

SAIG-IN

MEMORANDUM THRU

IN, LEGAL [redacted] 31 Jan. 05

IG, LEGAL [redacted] 31 JAN 2005

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FOR ATIG Approved [redacted] Disapproved _____ See Me _____ Date 31 Jan 05

SUBJECT: Alleged Impropriety by MG Barbara G. Fast, US Army Intelligence Center (USAIC), Fort Huachuca, Arizona (DIG 04-80003) (UPDATE)

1. (U) On 12 October 2004, The Inspector General of the Army (TIG) directed an inquiry into the allegation that MG Fast was derelict in the performance of her duties.
2. (U) Background: In July 2003, MG Fast was assigned as the Assistant Commandant, USAIC, and assumed C-2, Combined Joint Task Force (CJTF)-7, duties in Iraq on 29 July 2003. She redeployed to Fort Huachuca in July 2004, and was awaiting assignment.
3. (U) Reports Reviewed:
 - a. (U) On 9 September 2003, MG Geoffrey Miller, Commander (CDR), Joint Task Force (JTF) Guantanamo Bay (GTMO), completed a Department of Defense (DOD) assessment of counterterrorism interrogation and detention operations in Iraq. The assessment discussed the theater's ability to rapidly exploit internees for intelligence, and focused on three areas: intelligence integration, synchronization, and fusion; interrogation operations; and, detention operations. This assessment was commonly referred to as the Miller Report.
 - b. (U) On 6 November 2003, MG Donald Ryder, Provost Marshal General, completed an assessment of detention and corrections operations in Iraq. The report made assessments and specific recommendations concerning detention and correction operations in Iraq to assist in resolving the management and administration of detainee operations. This assessment was commonly referred to as the Ryder Report.

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c. (U) On 26 February 2004, MG Antonio Taguba, Deputy CDR, Coalition Forces Land Component Command (CFLCC), completed an Army Regulation (AR) 15-6 investigation that inquired into the facts and circumstances surrounding allegations of detainee abuse at the Abu Ghraib Prison (AGP), Baghdad, Iraq. This report of investigation (ROI) was commonly referred to as the Taguba Report.

d. (U) Based on recommendations in the Taguba Report, a further investigation was initiated on 15 April 2004, UP of Procedure 15, AR 381-10, US Army Intelligence Activities, dated 1 July 1984. MG George Fay, Deputy G-2, US Army, investigated the relevant facts and circumstances surrounding the alleged misconduct on the part of personnel assigned and/or attached to the 205th MI BDE at AGP (commonly referred to as the Fay Report). LTG Anthony Jones, Deputy CDR, Training and Doctrine Command (TRADOC), focused on whether organizations or personnel higher than the 205th MI BDE were involved, directly or indirectly, in activities regarding the alleged detainee abuse at AGP (commonly referred to as the Jones Report). GEN Paul Kern, CDR US Army Materiel Command, was the appointing authority.

e. (U) On 25 May 2004, the IG, US Navy, was directed to lead a DOD joint team for the purposes of identifying and reporting on all DOD interrogation techniques related to operations in GTMO, Afghanistan, Iraq, the Central Command (CENTCOM) area of operations (AOR), and the Iraqi Survey Group (ISG). Specifically, the assessment would ensure that all areas of concern to the DOD regarding detention operations were being addressed adequately and expeditiously, and would report any gaps or seams among those reviews and investigations. This assessment was commonly referred to as the Church Report. As of the date of this inquiry, the Church Report was not released.

f. (U) On 25 June 2004, DAIG initiated DIG 04-80003 to identify MG Fast's potential involvement, the level of that involvement, and any allegations of impropriety related to US Army detainee operations in Afghanistan, Iraq, and Guantanamo Bay (GTMO).

g. (U) On 21 July 2004, the Inspections Division, DAIG, completed a "Detainee Operations Inspection" report that included Iraq. This report responded to the Acting Secretary of the Army's 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 to recommend appropriate resolutions or changes if required.

h. (U) On 23 August 2004, the Kern Report was released. The Kern Report consisted of the classified Kern Report; an unclassified Executive Summary (EXSUM) of the Kern Report, and the two unclassified Jones and Fay reports.

