more favorable climate. Transit camps or collecting points will operate under conditions similar to those prescribed for permanent prisoner of war camps, and the prisoners will receive the same treatment as in permanent EPW camps.

3-4. e. – "EPW/RP will be quartered under conditions as favorable as those for the force of the detaining power billeted in the same area. The conditions shall make allowance for the habits and customs of the prisoners and shall in no case be prejudicial to their health. The forgoing shall apply in particular to the dormitories of EPW/RP as it regards both total surface and minimum cubic space and the general installation of bedding and blankets. Quarters furnished to EPW/RP must be protected from dampness, must be adequately lit and heated (particularly between dusk and lights-out), and must have adequate precautions taken against the dangers of fire. In camps accommodating both sexes, EPW/RP will be provided with separate facilities for women.

3-4. i. – "Hygiene and medical care:

(1) The United States is bound to take all sanitary measures necessary to ensure clean and healthy camps to prevent epidemics. EPW/RP will have access, day and night, to latrines that conform to the rules of hygiene and are maintained in a constant state of cleanliness. In any camps in which women EPW/RP are accommodated, separate latrines will be provided for them. EPW/RP will have sufficient water and soap for their personal needs and laundry.

"(6) Identify requirements and allocations for Army Medical units in support of the EPW, CI and RP Program, and ensure that the medical annex of OPLANs, OPORDs and contingency plans includes procedures for treatment of EPW, CI, RP, and ODs. Medical support will specifically include:

(a) First aid and all sanitary aspects of food service including provisions for potable water, pest management, and entomological support.

"5–2. Civilian Internee Safety Program

a. Establishment. A safety program for the CI will be established and administered in accordance with the policies prescribed in AR 385-10 and other pertinent safety directives.

"6–1. Internment Facility

a. Location. The theater commander will be responsible for the location of the CI internment facilities within his or her command. The CI retained temporarily in an unhealthy area or where the climate is harmful to their health will be removed to a more suitable place of internment as soon as possible.

b. Quarters. Adequate shelters to ensure protection against air bombardments and other hazards of war will be provided and precautions against fire will be taken at each CI camp and branch camp.

(1) All necessary and possible measures will be taken to ensure that CI shall, from the outset of their internment, be accommodated in buildings or quarters which afford every possible safeguard as regards hygiene and health, and provide efficient protection against the rigors of the climate and the effects of war. In no case shall permanent places of internment be placed in unhealthy areas, or in districts the climate of which is injurious to CI.

(2) The premises shall be fully protected from dampness, adequately heated and lighted, in particular between dusk and lights out. The sleeping quarters shall be sufficiently spacious and well ventilated, and the internees shall have suitable bedding and sufficient blankets, account being taken of the climate, and the age, sex and state of health of the internees.

(3) Internees shall have for their use, day and night, sanitary conveniences which conform to the rules of hygiene and are constantly maintained in a state of cleanliness. They shall be provided with sufficient water and soap for their daily personal hygiene and for washing their personal laundry; installations and facilities necessary for this purpose shall be provided. Showers or baths shall also be available. The necessary time shall be set aside for washing and for cleaning.

(4) CI shall be administered and housed separately from EPW/RP. Except in the case of families, female CI shall be housed in separate quarters and shall be under the direct supervision of women.

"6–5. Supplies.

"b. Food.

(1) Subsistence for the CI will be issued on the basis of a master CI menu prepared by the theater commander. Preparation of the menu will include the following:

(a) The daily individual food ration will be sufficient in quantity, quality, and variety to maintain the CI in good health and to prevent nutritional deficiencies.

"6–6. Medical Care and Sanitation.

a. General

"(2) A medical officer will examine each CI upon arrival at a camp and monthly thereafter. The CI will not be admitted into the general population until medical fitness is determined. These examinations will detect vermin infestation and communicable diseases especially tuberculosis, malaria, and venereal disease. They will also determine the state of health, nutrition, and cleanliness of each CI. During these examinations, each CI will be weighed, and the weight will be recorded on DA Form 2664-R."

AR 385-10, The Army Safety Program, 29 February 2000, Chapter 1, paragraph 1–4, paragraph n, subparagraph (1) (a), discusses commanders' responsibilities in implementing the Army Safety Program. Paragraph 1-5, subparagraph b, states that all decision makers will employ the risk management process. Chapter 2, paragraph 2–2, subparagraph b, states that the risk management process will be incorporated into SOPs. Paragraph 2-3, subparagraph d, discusses that, as a minimum requirement, annual inspections or surveys will be conducted on facilities—more inspections may be required based on risk. The specific language in the regulation follows:

"n. MACOM commanders will—(1) Ensure the full and effective implementation of the Army safety and OH program throughout their MACOM. This includes—(a) Providing a safe and healthful workplace and environment.

"b. Decision makers at every level will employ the risk management process, as specified in paragraph 2-3d of this regulation, to avoid unnecessary residual risk to missions, personnel, equipment, and the environment.

"2–2. Operational procedures. Leaders and managers are responsible for integrating risk management into all Army processes and operations. Safety and occupational health staffs will provide risk management training, tools and other related assistance. Leaders and managers will—

"b. Ensure that the risk management process is incorporated in regulations, directives, SOPs, special orders, training plans, and operational plans to minimize accident risk and that SOPs are developed for all operations entailing risk of death, serious injury, occupational illness or property loss.

"2–3. Prevention program procedures. a. Inspections and surveys. Inspections and surveys of operations and facilities will be conducted annually or more often (chap 4).

"d. Risk management. Risk Management is the Army's principal risk reduction process to assist leaders in identifying and controlling hazards and making informed decisions. (1) Every commander, leader and manager is responsible for protecting the force and persons affected by Army operations. The five-step process is the commander's principal risk reduction process to identify and control hazards and make informed decisions. (a) Identify hazards. (b) Assess hazards. (c) Develop controls and make risk decisions. (d) Implement controls. (e) Supervise and evaluate."

AR 420-70, Buildings and Structures, 10 October 1997, Chapter 2, paragraph 2-10, subparagraph a, states that lead based paint will not be used in Army facilities. The specific language in the regulation follows:

"a. Lead-based paint (LBP). LBP will not be applied to any Army facility."

Field Manual (FM) 3-19.4, Military Police Leaders' Handbook, 4 March 2002, Chapter 7, paragraph 7-8, states that detainees do not remain at forward collecting points more than 12 hours before moving to the central collecting point. Paragraph 7-9 states that existing structures should be used when possible. Paragraph 7-29 discusses safeguarding and protecting detainees from attack. Paragraph 7-30 discusses GS MPs and their role in establishing division central collecting points. Paragraph 7-33 discusses MP roles in escorting detainees from forward collecting points to division central collecting points within 12 hours. Paragraph 7-58, discusses the physical criteria for collecting points. The specific language in the field manual follows:

"7-8. ... Units needed to support the division forward collecting point should be specifically tasked in the brigade OPORD. MP leaders operating the division forward collecting point will—

- Ensure that captives do not remain at the division forward collecting point more than 12 hours before being escorted to the division central collecting point.