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i. (U) On 24 August 2004, a DOD independent panel completed its Final Report of the Independent Panel to Review DOD Detention Operations. The DOD panel members provided independent professional advice on detainee abuses in the CENTCOM AOR, 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 investigations. The Honorable James R. Schlesinger was the panel chairman. This assessment was commonly referred to as the Schlesinger Report.

j. (U) The senior leader focus of this DAIG inquiry differed from that of the Taguba, Kern, Jones, Fay, and Schlesinger reports. Although there were instances where DAIG's conclusions differed from the Kern, Jones, Fay, and Schlesinger reports, the differences were attributed to DAIG having fewer time constraints and the opportunity to review additional evidence not available at the time these reports were finalized. In certain instances, the supporting evidence in the reports did not meet DAIG's preponderance of the evidence standard and DAIG was unable to reach the same conclusions. Differing findings in this DAIG inquiry and the cited reports should not be misinterpreted to mean that DAIG found the reports to be inaccurate. Each report must be considered in light of its focus, the evidence available at the time, the personal observations of the investigative team, and the documentation supporting the findings.

4. (U) Operational Environment:

a. (U) On 20 March 2003, coalition forces, which included V US Corps, began combat operations to disarm Iraq of its weapons of mass destruction and to remove the Iraqi regime from power. Military operations continued after the end of major combat operations on 1 May 2003. Initially, the Office of Reconstruction and Humanitarian Assistance (ORHA) was established under CFLCC (3d US Army) to help rebuild Iraq. ORHA was followed in May 2003 by the Coalition Provisional Authority (CPA), under the direction of Ambassador L. Paul Bremer, Presidential Envoy to Iraq, who reported to the Secretary of Defense (SECDEF). The establishment of the CPA marked a deliberate transition from military primacy and civil subordination to the CPA with civilian lead and the military element in a supporting role. There was a realization that no military action in Iraq was without political context, and that political and military arms needed to operate in concert.

b. (U) US Army Forces, US Central Command (ARCENT), was previously designated as the CFLCC conducting operations in support of Operation Enduring Freedom (OEF) in Afghanistan, and was forward deployed in Kuwait. CFLCC also had responsibility for all coalition land combat forces in the Iraqi Theater of Operations (ITO). As a warfighting HQs, CFLCC prosecuted Phases I-III (thru major combat operations) of the CENTCOM Operations Plan (OPLAN) for the liberation of Iraq at the

operational level of war. During Operation Iraqi Freedom (OIF), the descending chain of command and corresponding lines of authority and responsibility were from CENTCOM to CFLCC to V Corps.

c. (U) As a result of CFLCC's focus on campaigns in Afghanistan and Iraq over a two-year period, CENTCOM determined that CFLCC needed to return to its CENTCOM AOR wide focus, and that a dedicated warfighting headquarters was required for Phase IV operations in Iraq. On 14 June 2003, V Corps transitioned into CJTF-7. On 15 June 2003, a transfer of authority (TOA) occurred between CFLCC and CJTF-7. At the direction of CENTCOM, CJTF-7 began Phase IV (Stability and Support Operations (SASO)).

(1) (U) CFLCC ceased to be a coalition warfighting HQs at the operational level of war in the ITO and ceased to be CJTF-Iraq, a role assumed three weeks prior. CFLCC reestablished its principal role as the Army Service Component Command (ASCC) of CENTCOM. As such, CFLCC became a strategic force provider while providing essential logistics, communications, engineer, and medical support to all deployed Services in the CENTCOM Area of Responsibility (AOR). Elements of the CFLCC staff, some of whom had been in the AOR since June 2001, redeployed to Ft McPherson, GA. Other CFLCC staff was assigned in support of CJTF-7.

(2) (U) V Corps transitioned to CJTF-7 and assumed CFLCC's roles, missions and responsibilities as the senior tactical and operational HQs in the ITO. CJTF-7 was also responsible to provide direct support to the CPA. LTG Ricardo Sanchez, Commanding General (CG), V Corps, previous CG, 1st Armored Division (AD), was promoted to LTG, and had assumed command of V Corps on 10 June 2003, and CJTF-7 on 15 June 2003. In a short period, V Corps transitioned from a tactical warfighting Army component HQs to a multinational JTF whose missions and responsibilities extended across the entire spectrum of conflict and included joint, coalition and civilian agencies. Its support to the CPA added a strategic and Political/Military (POLMIL) dimension to its responsibilities.

(3) (U) A Joint Manning Document (JMD) was developed to delineate the specific skill sets of personnel needed to perform the increased roles and functions of the new HQs. After multiple reviews, the JMD was formally approved for 1400 personnel. The JMD included personnel needed to support the CPA, staff the functional elements needed to focus at the joint operational and strategic levels, and specifically augment areas such as intelligence, operations, and logistics. The V Corps staff transitioned to only 495 personnel within the new manning requirement. The new JMD also required that key staff positions be manned by general officers (GOs) rather than the normal colonel level positions on a Corps staff. The CJTF-7 staff began with a strength below 40% and achieved no more than a 60% fill through December 2003.

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(4) (U) In July 2003, shortly after the stand-up of CJTF-7, LTG Sanchez and the Vice Chief of Staff, Army (VCSA) discussed the lack of intelligence capacity and GO manning in CJTF-7. The VCSA committed to providing additional GO's in support of CJTF-7.

(5) (U) During this time, CJTF-7 was in a direct support role to the CPA. There was a recognition that with the transition from major combat to SASO, that military operations should begin to cede primacy to civilian/political lead. CPA and CJTF-7 worked in concert as a recognition that political and military operations in Iraq could not be separate and distinct from one another. The CPA had manning challenges similar to CJTF-7, and little capability outside of Baghdad. CENTCOM and CJTF-7, by both design and necessity, contributed military staff in support of CPA. There was a belief that a Corps, with augmentation, was capable of executing a JTF SASO in a permissive environment. This decision also anticipated the growth in Iraqi capabilities and institutions to assist in that effort.

(6) (U) Plans for Phase IV (SASO) anticipated a relatively permissive environment. In reality, following the conclusion of major combat operations in May 2003, the conflict transitioned to a terrorist/insurgency environment in August/September 2003. Coalition forces began capturing and interrogating larger numbers of alleged insurgents. AGP, re-opened initially by Ambassador Bremer as the only available facility to hold criminals pending restoration of the Iraqi national justice and corrections systems, was used to detain and interrogate insurgents and other persons of intelligence interest.

(7) (U) The unit responsible for detention operations at AGP was the 800th Military Police (MP) BDE, a US Army Reserve (USAR) unit assigned to CFLCC to conduct internment/resettlement (I/R) operations in theater. The 800th MP BDE was commanded by BG Janis Karpinski, who assumed command on 29 June 2003, following the end of Phase III operations.

(8) (U) The unit with command responsibility for interrogation operations at AGP was the 205th Military Intelligence (MI) BDE, commanded by COL Thomas M. Pappas since 1 July 2003. The 205th MI BDE was organic to V Corps, and transitioned to become CJTF-7's assigned MI BDE. As the intelligence assets CDR, the 205th MI BDE was responsible for effectively employing forces in the accomplishment of assigned missions.

d. (U) From approximately 5 October to 3 December 2003, a team of subject matter experts from GTMO, OPCON to the 205th MI BDE, assisted in the implementation of the recommendations identified by the Miller Report. The

GTMO Team included three interrogators and three analysts, organized into three teams, with one interrogator and one analyst on each, which was the GTMO "Tiger Team" concept. The GTMO Team was tasked with the mission of building a robust and effective Joint Interrogation and Debriefing Center (JIDC), and identifying solutions and providing recommendations for the JIDC. This was a deliberate effort in support of the realization by Ambassador Bremer and LTG Sanchez that the CPA and CJTF-7 required a higher degree of operational intelligence in order to define and combat the growing insurgency.

e. (U) From 7 to 21 October 2003, a five person Interrogation Support to Counterterrorism (ISCT) Mobile Training Team (MTT) from the US Army Intelligence Center conducted an overall assessment of interrogation operations, presented training, and provided advice and assistance at the AGP JIDC. This course was initially developed in response to requirements that surfaced during interrogation operations at GTMO, and specifically to prepare reserve interrogators and order of battle analysts for deployment to GTMO. This was an additional effort to strengthen intelligence gathering skills and effectiveness within the ITO.