7-9. A forward collecting point (Figure 7-1, page 7-6) should not be set up near local inhabitants. Existing structures like vacant schools, apartments, or warehouses should be used when possible. This reduces construction requirements and minimizes logistical requirements. If existing structures are not used, detainees, except officers, can be tasked to help construct the collecting point. Prisoners may dig or build cover to protect themselves from artillery, mortar, or air attack. There is no set design for a forward collecting point. It can be anything from a guarded, roped off area to a secured, existing structure. The collecting point is built to suit the climate, the weather, and the situation. When selecting a collecting point, consider the following:

- The security of the detainees. The perimeters of the enclosure must be clearly defined and understood by the detainees.
- First aid. Injured or ill detainees require the same treatment that would be given to US casualties.
- Food and water. Detainees may have been without food or water for a long time before capture.
- Latrine facilities.
- Field sanitation. If possible, have detainees wash with soap and water to reduce the likelihood of disease.

- Shelter and cover.
- Language barriers. Provide interpreters and/or instructional graphic training aids (GTAs) in the EPW native language to compensate for the language differences.

"7-29. Protecting detainees from attack, preventing their escape, and quickly removing them from the battle area further safeguards them. Detainees should not remain at the division forward collecting point more than 12 hours, if possible. MP from the division central collecting point move forward to escort detainees back to the central collecting points.

7-30. MP in GS are responsible for establishing and maintaining the division central collecting point. They collect detainees from the forward collecting points, then process and secure them until corps MP come forward to evacuate them to the rear. Detainees should be transferred to the corps holding area or directly to an internment facility within 24 hours, if possible. One or more GS MP platoons operate the division central collecting point. The MP platoons are augmented by the division band and/or by the corps MP. Augmentation is based on the number and rate of captives expected.

"7-33. The MP platoon charged with operating the division central collecting point sends MP forward to the division forward collecting point to escort detainees back to the central collecting point. EPWs or CIs must be evacuated from the division forward collecting point as soon as possible, preferably within 12 hours. Before evacuating the detainees, MP checks with MI interrogation teams for any property to be returned to, or evacuated with, the detainees before they are moved.

"7-58. The size of the facility is based on the number of prisoners being detained. It may be room or a tent, as long as it provides shelter equal to that offered to other soldiers in the combat zone. The physical criteria for permanent and temporary structures are the same. MP use existing structures if you can. Otherwise, they use tents. ...

FM 3-19.40, Military Police Internment/Resettlement Operations, 1 August 2001, Chapter 2, paragraph 2-1, discusses the Military Police Battalion Commander's responsibilities. Paragraph 2-1 states the role of the MP battalion commander, paragraph 2-17 discusses the requirement for a safety program for I/R facilities, and paragraph states the engineer officer's responsibilities. Paragraph 2-37 states the responsibility of the engineer officer. Chapter 6, paragraphs 6-2 and 6-3 discuss the considerations of choosing sites for Internment/Resettlement (I/R) facilities. The specific language in the field manual follows:

"2-1. An MP battalion commander tasked with operating an I/R facility is also the facility commander. As such, he is responsible for the safety and well-being of all personnel housed within the facility. Since an MP unit may be tasked to handle different categories of personnel (EPW, CI, OD, refugee, and US military prisoner), the commander, the cadre, and support personnel must be aware of the requirements for each category.

"2-17. Set up and administer a safety program for housed personnel in each I/R facility. Follow the procedures outlined in AR 385-10 and associated circulars and pamphlets to establish the safety program. Maintain records and reports for the internee safety program separate from those for the Army safety program.

"2-37. The engineer officer is a captain in a brigade and a lieutenant in a battalion. He trains and supervises internees who perform internal and external labor (construction and repair of facilities). The engineer officer is responsible for—

- Construction, maintenance, repair, and operation of utilities (water, electricity, heat, and sanitation).
- Construction support.
- Fire protection.
- Insect and rodent control and fumigation.

"6-2. The MP coordinate the location with engineers, logistical units, higher headquarters, and the HN. The failure to properly consider and correctly evaluate all factors may increase the logistical and personnel efforts required to support operations. If an I/R facility is improperly located, the entire internee population may require movement when resources are scarce. When selecting a site for a facility, consider the following:

- Will the interned population pose a serious threat to logistical operations if the tactical situation becomes critical?
- Is there a threat of guerrilla activity in the area?
- What is the attitude of the local population?
- What classification of internees will be housed at the site?
- What type of terrain surrounds the site, and will it help or hinder escapes?
- What is the distance from the MSR to the source of logistical support?
- What transportation methods are required and available to move internees, supplies, and equipment?

6-3. In addition, consider the—

- METT-TC.
- Proximity to probable target areas.
- Availability of suitable existing facilities (avoids unnecessary construction).
- Presence of swamps, mosquitoes, and other factors (including water drainage) that affect human health.
- Existence of an adequate, satisfactory source of potable water. The supply should meet the demands for consumption, food sanitation, personal hygiene, and sewage disposal.
- Availability of electricity. Portable generators can be used as standby and emergency sources of electricity.
- Distance to work if internees are employed outside the facility.
- Availability of construction material.
- Soil drainage."

p. **Finding 16:**

(1) Finding: Two of 4 internment/resettlement facilities did not segregate enemy prisoners of war from civilian internees in accordance with legal requirements.

(2) Standard: Standard of treatment for detainees in OPERATION ENDURING FREEDOM (OEF): CJCS message dated 211933Z JAN 02 states that members of the Taliban militia and members of Al Qaida under the control of U.S. Forces would be treated humanely and, to the extent appropriate and consistent with military necessity, in a manner consistent with the principles of the Geneva Conventions of 1949. The DAIG has therefore used the provisions of the Geneva Conventions as a benchmark against which to measure the treatment provided to

detainees by U.S. Forces to determine if detainees were treated humanely. The use of these standards as benchmarks does not state or imply a position for the United States or U.S. Army on the legal status of its operations in OEF.

CJCS Message dated 211933Z JAN 02, provides the determination regarding the humane treatment of Al Qaida and Taliban detainees. Convention Relative to the Treatment of Prisoners of War of August 12, 1949 (GPW) is the international treaty that governs the treatment of prisoners of war), and Geneva Convention Relative to the Protection of Civilian Persons in Time of War (GC), August 12, 1949, is the international treaty that governs the treatment of civilian persons in time of war.

As the guidance did not define "humane treatment" but did state that the U.S. would treat members of the Taliban militia and Al Qaida in a manner consistent with the Geneva Conventions, the DAIG determined that it would use Common Article 3 of the GCs as its floor measure of humane treatment, but would also include provisions of the Geneva Convention on the Treatment of Prisoners of War (GPW) and Geneva Convention Relative to the Protection of Civilian Persons in Time of War (GC) as other relevant indicia of "humane treatment." The use of this standard does not state or imply a position for the United States or U.S. Army on the legal status of its operations in OEF.

Standard of treatment for detainees in OPERATION IRAQI FREEDOM (OIF): OIF was an international armed conflict and therefore the provisions of the Geneva Conventions applied. Additionally, the United States was an occupying power and has acted in accordance with the obligations of an occupying power described in the Hague Convention No. IV Respecting the Laws and Customs of War on Land (H.IV), Oct. 18, 1907, including, but not limited to, Articles 43-46 and 50; Geneva Convention Relative to the Treatment of Prisoners of War of August 12, 1949 (GPW); and Geneva Convention Relative to the Protection of Civilian Persons in Time of War (GC), August 12, 1949. The GC supplements H.IV, providing the general standard of treatment at Article 27 and specific standards in subsequent Articles.