f. (U) In September and October 2003, CJTF-7 published Interrogation and Counter Resistance Policy (ICRP). This ICRP was prepared at the recommendation of subject matter experts who visited Iraq, and based on LTG Sanchez' awareness of various Department of Defense policies for other theaters, his own awareness of the applicability of the Geneva Conventions in the ITO, and his concerns over the variety of interrogator experience from other theaters. The policy was intended to clarify allowable approaches, ensure safeguards, and facilitate training and execution by CDRs. The Jones report stated that in each theater, CDRs were seeking guidance and information on the applicability on the articles of the GC to specific population sets and on what techniques could be used to improve intelligence production and remain within the limits of the law.

g. (U) At the request of the Army G-2, COL(R) [REDACTED] provided knowledge and expertise during an official visit to the ITO from the period 2 through 10 December 2003. COL [REDACTED] assisted with evaluating the conduct of friendly intelligence operations, with an emphasis on: influencing the enemy's decision-making cycle; intercepting the "intent and direction" of the enemy in an environment that was advantageous to the enemy; and, effectively employing Human Intelligence (HUMINT) teams against insurgent groups in a difficult and hostile environment. Additionally, COL [REDACTED] provided advice concerning in-country detainee operations and interrogations.

h. (U) As the C-2, CJTF-7, MG Fast had staff responsibility for intelligence requirements management and for providing intelligence to CJTF-7, its four US and two coalition divisions, and the CPA. Her responsibilities included intelligence operations, intelligence surveillance reconnaissance, target development, analysis, interrogation operations, and intelligence sharing. As the staff Senior Intelligence Officer she was the CDR's focal point for intelligence and provided a daily intelligence read to LTG Sanchez and Ambassador Bremer. Her responsibilities included identifying the initial intelligence architecture to include establishing procedures and protocols for information exchanges; disseminating intelligence between commands and services, and the fusion of intelligence from the tactical through the strategic level.

i. (U) As a GO on a CJTF, MG Fast executed responsibilities at the operational and strategic levels of war. Fifty percent of her daily efforts were in support of POLMIL affairs at the CPA and in support of the emerging Interim Iraqi Authority. There, she was tasked to establish procedures and systems to ensure effective intelligence gathering, sharing and fusion between coalition, Other Government Agencies (OGA) and Iraqi national assets. Her other significant staff responsibilities were in support of operational intelligence support to CJTF-7.

5. (U) Allegation: MG Fast was derelict in the performance of her duties.

a. (U) The allegation was derived from information contained in the Kern Report, the Jones Report, and the Schlesinger Report.

b. (U) The Kern Report reflected that there was neither a defined procedure nor specific responsibility within the CJTF-7 for dealing with International Committee of the Red Cross (ICRC) visits, and that ICRC recommendations were ignored by CJTF-7 personnel.

c. (U) The Jones Report reflected that inaction at the CJTF-7 staff level could have contributed to the failure to discover and prevent abuses before January 2004.

d. (U) The Schlesinger Report reflected MG Fast failed to advise the CDR properly on directives and policies needed for the operation of the JIDC, for interrogation techniques and for appropriately monitoring the activities of OGA within the Joint Area of Operations.

e. (U) COL (b)(6)-2 & (b)(7)(C)-2 testified that he informed MG Fast of potential abuse of detainees by a CENTCOM unit.

6. (U) Synopsis:

a. (U) Article 92 of the Uniform Code of Military Justice (UCMJ) stated dereliction in the performance of one's duties consisted of three elements: a person had certain duties; the person knew or reasonably should have known of those duties; and the person was derelict in the performance of those duties through willfulness, neglect, or culpable inefficiency. Willfully meant intentionally. Negligently meant an act or omission which exhibited a lack of that degree of care which a reasonably prudent person would have exercised under the same or similar circumstances. Culpable inefficiency was inefficiency for which there was no reasonable or just excuse.

b. (U) A review of the information relevant to this allegation revealed the following:

(1) (U) As the C-2, MG Fast was responsible for providing strategic intelligence and POLMIL advice to Ambassador Bremer and the CPA, and operational and strategic intelligence and advice to LTG Sanchez and CJTF-7. MG Fast's responsibilities included establishing the priorities for intelligence collection, requirements management, analysis and fusion. Numerous senior leaders testified to MG Fast's responsibilities for providing staff oversight of intelligence operations.

(2) (U) Her own and other senior leader testimony established that MG Fast knew and accepted her duties regarding the staff supervision of intelligence operations, as assigned by the CDR, CJTF-7. (b)(7)(D)

(b)(7)(D)

(b)(7)(D)

(4) (U) Witnesses testified that MG Fast was responsible to provide MI analysis and advice to LTG Sanchez. She was responsible for the oversight of interrogations, and as such responsible for providing collection guidance to the JIDC. Responsibilities for the establishment of the JIDC, the conduct of interrogations, and the direct supervision of Soldiers at AGP fell specifically, by doctrine and command structure, to the 205th MI BDE CDR, who was responsible for the overall interrogation mission at the facility. This was consistent with (b)(7)(D) testimony regarding MG Fast's assigned responsibilities.

(5) (U) CJTF-7 did not have authority over OGA operations. The command and control of OGAs rested with their organic headquarters. However, any OGA operating in the ITO was bound by the Geneva Conventions (GC) in the same manner as CJTF-7. The evidence indicated that MG Fast was not aware of an accountability issue concerning OGA detainees. [REDACTED]

[REDACTED]

(6) (U)

[REDACTED]

[REDACTED] MG Fast took immediate and appropriate action in reporting the potential abuse to the CJTF-7 Staff Judge Advocate (SJA) and LTG Sanchez. As the unit identified in the potential abuse belonged to CENTCOM, CENTCOM was promptly notified and an investigation was conducted. The evidence indicated that in instances where MG Fast was apprised of alleged abuse she took prompt action to inform proper authorities.

(7) (U) LTG Jones and MG Fay testified there was no Army doctrine that established responsibility and procedures for dealing with ICRC visits. ICRC practice was to report to the lowest level CDR having responsibility. Neither Army nor ICRC policy required or expected MG Fast's involvement in responding to the ICRC. The reports referred to were ICRC Working Papers, provided to the chain of command who after inquiring into specific allegations, did not believe the allegations were true.

[REDACTED]

[REDACTED] There was no evidence that MG Fast was responsible for coordinating ICRC visits or for responding to ICRC recommendations.

(8) (U) The evidence indicated that the intelligence structures that CFLCC transferred, and CJTF-7's initial capabilities and resources were inadequate in addressing the intelligence requirements to operate across strategic, operational and tactical levels. Prior to MG Fast's arrival there was no structure to synchronize all the intelligence activities. When MG Fast arrived at CJTF-7, she was tasked by LTG Sanchez to focus her efforts on building an adequate intelligence structure. The Jones Report indicated the subsequent success of the architecture created by MG Fast vastly improved the intelligence process and saved the lives of Coalition Forces and Iraqi civilians, and that human intelligence operations and the fusion of intelligence led to the capture of key members of the former regime, including Saddam Hussein.

(9) (U) Evidence indicated MG Fast and her staff worked closely with the 205th MI BDE. MG Fast put mechanisms in place for staff oversight of intelligence operations. Several witnesses testified that the C-2 staff frequently visited the JIDC and

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liaison officers were placed on site. With few exceptions, MG Fast made monthly visits to AGP. In November 2003, she made two visits to AGP; the first with LTG Sanchez where he spoke to interrogators ensuring they understood their left and right limits; during her second visit she spoke with 10 to 15 interrogators, to ensure once again that they (the interrogators) understood the interrogation policy.

(10) (U) The evidence indicated that MG Fast provided effective staff oversight of intelligence operations despite the low manning level of the CJTF-7, the staff's high level of support to the CPA, and the demands of the growing insurgency. Both testimony and reports reviewed revealed that CJTF-7 was never fully resourced in terms of personnel. The JMD never reached more than 60 percent fill, and much of the available staff's effort was directed towards supporting the CPA. A portion of the C-2 staff was co-located with the CPA, and MG Fast was required to commit a significant portion of her personal daily efforts in support of the CPA. While this increased the burden on her staff, evidence established that both she and CJTF-7 executed growing operational and strategic responsibilities far in excess of those envisioned for Phase IV, or for which they were resourced.