The minimum treatment provided by Common Article 3 of the Geneva Conventions is: (1) No adverse distinction based upon race, religion, sex, etc.; (2) No violence to life or person; (3) No taking hostages; (4) No degrading treatment; (5) No passing of sentences in absence of fair trial, and; (6) The wounded and sick must be cared for.

The specific language in the CJCS Message for OEF and the GPW/GC and H.IV follows:

CJCS Message dated 211933Z JAN 02, "Paragraph 3. The combatant commanders shall, in detaining Al Qaida and Taliban individuals under the control of the Department of Defense, treat them humanely and, to the extent appropriate and consistent with military necessity, in a manner consistent with the principles of the Geneva Conventions of 1949."

GPW/GC, Article 3 (Common Article 3) – "In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each party to the conflict shall be bound to apply, as a minimum, the following provisions:

1. Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any

adverse distinction founded on race, color, religion or faith, sex, birth or wealth, or any other similar criteria.

To this end the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons:

(a) Violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;
(b) Taking of hostages;
(c) Outrages upon personal dignity, in particular, humiliating and degrading treatment;
(d) The passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court affording all the judicial guarantees which are recognized as indispensable by civilized peoples.

2. The wounded and sick shall be collected and cared for. An impartial humanitarian body, such as the International Committee of the Red Cross, may offer its services to the Parties to the conflict. The Parties to the conflict should further endeavour to bring into force, by means of special agreements, all or part of the other provisions of the present Convention. The application of the preceding provisions shall not affect the legal status of the Parties to the conflict."

Geneva Convention Relative to the Protection of Civilian Persons in Time of War (GC), Article 84; and Geneva Convention Relative to the Treatment of Prisoners of War (GPW), Article 17. The specific language in the Geneva Conventions follows:

GC, Article 84 – "Internees shall be accommodated and administered separately from prisoners of war and from persons deprived of liberty for any other reason."

GPW, Article 17 – "Every prisoner of war, when questioned on the subject, is bound to give only his surname, first names and rank, date of birth, and army, regimental, personal or serial number, or failing this, equivalent information. If he willfully infringes this rule, he may render himself liable to a restriction of the privileges accorded to his rank or status. Each Party to a conflict is required to furnish the persons under its jurisdiction who are liable to become prisoners of war, with an identity card showing the owner's surname, first names, rank, army, regimental, personal or serial number or equivalent information, and date of birth. The identity card may, furthermore, bear the signature or the fingerprints, or both, of the owner, and may bear, as well, any other information the Party to the conflict may wish to add concerning persons belonging to its armed forces. As far as possible the card shall measure 6.5 x 10 cm. and shall be issued in duplicate. The identity card shall be shown by the prisoner of war upon demand, but may in no case be taken away from him. No 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 who refuse to answer may not be threatened, insulted, or exposed to any unpleasant or disadvantageous treatment of any kind. Prisoners of war who, owing to their physical or mental condition, are unable to state their identity, shall be handed over to the medical service. The identity of such prisoners shall be established by all possible means, subject to the provisions of the preceding paragraph. The questioning of prisoners of war shall be carried out in a language which they understand."

q. **Finding 17:**

(1) Finding: Units operating collecting points (42%, 5 of 12), and 2 of 4 units operating internment/resettlement facilities, were not adequately resourced with communications equipment, shotguns, and non-lethal ammunition.

(2) Standard: Army Regulation (AR) 190-8, Enemy Prisoners of War, Retained Personnel, Civilian Internees and Other Detainees, 1 October 1997, Chapter 1, paragraph 1-4, subparagraph e, states that the G4 is responsible for logistics. Paragraph 1-4, subparagraph g (2), states that Combatant Commanders, Task Force Commanders, and Joint Task Force Commanders have overall responsibility for civilian internee (CI) programs and in the planning and procuring for logistical support. This regulation is a multi-service regulation implementing DOD Directive 2310.1 and incorporates Army Regulation 190-8 and 190-57 and SECNAV Instruction 3461.3, and Air Force Joint Instruction 31-304 and outlines policies, procedures, and responsibilities for treatment of enemy prisoners of war (EPW), retained personnel (RP), civilian internees (CI), and other detainees (OD) and implements international law for all military operations. The specific language in the regulation follows:

"e. Deputy Chief of Staff for Logistics (DCSLOG). The DCSLOG will ensure logistical resources are available to support EPW operations."

"g. Combatant Commanders, Task Force Commanders and Joint Task Force Commanders. Combatant Commanders, Task Force Commanders and Joint Task Force Commanders have the overall responsibility for the EPW, CI and RP program, operations, and contingency plans in the theater of operation involved to ensure compliance with international law of war."

"(2) Plan and procure logistical support to include: transportation, subsistence, personal, organizational and Nuclear, Biological & Chemical (NBC) clothing and equipment items, mail collection and distribution, laundry, and bath for EPW, CI and RP."

Field Manual (FM) 3-19.40, Military Police Internment/Resettlement Operations, 1 August 2001, Chapter 6, paragraph 6-7, discusses the importance of good communication within a facility. The specific language in the field manual follows:

"6-7.

• Communications. Ensure that communication between towers and operation headquarters is reliable. Telephones are the preferred method; however, ensure that alternate forms of communication (radio and visual or sound signals) are available in case telephones are inoperable."

r. **Finding 18:**

(1) Finding: All inspected point of capture units established ad hoc kits containing necessary items and supplies for detainee field processing, but the items they contained and their quantities varied from unit to unit.

(2) Standard: There is no regulatory standard for a detainee field processing kit for capturing units. Army Regulation (AR) 190-8, Enemy Prisoners of War, Retained Personnel, Civilian Internees and Other Detainees, 1 October 1997, Chapter 1, paragraph 1-4,

subparagraph g (2), states that Combatant Commanders, Task Force Commanders, and Joint Task Force Commanders have overall responsibility for civilian internee (CI) programs and in the planning and procuring for logistical support. Chapter 2, paragraph 2-1, subparagraph a (1) (a) & (b), requires a capturing unit to document confiscated currency and to tag all captured prisoners. This regulation is a multi-service regulation implementing DOD Directive 2310.1 and incorporates Army Regulation 190-8 and 190-57 and SECNAV Instruction 3461.3, and Air Force Joint Instruction 31-304 and outlines policies, procedures, and responsibilities for treatment of enemy prisoners of war (EPW), retained personnel (RP), civilian internees (CI), and other detainees (OD) and implements international law for all military operations. The specific language in the regulation follows:

"g. Combatant Commanders, Task Force Commanders and Joint Task Force Commanders. Combatant Commanders, Task Force Commanders and Joint Task Force Commanders have the overall responsibility for the EPW, CI and RP program, operations, and contingency plans in the theater of operation involved to ensure compliance with international law of war."

"(2) Plan and procure logistical support to include: transportation, subsistence, personal, organizational and Nuclear, Biological & Chemical (NBC) clothing and equipment items, mail collection and distribution, laundry, and bath for EPW, CI and RP."