(11) (U) All testimony was consistent in stating that the JIDC operation was a command, not staff, responsibility, and that the responsibility for the organization, training and leadership of the JIDC rested with the 205th MI BDE CDR. While there were command failures in execution at the brigade level, these were not attributable to MG Fast.

(12)

(S)(X)(D)

(S)(X)(D)

The policy was based on documents provided by MG G. Miller and input by an informal working group, consisting of SJA officers and members of the 205th MI BDE. Interrogation policies were a staffed action between the SJA and the 205th MI BDE and (S)(X)(D) did not discuss the policies with MG Fast. Additionally, evidence indicated that MG Fast was out of country during the drafting and staffing of the 14 September 2003 policy memorandum and was not present in order to be involved. Further, when she returned she reviewed the policy, considered it to be Field Manual (FM) 34-52, Intelligence Interrogation, plus segregation, and therefore had no objections.

(13) (U) All senior leaders interviewed for this investigation testified that both policy memorandums complied with the GC. The responsibility for the training of interrogators and the planning and conduct of interrogations belonged to the CDR, 205th MI BDE.

(14) (U) The preponderance of the evidence indicated that MG Fast was charged with the development of the intelligence architecture to support the CJTF-7 mission as well as support to the CPA. She personally spent 50 percent of each day with the CPA providing strategic and POLMIL support. Had CJTF-7 been provided more personnel and resources, and had she been in theater at the time, MG Fast might have been more active in the development of the interrogation policy. However, the evidence indicated that MG Fast was not in theater during the policy development, and she was unaware the September policy was being drafted. Although MG Fast was not present, evidence indicated that personnel from the 205th MI BDE were directly involved in the drafting of the interrogation policy. LTG Sanchez sent the signed 14 September 2003 policy to CENTCOM stating it would be implemented unless otherwise directed. Subsequently, CJTF-7 incorporated revisions recommended by CENTCOM into the 12 October 2003 policy. Upon MG Fast's return to theater, the September policy was implemented but the revisions were pending. [REDACTED]

[REDACTED] Further the evidence indicated that MG Fast spoke with interrogators to ensure they understood their limits with regards to the policy.

(15) (U) The preponderance of the evidence indicated that MG Fast properly executed staff supervision of intelligence operations for CJTF-7. She clearly understood her duties and priorities as assigned by her CDR, and testimony by multiple senior officials supported both her responsibilities and accomplishments. MG Fast's actions must be evaluated in the context of the volatile and rapidly changing operational environment, and the multiple responsibilities assigned to CJTF-7. The standard required that to prove dereliction of duties, a person must be derelict in the performance of the duties through willfulness, neglect, or culpable inefficiency. Senior leaders interviewed indicated that MG Fast performed admirably given the challenges and resources with which she was faced. While some reports indicated failures and some senior officials testified that actions could have been conducted differently, none characterized MG Fast's actions as derelict. Many praised her performance. The preponderance of the evidence indicated that MG Fast properly provided staff advice on strategic and operational intelligence and promptly reported potential abuse to proper authorities.

c. (U) The preponderance of the evidence indicated that MG Fast was not derelict in the performance of her duties.

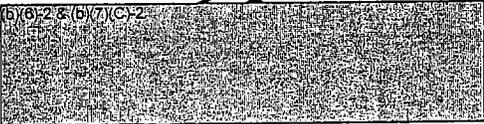
7. (U) Conclusion: The allegation that MG Fast was derelict in the performance of her duties was unsubstantiated.

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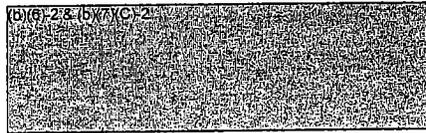
8. (U) Recommendations:

a. (U) Record the allegation against MG Fast in the IN database as unsubstantiated.

b. (U) File this report as DIG 04-80003(U).