"a. Each EPW/RP will be searched immediately after capture. ... Currency will only be confiscated on the order of a commissioned officer and will be receipted for using a DA Form 4137 (Evidence/Property Custody Document).

b. All prisoners of war and retained persons will, at the time of capture, be tagged using DD Form 2745. They will be searched for concealed weapons and items of intelligence. All equipment, documents, and personal property confiscated during the search must be tagged and administratively accounted for by the capturing unit. Capturing units must provide the: date of capture, location of capture (how the EPW was captured). The remaining information will be included on the tag as it becomes available."

s. **Finding 19:**

(1) Finding: All inspected units had adequate transportation assets to evacuate and/or transfer detainees from points of capture to collecting points, and eventually to internment/resettlement facilities.

(2) Standard: Army Regulation 190-8, Enemy Prisoners of War, Retained Personnel, Civilian Internees and Other Detainees, 1 October 1997, Chapter 1, paragraph 1-4, subparagraph g (2) and (5), states that Combatant Commanders, Task Force Commanders, and Joint Task Force Commanders have overall responsibility for civilian internee (CI) programs and in the planning and procuring for logistical support, to include transportation. This regulation is a multi-service regulation implementing DOD Directive 2310.1 and incorporates Army Regulation 190-8 and 190-57 and SECNAV Instruction 3461.3, and Air Force Joint Instruction 31-304 and outlines policies, procedures, and responsibilities for treatment of enemy prisoners of war (EPW), retained personnel (RP), civilian internees (CI), and other detainees (OD) and implements international law for all military operations. The specific language in the regulation follows:

"(2) Plan and procure logistical support to include: transportation, subsistence, personal, organizational and Nuclear, Biological & Chemical (NBC) clothing and equipment items, mail collection and distribution, laundry, and bath for EPW, CI and RP."

"(5) Establish guidance for the use, transport, and evacuation of EPW, CI, RP, and ODs in logistical support operations."

Field Manual 3-19.40, Military Police Internment/Resettlement Operations, 1 August 2001, Chapter 3, paragraph 3-7, states that the basic principle of speed is the responsibility of the capturing unit, who moves the detainee to the collecting point (CP). Paragraph 3-18 states that the number of detainees at the CP must be reported through MP channels to assist in the transportation planning. Paragraph 3-26 states who is responsible for moving detainees from CPs to the internment/resettlement facility. Paragraph 3-33 states the ratio of MP guards to detainees for movement. Paragraph 3-34 states that detainees cannot be moved with MP organic assets. Paragraph 3-35 states that the preferred method of detainee movement is by using the backhaul system. The specific language in the field manual follows:

"3-7. The Five Ss and T procedure is performed by the capturing unit. The basic principles are search, segregate, silence, speed, safeguard, and tag."

"3-18. Report the number of captives at each CP through MP channels. This aids in the transportation and security planning processes."

"3-26. Remove captives from the CZ as quickly as possible. The intent is to move them from division CPs to an I/R facility. The goal is for higher-level echelons to go forward to lower echelons and evacuate captives to the rear as follows:

- Division MP move forward to the forward CP to escort captives to the central CP.
- Corps MP move forward to the central CP to escort captives to the CHA.
- Echelons above corps (EAC) MP move forward to the CHA to escort captives to the I/R facility."

"3-33. The MP guard able-bodied captives during movement to prevent escape, liberation, or injury. A general planning consideration when deter mining the number of MP necessary is one for every five to ten captives.

3-34. When moving forward to escort captives to the rear area, MP responsibilities begin at the CP or the CHA where custody is accepted. Verify the method of moving captives, the location and time of pick-up, and the number of captives contained in orders from higher headquarters. The MP units cannot transport captives with organic assets.

3-35. The preferred method for moving captives through a battlefield is the backhaul system. This transportation system relies on assets that have delivered their primary cargo and are available to move personnel and materials to another location. The availability of vehicles will vary, depending on the cargo delivered to the area. The command and control (C2) element of MP unit tasked with evacuation arranges transportation through the local MCO."

t. **Finding 20:**

(1) Finding: Common leader training in professional military school contains only one detainee operations task.

(2) Standard: Army Regulation 350-1, Army Training and Education, 9 April 2003, Chapter 3, paragraph 3-2, requires that TRADOC establish training and education goals and objectives for all Army personnel. The specific language in the regulation follows:

"Training proponents. These would include TRADOC schools and colleges, USAJFKSWC&S and AMEDDC&S and would perform the following:

(a) Develop courses based on established training and education goals and objectives as well as the duties, responsibilities, and missions their graduates will be assigned.

(b) Develop, evaluate, and train leader, technical, and tactical tasks that focus on missions for the size or type units to which graduates will be assigned.

(c) Provide progressive and sequential training.

(d) Provide personnel serving at the same organizational level with training consisting of the same tasks, conditions, and standards.

(e) Provide leader, technical, and tactical training that affords soldiers and DA civilians an opportunity to acquire the skills and knowledge needed to perform more complex duties and missions of greater responsibility."

Field Manual (FM) 7-0, Training the Force, 22 October 2002, Chapter 1, paragraph 1-29, provides overall guidance for the implementation of Professional Military Education (PME). The specific language in the field manual follows:

"Professional Military Education - PME develops Army leaders. Officer, warrant officer, and NCO training and education is a continuous, career-long, learning process that integrates structured programs of instruction—resident at the institution and non-resident via distributed learning at home station. PME is progressive and sequential, provides a doctrinal foundation, and builds on previous training, education and operational experiences. PME provides hands-on technical, tactical, and leader training focused to ensure leaders are prepared for success in their next assignment and higher-level responsibility.

• Officer Education System (OES). Army officers must lead and fight; be tactically and technically competent; possess leader skills; understand how the Army operates as a service, as well as a component of a joint, multinational, or interagency organization; demonstrate confidence, integrity, critical judgment, and responsibility; operate in a complex, uncertain, and rapidly changing environment; build effective teams amid continuous organizational and technological change; and solve problems creatively. OES develops officers who are self-aware and adaptive to lead Army units to mission success.

• Warrant Officer Education System (WOES). Warrant officers are the Army's technical experts. WOES develops a corps of highly specialized experts and trainers who are fully competent and proficient operators, maintainers, administrators, and managers of the Army's equipment, support activities, and technical systems.

• NCO Education System (NCOES). NCOES trains NCOs to lead and train soldiers, crews, and subordinate leaders who work and fight under their leadership. NCOES provides hands-on technical, tactical, and leader training focused to ensure that NCOs are prepared for success in their next assignment and higher-level responsibility.

• Functional Training. In addition to the preceding PME courses, there are functional courses available in both resident and non-resident distributed learning modes that enhance functional skills for specific duty positions. Examples are Battalion S2, Battalion Motor Officer, First Sergeant, Battle Staff NCO, and Airborne courses."

u. **Finding 21:**

(1) Finding: Leaders and Soldiers assigned to 69% (46 of 67) of inspected units stated they desired additional home station training; and pre- and post mobilization training to assist them in performing detainee operations.

(2) Standard: Training on standard of treatment for detainees in OPERATION ENDURING FREEDOM (OEF): Guidance was provided stating that members of the Taliban militia and members of Al Qaida under the control of U.S. Forces would be treated humanely and, to the extent appropriate and consistent with military necessity, in a manner consistent with the principles of the Geneva Conventions of 1949. The DAIG has therefore used the provisions of the Geneva Conventions as a benchmark against which to measure the treatment provided to detainees by U.S. Forces to determine if detainees were treated humanely and if the corresponding training was consistent with this obligation. The use of these standards as benchmarks does not state or imply a position for the United States or U.S. Army on the legal status of its operations in OEF.

Chairman, Joint Chiefs of Staff (CJCS) Message dated 211933Z JAN 02, provides the determination regarding the humane treatment of Al Qaida and Taliban detainees. Convention Relative to the Treatment of Prisoners of War of August 12, 1949 (GPW) is the international treaty that governs the treatment of prisoners of war), and Geneva Convention Relative to the Protection of Civilian Persons in Time of War (GC), August 12, 1949, is the international treaty that governs the treatment of civilian persons in time of war.

As the guidance did not define "humane treatment" but did state that the U.S. would treat members of the Taliban militia and Al Qaida in a manner consistent with the Geneva Conventions, the DAIG determined that it would use Common Article 3 of the GCs as its floor measure of humane treatment and corresponding training, but would also include provisions of the Geneva Convention on the Treatment of Prisoners of War (GPW) and Geneva Convention Relative to the Protection of Civilian Persons in Time of War (GC) as other relevant indicia of "humane treatment." The use of this standard does not state or imply a position for the United States or U.S. Army on the legal status of its operations in OEF.

Standard of treatment for detainees in OPERATION IRAQI FREEDOM (OIF): OIF was an international armed conflict and therefore the provisions of the Geneva Conventions applied.

The minimum treatment provided by Common Article 3 of the Geneva Conventions is: (1) No adverse distinction based upon race, religion, sex, etc.; (2) No violence to life or person; (3) No taking hostages; (4) No degrading treatment; (5) No passing of sentences in absence of fair trial, and; (6) The wounded and sick must be cared for.

The specific language in the CJCS Message for OEF and the GPW/GC and H.IV follows:

CJCS Message dated 211933Z JAN 02, "Paragraph 3. The combatant commanders shall, in detaining Al Qaida and Taliban individuals under the control of the Department of Defense, treat them humanely and, to the extent appropriate and consistent with military necessity, in a manner consistent with the principles of the Geneva Conventions of 1949."

GPW/GC, Article 3 (Common Article 3) – "In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each party to the conflict shall be bound to apply, as a minimum, the following provisions:

1. Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, color, religion or faith, sex, birth or wealth, or any other similar criteria.

To this end the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons:

(a) Violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;

(b) Taking of hostages;

(c) Outrages upon personal dignity, in particular, humiliating and degrading treatment;

(d) The passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court affording all the judicial guarantees which are recognized as indispensable by civilized peoples.

2. The wounded and sick shall be collected and cared for. An impartial humanitarian body, such as the International Committee of the Red Cross, may offer its services to the Parties to the conflict. The Parties to the conflict should further endeavour to bring into force, by means of special agreements, all or part of the other provisions of the present Convention. The application of the preceding provisions shall not affect the legal status of the Parties to the conflict."

GPW Article 127 and GC Article 144 establish a requirement for signatories to the treaties to train their military on the obligations under the conventions. The specific standards follow:

"GC Article 127 – The High Contracting Parties undertake, in time of peace as in time of war, to disseminate the text of the present Convention as widely as possible in their respective countries, and, in particular, to include the study thereof in their programmes of military and, if possible, civil instruction, so that the principles thereof may become known to all their armed forces and to the entire population. Any military or other authorities, who in time of war assume responsibilities in respect of prisoners of war, must possess the text of the Convention and be specially instructed as to its provisions.

GC Article 144 – The High Contracting Parties undertake, in time of peace as in time of war, to disseminate the text of the present Convention as widely as possible in their respective countries, and, in particular, to include the study thereof in their programmes of military and, if

possible, civil instruction, so that the principles thereof may become known to the entire population. Any civilian, military, police or other authorities, who in time of war assume responsibilities in respect of protected persons, must possess the text of the Convention and be specially instructed as to its provisions."

Army Regulation 350-1, Army Training and Education, 9 April 2003, Chapter 1, paragraph 1-8, subparagraph 2d, establishes Home Station Training priorities for all Army personnel. Chapter 4, paragraph 4-5, outlines training requirements for Common Military Training for all Army personnel. Appendix G, paragraph G-1, subparagraph(s) b-c, outlines an overview of the Common Military Training program. Table G-1, provides examples of military training requirements in units. The specific language in the regulation follows:

"2d. Training will be the top priority for all commanders - To prepare individuals and units for immediate deployment and organizations for employment in support of operational missions, Army individual, collective, and modernization training provides for—

(1) Unit training that develops the critical components of combat readiness. These include development of—

(a) Soldiers, leaders, and units capable of deploying, executing assigned missions, and redeploying.

(b) Effective combined arms teams consisting of integrated combat, combat support (CS), combat service support, and close air support.

(2) An individual training system that—

(a) Produces initial entry soldiers who are highly motivated, disciplined, physically fit, and skilled in common soldier and basic branch tasks.

(b) Provides a training base of Army schools that prepares soldiers and DA civilian employees for more complex duties and progressively higher positions of responsibility.

(c) Produces soldiers capable of performing military occupational specialty (MOS), Area of Concentration (AOC), additional skill identifier (ASI), skill identifier (SI), special qualification identifier (SQI), and language identification code (LIC) tasks. Prior service Reserve Component (RC) and Active Army personnel receive required training through The Army Training System courses (TATS-C) or proponent-approved formal on-the-job training (OJT). TATS courses are designed to train the same MOS, AOC, skill level, SQI, ASI, LIC, and SI within the Army. TATS also includes MOS qualification (reclassification), Army leadership, and professional development courses.

(d) Provides reclassification training for changing an enlisted or warrant officer MOS, or to qualify an officer in a new branch. Reclassification training will be accomplished in accordance with Army Regulation (AR) 140–1, AR 614–200, and AR 611–1.

(3) Active Army, Department of the Army civilians, and RC forces able to mobilize rapidly, deploy, and perform their operational missions.

(4) Standardization of tasks and performance standards across the Army. Units and soldiers performing the same tasks will be trained to the same standard.

(5) Efficient and effective internal and external evaluation procedures that improve training, sustain required readiness levels, and control or reduce costs.

(6) A training system that supports peacetime requirements and transitions smoothly at mobilization."

"4-5. Common military training and common task training -

(a) CMT program identifies common military training requirements for unit commanders' planning and training programs because of their importance to individual soldier and unit readiness. Common military training is required for all leaders and soldiers at specific organizational levels, and proficiency in those subject areas is necessary, regardless of branch or career field or rank or grade. Common military training requirements are limited to those subject areas directed by law and HQDA. The HQDA, DCS, G–3, maintains centralized control over CMT directed training requirements and validates these requirements biennially."

"G-1. Overview -

(b) MACOM commanders have a degree of latitude in adding to or emphasizing certain training requirements; however, care should be taken not to degrade battle-focused training.

(c) Successful CMT programs are measured by performance to standard and not adherence to rosters or hours scheduled."