COL, IG
Chief, Preliminary Inquires



LTC, IG
Lead Investigator

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LIST OF EXHIBITS

VOLUME II

EXHIBIT ITEM

A Allegation

B Standard
Article 92, UCMJ

C Documents:

- C-1 DODD 5100.77, dated 9 December 1998
- C-2 AR 600-100, dated 17 September 1993
- C-3 JP 2-01, dated 20 November 1996
- C-4 FM 2-0, dated 17 May 2004
- C-5 FM 34-52, dated 28 September 1992
- C-6 FM 101-5, dated 31 May 1997
- C-7 CJTF-7 Interrogation Policy, dated 14 September 2003
- C-8 CJTF-7 Interrogation Policy, dated 12 October 2003
- C-9 The Taguba Report
- C-10 DAIG Detainee Operations Inspection Report
- C-11 The Kern Report
- C-12 EXSUM of the Kern Report
- C-13 The Jones Report
- C-14 The Fay Report
- C-15 The Schlesinger Report
- C-16 (b)(6)-(7)(C)-2 Notes
- C-17 (b)(6)-(7)(C)-2 Report
- C-18 Memorandum, dated 26 November 2003
- C-19 COL Pappas, Sworn Statement, dated 11 February 2004
- C-20 COL Pappas, Sworn Statement, dated 14 May 2004
- C-21 LTC Jordan, Sworn Statement, dated 27 May 2004
- C-22 (b)(6)-(7)(C)-2 Sworn Statement, dated 19 May 2004

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- C-23 [REDACTED] Sworn Statement, dated 24 May 2004
C-24 [REDACTED] Memorandum
C-25 [REDACTED] E-mail, dated 8 May 2004 and JIDC Briefing Slides
C-26 [REDACTED] Sworn Statement, dated 9 May 2004
C-27 [REDACTED] Statement, dated 20 July 2004
C-28 [REDACTED] Statement, dated 23 December 2004
C-29 [REDACTED] Sworn Statement, dated 30 December 2004 FOIA: NO

VOLUME III

D Testimony

- D-1 [REDACTED] FOIA: NO
D-2 [REDACTED] FOIA: NO
D-3 [REDACTED] FOIA: NO
D-4 GEN Paul J. Kern FOIA: YES
D-5 LTG Anthony R. Jones FOIA: YES
D-6 MG George R. Fay FOIA: YES
D-7 [REDACTED] FOIA: NO
D-8 [REDACTED] FOIA: NO
D-9 [REDACTED] FOIA: NO
D-10 [REDACTED] FOIA: YES
D-11 [REDACTED] FOIA: NO
D-12 [REDACTED] FOIA: NO
D-13 [REDACTED] FOIA: NO

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SAIG-IN (20-1b) ANNEX 1 (STANDARD) to DIG 04-80003 (UPDATE)

(U) Article 92, Uniform Code of Military Justice (UCMJ), Manual for Courts-Martial (MCM), 2002 edition, stated the elements of dereliction in the performance of duties were:

a. (U) A person had certain duties. A duty was imposed by treaty, statute, regulation, lawful order, standard operating procedure (SOP), or custom of the service.

b. (U) The person knew or reasonably should have known of those duties. Actual knowledge of duties could be proved by circumstantial evidence. Actual knowledge did not need to be shown if the individual reasonably should have known of the duties by regulation, training or operating manuals, customs of the service, academic literature or testimony, or similar evidence.

c. (U) The person was derelict in the performance of those duties through willfulness, neglect, or culpable inefficiency. Willful meant intentional. Negligence meant an act or omission of a person who was under a duty to use due care which exhibited a lack of that degree of care which a reasonably prudent person would have exercised under the same or similar circumstances. Culpable inefficiency was inefficiency for which there was no reasonable or just excuse. (EXHIBIT B)

Annex 2

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SAIG-IN (20-1b) ANNEX 2 (DOCUMENTS) to DIG 04-80003 (UPDATE)

1. (U) Department of Defense Directive (DODD) 5100.77, dated 9 December 1998, subject: DOD Law of War Program, stated:

a. (U) In paragraph 3.2, that a possible, suspected, or alleged violation of the law of war was a reportable incident.

b. (U) In paragraph 6.1, that all military personnel would report reportable incidents through their chain of command. (EXHIBIT C-1)