"Table G-1, Common military training requirements in units -

Weapons Qualification, Civil disturbance, Antiterrorism and Force Protection, Code of Conduct/ SERE, Law of War..."

Field Manual (FM) 3-19.4, Military Police Leaders' Handbook, 4 March 2002, Chapter 1, paragraph 1-4, outlines the 5 Military Police Functional Areas. The specific language in the field manual follows:

"b. Military Police Functional Areas -

(1-4) with the old battlefield missions, the term "operations" was used extensively and carried too broad of a meaning. To clarify the specific tasks of the MP, the battlefield missions have been redefined into the following five functional areas:

- MMS (Maneuver and Mobility Support)
- AS (Area Security)
- I/R (Internment and Resettlement)
- L&O (Law and Order)
- PIO (Police Intelligence Operations)"

FORSCOM Regulation 500-3-1, FORSCOM MOBILIZATION and DEPLOYMENT PLANNING SYSTEM (FORMDEPS), Volume 1, FORSCOM MOBILIZATION PLAN (FMP), 15 April 1998, Annex O, paragraph 2.4.4, defines additional training requirements at mobilization sites. The specific language in the regulation follows:

"Mobilized Unit Commanders --

(2) Commanders will additionally concentrate on training on soldier/leader skills. This training will be designed to make best use of time available after unit equipment is shipped and will include the following as a minimum:

(a) Physical fitness. Its importance cannot be overstated. Training should be conducted in accordance with AR 350-15 and FM 21-20.

(b) Common Task Test. Testing is most often practiced in a sterile, "round robin" setting using the tasks, conditions and standards provided in the STP 21-series Soldier's Manual of Common Tasks Testing should include an element of tactical realism to cause soldiers, as members of teams, crews, sections, and squads to think and react instinctively.

(c) The NBC Training. The following tasks are of paramount importance:

1. Recognize/react to chemical/ biological hazards.
2. Don Mission-Oriented Protection Posture (MOPP) gear.
3. Detect and identify chemical agents using M8/M9 paper.
4 Administer nerve agent antidote to self (self aid) and to a nerve agent casualty (buddy-aid).
5. Decon skin and personal equipment using the M258A1 decon kit, the M291 skin decon kit, and the M295 equipment decon kit.
6. Drink from a canteen while wearing a protective mask.
7. Maintain and use the M40 series protective mask with hood.

(d) Care and maintenance of CTA 50-900 series and MTO&E equipment.

(e) Force protection to include terrorist threat. (See Appendix 1)

(f) Hazards and survival.

(g) Individual and crew served weapons proficiency.

(h) First Aid - Combat Lifesavers.

(i) Rules of Engagement.

(j) Personal hygiene.

(k) Threat and allied equipment recognition

(l) An orientation on the area of probable operations to include language, customs, courtesies, etc."

v. **Finding 22:**

(1) Finding: To offset the shortage of interrogators, contractors were employed, however, 35% (11 of 31) of contract interrogators lacked formal training in military interrogation policies and techniques.

(2) Standard: Army Regulation (AR) 190-8, Enemy Prisoners of War, Retained Personnel, Civilian Internees and Other Detainees, 1 October 1997, Chapter 2, paragraph 2-1,

provides the regulatory guidance for interrogation of detainees in a combat zone. This regulation is a multi-service regulation implementing DOD Directive 2310.1 and incorporates Army Regulation 190-8 and 190-57 and SECNAV Instruction 3461.3, and Air Force Joint Instruction 31-304 and outlines policies, procedures, and responsibilities for treatment of enemy prisoners of war (EPW), retained personnel (RP), civilian internees (CI), and other detainees (OD) and implements international law for all military operations. The specific language in the regulation follows:

"(d) Prisoners may be interrogated in the combat zone. The use of physical or mental torture or any coercion to compel prisoners to provide information is prohibited. Prisoners may voluntarily cooperate with PSYOP personnel in the development, evaluation, or dissemination of PSYOP messages or products. Prisoners may not be threatened, insulted, or exposed to unpleasant or disparate treatment of any kind because of their refusal to answer questions. Interrogations will normally be performed by intelligence or counterintelligence personnel."

Field Manual (FM) 27-10, The Law of Land Warfare, 18 July 1956 (change 1, 15 July 1976), Chapter 3, section IV, paragraph 93, describes guidelines for the questioning of EPWs. The specific language in the field manual follows:

"No 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 who refuse to answer may not be threatened, insulted, or exposed to unpleasant or disadvantageous treatment of any kind."

FM 34-52, Intelligence Interrogation, 28 September 1992, Chapter 1, defines and explains the purpose of interrogation. The specific language in the field manual follows:

"Interrogation is the process of questioning a source to obtain the maximum amount of usable information. The goal of any interrogation is to obtain reliable information in a lawful manner, in a minimum amount of time, and to satisfy intelligence requirements of any echelon of command.

A good interrogation produces needed information, which is timely, complete, clear, and accurate."

CJTF-7 C2 Interrogation Cell Statement of Work, CACI International, Inc., 14 August 2003, Paragraphs 7 (c) and 9 (c) describe the requirements for contract interrogators hired to man the theater and division interrogations support cells in OIF. The specific language in the statement of work follows:

"Identified interrogators should be the civilian equivalent to one of the following: 97E, 351E, Strategic Debriefer or an individual with a similar skill set, and US Citizens with a Secret clearance."

w. **Finding 23:**

(1) Finding: Interviewed leaders and Soldiers indicated their Law of War refresher training was not detailed enough to sustain their knowledge obtained during initial and advanced training.

(2) Standard: Training on standard of treatment for detainees in OPERATION ENDURING FREEDOM (OEF): Guidance was provided stating that members of the Taliban militia and members of Al Qaida under the control of U.S. Forces would be treated humanely and, to the extent appropriate and consistent with military necessity, in a manner consistent with the principles of the Geneva Conventions of 1949. The DAIG has therefore used the provisions of the Geneva Conventions as a benchmark against which to measure the treatment provided to detainees by U.S. Forces to determine if detainees were treated humanely and if the corresponding training was consistent with this obligation. The use of these standards as benchmarks does not state or imply a position for the United States or U.S. Army on the legal status of its operations in OEF.

Chairman, Joint Chiefs of Staff (CJCS) Message dated 211933Z JAN 02, provides the determination regarding the humane treatment of Al Qaida and Taliban detainees. Convention Relative to the Treatment of Prisoners of War of August 12, 1949 (GPW) is the international treaty that governs the treatment of prisoners of war), and Geneva Convention Relative to the Protection of Civilian Persons in Time of War (GC), August 12, 1949, is the international treaty that governs the treatment of civilian persons in time of war.

As the guidance did not define "humane treatment" but did state that the U.S. would treat members of the Taliban militia and Al Qaida in a manner consistent with the Geneva Conventions, the DAIG determined that it would use Common Article 3 of the GCs as its floor measure of humane treatment and corresponding training, but would also include provisions of the Geneva Convention on the Treatment of Prisoners of War (GPW) and Geneva Convention Relative to the Protection of Civilian Persons in Time of War (GC) as other relevant indicia of "humane treatment." The use of this standard does not state or imply a position for the United States or U.S. Army on the legal status of its operations in OEF.

Standard of treatment for detainees in OPERATION IRAQI FREEDOM (OIF): OIF was an international armed conflict and therefore the provisions of the Geneva Conventions applied.

The minimum treatment provided by Common Article 3 of the Geneva Conventions is: (1) No adverse distinction based upon race, religion, sex, etc.; (2) No violence to life or person; (3) No taking hostages; (4) No degrading treatment; (5) No passing of sentences in absence of fair trial, and; (6) The wounded and sick must be cared for.

The specific language in the CJCS Message for OEF and the GPW/GC and H.IV follows:

CJCS Message dated 211933Z JAN 02, "Paragraph 3. The combatant commanders shall, in detaining Al Qaida and Taliban individuals under the control of the Department of Defense, treat them humanely and, to the extent appropriate and consistent with military necessity, in a manner consistent with the principles of the Geneva Conventions of 1949."

GPW/GC, Article 3 (Common Article 3) – "In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each party to the conflict shall be bound to apply, as a minimum, the following provisions:

1. Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any

adverse distinction founded on race, color, religion or faith, sex, birth or wealth, or any other similar criteria.

To this end the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons:

(a) Violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;
(b) Taking of hostages;
(c) Outrages upon personal dignity, in particular, humiliating and degrading treatment;
(d) The passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court affording all the judicial guarantees which are recognized as indispensable by civilized peoples.

2. The wounded and sick shall be collected and cared for. An impartial humanitarian body, such as the International Committee of the Red Cross, may offer its services to the Parties to the conflict. The Parties to the conflict should further endeavour to bring into force, by means of special agreements, all or part of the other provisions of the present Convention. The application of the preceding provisions shall not affect the legal status of the Parties to the conflict."

GPW Article 127 and GC Article 144 establish a requirement for signatories to the treaties to train their military on the obligations under the conventions. The specific standards follow:

"GC Article 127 – The High Contracting Parties undertake, in time of peace as in time of war, to disseminate the text of the present Convention as widely as possible in their respective countries, and, in particular, to include the study thereof in their programmes of military and, if possible, civil instruction, so that the principles thereof may become known to all their armed forces and to the entire population. Any military or other authorities, who in time of war assume responsibilities in respect of prisoners of war, must possess the text of the Convention and be specially instructed as to its provisions.

GC Article 144 – The High Contracting Parties undertake, in time of peace as in time of war, to disseminate the text of the present Convention as widely as possible in their respective countries, and, in particular, to include the study thereof in their programmes of military and, if possible, civil instruction, so that the principles thereof may become known to the entire population. Any civilian, military, police or other authorities, who in time of war assume responsibilities in respect of protected persons, must possess the text of the Convention and be specially instructed as to its provisions."

Department of Defense Directive (DoDD) 2310.1, DoD Program for Enemy Prisoners of War (EPOW) and Other Detainees, 18 August 1994, Section 3. provides DoD policy for training on the Geneva Conventions. The specific language in the directive follows:

"3. Policy, It is DoD policy that:

3.1. The U.S. Military Services shall comply with the principles, spirit, and intent of the international law of war, both customary and codified, to include the Geneva Conventions (references (b) through (e)).

3.2. The U.S. Military Services shall be given the necessary training to ensure they have knowledge of their obligations under the Geneva Conventions (references (b) through (e)) and as required by DoD Directive 5100.77 (reference (f)) before an assignment to a foreign area where capture or detention of enemy personnel is possible.

3.3. Captured or detained personnel shall be accorded an appropriate legal status under international law. Persons captured or detained may be transferred to or from the care, custody, and control of the U.S. Military Services only on approval of the Assistant Secretary of Defense for International Security Affairs (ASD(ISA)) and as authorized by the Geneva Conventions Relative to the Treatment of Prisoners of War and for the Protection of Civilian Persons in Time of War (references (d) and (e)).

3.4. Persons captured or detained by the U.S. Military Services shall normally be handed over for safeguarding to U.S. Army Military Police, or to detainee collecting points or other holding facilities and installations operated by U.S. Army Military Police as soon as practical. Detainees may be interviewed for intelligence collection purposes at facilities and installations operated by U.S. Army Military Police."

Department of Defense Directive (DoDD) 5100.77, DoD Law of War Program, 9 December 1998, Section 5.5, provides DoD policy for Law of War policy and training. The specific language in the directive follows:

"5.5. The Secretaries of the Military Departments shall develop internal policies and procedures consistent with this Directive in support of the DoD Law of War Program to:

5.5.1. Provide directives, publications, instructions, and training so that the principles and rules of the law of war will be known to members of their respective Departments, the extent of such knowledge to be commensurate with each individual's duties and responsibilities.

5.5.2. Ensure that programs are implemented in their respective Military Departments to prevent violations of the law of war, emphasizing any types of violations that have been reported under this Directive.

5.5.3. Provide for the prompt reporting and investigation of reportable incidents committed by or against members of their respective Military Departments, or persons accompanying them, in accordance with directives issued under paragraph 5.8.4., below.

5.5.4. Where appropriate, provide for disposition, under the Uniform Code of Military Justice (reference (i)), of cases involving alleged violations of the law of war DODD 5100.77, December 9, 1998 4 by members of their respective Military Departments who are subject to court-martial jurisdiction.

5.5.5. Provide for the central collection of reports and investigations of reportable incidents alleged to have been committed by or against members of their respective Military Departments, or persons accompanying them.

5.5.6. Ensure that all reports of reportable incidents are forwarded to the Secretary of the Army in his or her capacity as the DoD Executive Agent under subsection 5.6., below."

Army Regulation (AR) 350-1, Army Training and Education, 9 April 2003, Section 4-14, sets the guidelines for Law of War training. The specific language in the regulation follows:

"4–14. Law of war training

a. Soldiers and leaders require law of war training throughout their military careers commensurate with their duties and responsibilities. Prescribed subject matter for training at the following levels is specified in paras 4–14b-d of this regulation.

(1) Level A training is conducted during IET for all enlisted personnel and during basic courses of instruction for all warrant officers and officers.
(2) Level B training is conducted in units for officers, warrant officers, NCOs and enlisted personnel commensurate with the missions of the unit.

(3) Level C training is conducted in The Army School System (TASS).

b. Level A training provides the minimum knowledge required for all members of the Army. The following basic law of war rules (referred to as "The Soldier's Rules," which stresses the importance of compliance with the law of war) will be taught during level A training:

(1) Soldiers fight only enemy combatants.
(2) Soldiers do not harm enemies who surrender. They disarm them and turn them over to their superior.
(3) Soldiers do not kill or torture enemy prisoners of war.
(4) Soldiers collect and care for the wounded, whether friend or foe.
(5) Soldiers do not attack medical personnel, facilities, or equipment.
(6) Soldiers destroy no more than the mission requires.
(7) Soldiers treat civilians humanely.
(8) Soldiers do not steal. Soldiers respect private property and possessions.
(9) Soldiers should do their best to prevent violations of the law of war.
(10) Soldiers report all violations of the law of war to their superior.

c. Unit commanders will plan and execute level B law-of-war training based on the following:

(1) Training should reinforce the principles set forth in The Soldier's Rules.
(2) Training will be designed around current missions and contingency plans (including anticipated geographical areas of deployment or rules of engagement).
(3) Training will be integrated into unit training activities, field training exercises and unit external evaluations (EXEVAL). Maximum combat realism will be applied to tactical exercises consistent with good safety practices.

d. Army schools will tailor law of war training to the tasks taught in those schools. Level C training will emphasize officer, warrant officer, and NCO responsibilities for:

(1) Their performance of duties in accordance with the law of war obligations of the United States.
(2) Law of war issues in command planning and execution of combat operations.
(3) Measures for the reporting of suspected or alleged war crimes committed by or against U.S. or allied personnel."

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Appendix F

Abbreviations and Acronyms

AAR	After Action Review
ABN	Airborne
AC	Active Component
AD	Armored Division
ANCOC	Advanced Noncommissioned Officer Course
AOC	Area of Concentration
AOR	Area of Responsibility
AR	Army Regulation
ARNG	Army National Guard
ASD(ISA)	Assistant Secretary of Defense for International Security Affairs
ASD(SO/LIC)	Assistant Secretary of Defense for Special Operations and Low Intensity Conflict
ASI	Additional Skill Identifier
BATS	Biometric Assessment Tool Set
BIAP	Baghdad International Airport
BDE	Brigade
BN	Battalion
CAT	UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CAV	Cavalry
CCC	Captain's Career Course
C&E	Collection and Exploitation
CENTCOM	U.S. Central Command

CFLCC	Combined Forces Land Component Command
CHA	Corps Holding Area
CI	Civilian Detainee
CID	Criminal Investigation Division
CIF	Central Issue Facility
C-IMINT	Counter-Imagery Intelligence
CJCS	Chairman of the Joint Chiefs of Staff
CJTF-7	Combined Joint Task Force-7
CJTF-180	Combined Joint Task Force-180
CMT	Common Military Training
Co	Company
COE HI	Contemporary Operational Environment High Intensity
COMMZ	Communication Zone
COMSEC	Communications Security
CONUS	Continental United States
CP	Collecting Points
CPA	Coalition Provisional Authority
C-SIGINT	Counter-Signals Intelligence
CSM	Command Sergeant Major
CTC	Combat Training Center
CTT	Common Task Training
DAIG	Department of the Army Inspectors General
DD FORM	Department of Defense Form
DoD	Department of Defense
DOTMLPF	Doctrine, Organization, Training, Materiel, Leadership, Personnel, and Facilities

DRB	Detainee Release Board
DSA	Division Support Area
EC	Enemy Combatant
EPW	Enemy Prisoners of War
FDU	Force Design Update
FM	Field Manual
FORSCOM	Forces Command
FSB	Forward Support Battalion
FY	Fiscal Year
GC	Geneva Convention Relative to the Protection of Civilian Persons in Time of War
GPW	Geneva Convention Relative to the Treatment of Prisoners of War
HHD	Headquarters and Headquarters Detachment
HMMWV	High Mobility Multipurpose Wheeled Vehicle
HRD	High Risk Detainee
HUMINT	Human Intelligence
IBOS	Intelligence Battlefield Operating System
ICRC	International Committee of the Red Cross
ID	Infantry Division
IED	Improvised Explosive Device
IET	Initial Entry Training
IG	Inspectors General
ILO	In Lieu Of
IMINT	Imagery Intelligence
IN	Infantry
I/R	Internment/Resettlement

JABS	Joint Automated Booking System
JFLCC	Joint Force Land Component Commander
JIDC	Joint Interrogation and Debriefing Center
JIF	Joint Interrogation Facility
JRTC	Joint Readiness Training Center
JTF	Joint Task Force
LLEC	Low Level Enemy Combatant
LMTV	Light Medium Tactical Vehicle
METT-TC	Mission, Enemy, Terrain and Weather, Time, Troops Available, and Civilian
MG	Major General
MI	Military Intelligence
MICCC	Military Intelligence Captain Career Course
MI-CSB	Military Intelligence Corps Support Battalion
MILES	Multi-Integrated Laser Engagement System
MIOBC	Military Intelligence Officer Basic Course
MOS	Military Occupational Specialty
MP	Military Police
MRE	Meal Ready to Eat
MRX	Mission Rehearsal Exercise
MTOE	Modified Tables of Organization and Equipment
MTT	Mobile Training Team
MUA	Maneuver Unit of Action
MWR	Morale, Welfare, and Recreation
NCO	Noncommissioned Officer
NCOIC	Noncommissioned Officer in Charge

NDRC	National Detainee Reporting Center
NPWIC	National Prisoner of War Information Center
NTC	National Training Center
OCONUS	Outside the Continental United States
OD	Other Detainee
OEF	OPERATION ENDURING FREEDOM
OGA	Other Government Organization
OIF	OPERATION IRAQI FREEDOM
OMT	Operations Management Team
OPMG	Office of the Provost Marshal General
OTJAG	Office of The Judge Advocate General
OTSG	Office of the Surgeon General
PLDC	Primary Leadership Development Course
PME	Professional Military Education
POC	Point of Contact
POI	Program of Instruction
PUC	Person Under U.S. Control
PWIC	Prisoner of War Information Center
PX	Post Exchange
QDF	Quadrennial Defense Review
RC	Reserve Component
RCF	Regional Correctional Facility
ROE	Rules of Engagement
RP	Retained Person
R&R	Rest and Recuperation
RSTA UA	Reconnaissance, Surveillance, and Target

	Acquisition Unit of Action
SAEDA	Subversion & Espionage Directed Against U.S. Army & Deliberate Security Violation
SASO	Stability and Support Operation
SF	Standard Form
SFC	Sergeant First Class
SIMEX	Simulation Exercise (SIMEX)
SINCGARS	Single Channel Ground/Air Radio System
SOP	Standing Operating Procedure
SOW	Statement of Work
SRC	Soldier Readiness Checks
SSG	Staff Sergeant
STX	Situational Training Exercises
TAA	Total Army Analysis
TACSOP	Tactical Standing Operating Procedure
TDA	Table of Distribution and Allowance
TDRC	Theater Detainee Reporting Center
THT	Tactical Human Intelligence Team
TIF	Theater Interrogation Center
TOC	Tactical Operations Center
TOE	Table of Organization and Equipment
TRADOC	Training and Doctrine Command
TTP	Tactics, Techniques, and Procedures
UA	Unit of Action
UCMJ	Uniform Code of Military Justice
UEx	Unit of Employment x

UEy	Unit of Employment y
USACIC	U.S. Army Criminal Investigation Command
USAIC	U.S. Army Intelligence Center
USAICS	U.S. Army Intelligence Center and School
USAMANSCEN	U.S. Army Maneuver Support Center
USAMPS	U.S. Army Military Police School
USAR	U.S. Army Reserve
USASOC	U.S. Army Special Operations Command
USDB	U.S. Military Disciplinary Barracks
WOAC	Warrant Officer Advanced Course
WOCS	Warrant Officer Candidate School
2X	Human Intelligence / Counterintelligence Personnel
31B	Enlisted Military Occupational Specialty - Military Police
31E	Enlisted Military Occupational Specialty - Internment/Resettlement
97B	Enlisted Military Occupational Specialty - Counterintelligence Personnel
97E	Enlisted Military Occupational Specialty - Human Intelligence (HUMINT) Collector
351E	Warrant Officer Human Intelligence Collection Technician

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