2. (U) AR 600-100, Army Leadership, dated 17 September 1993, stated:

a. (U) In paragraph 1-7b, senior level leadership included military leaders at the BDE level in tactical units. Senior leaders tailor resources to organizations and programs and set command climate. Skills required for effective leadership at this level included technical and tactical competence on synchronizing systems and organizations and sophisticated problem solving.

b. (U) In paragraph 1-7c, that the strategic leaders established structure, allocated resources and articulated strategic vision. The skills required for effective leadership at this level included technical competence on force structure and integration, unified, joint, combined, and interagency operations, resource allocation, and management of complex systems, and conceptual competence in creating policy and vision and interpersonal skills.

(U) [IO Note: AR 600-100 listed the three levels of leadership as direct, senior, and strategic. These levels of leadership should not be confused with the levels of war (tactical, operational, and strategic) as outlined in Field Manual (FM) 3-0, Operations.]

c. (U) In paragraph 2-1b(1), that GOs were responsible for creating policies, structures and programs and for ensuring that procedures developed at lower levels further support Army policy and values. (EXHIBIT C-2)

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3. (U) Joint Publication (JP) 2-01, Joint Intelligence Support to Military Operations, dated 20 November 1996, stated:

a. (U) In Appendix G, Joint Exploitation Centers, paragraph 1d, that the subordinate Joint Force (JF) J-2 established a JIDC for follow on exploitation. The JIDC interrogation and debriefing activities were managed by the subordinate JF HUMINT staff section or HUMINT Operations Cell (HOC). Service component interrogators collect tactical intelligence from Enemy Prisoner of War (EPW) based on JF J-2 criteria. EPWs with further intelligence potential were processed for follow on interrogation and debriefing by the JIDC to satisfy theater strategic and operational requirements. The JIDC could also interrogate civilian detainees.

(U) [IO Note: While there was limited joint doctrine available regarding the JIDC, the inquiry identified no US Army doctrine regarding JIDC operations.]

b. (U) In Figure III-3, JF Joint Intelligence Staff (J-2) Organization, that the HOC was a subordinate element of the J2X within the J-2.

c. (U) In the Glossary, that the JIDC was normally subordinate to the JF J-2. (EXHIBIT C-3)

4. (U) FM 2-0, Intelligence, dated 17 May 2004, stated:

a. (U) In paragraph 6-44, a complex command and control relationship balanced the role of the Senior Intelligence Officer as the requirements manager and the *2X as the mission manager with the MI CDR as the asset manager.

(U) [IO Note: The "*" represented any level of staff, as in Corps or Joint]

b. (U) In paragraph 6-45, CDRs would exercise command over the forces assigned to their organization. Command included the authority and responsibility for effectively using resources, planning for and employment of forces, and ensuring that forces accomplish assigned missions.

c. (U) In paragraph 6-46, while the MI CDR supervised subordinates and produced reports, the *2X synchronized activities between intelligence units and provided single-source processing and limited analysis. While the MI CDR took care of the operators

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executing missions, the *2X obtained the data and reports from higher echelons required to execute the missions.

d. (U) In paragraph 6-47, the *2X staff was responsible for the integration, correlation, and fusion of all human sensor information into the intelligence battlefield operating system (BOS). (EXHIBIT C-4)

5. (U) FM 34-52, Intelligence Interrogation, dated 28 September 1992, stated:

a. (U) On page 1-7, Prohibition Against Use of Force, that the Intelligence Staff Officer assumed primary responsibility to ensure that all command intelligence functions were conducted in accordance with international, US, and other applicable law and policy. Specifically, the Intelligence Staff Officer was responsible to ensure the GC for the Amelioration of the Condition of the Wounded and Sick in Armed Forces (GWS) in the Field, GC Relative to the Treatment of Prisoners of War (GPW), and GC Relative to the Protection of Civilian Persons in Time of War were not violated by intelligence personnel. When conducting intelligence interrogations, the J-2, G-2, or S-2 had primary staff responsibility to ensure these activities were performed in accordance with the GWS, GPW, and GC, as well as US policies, regarding the treatment and handling of the above mentioned personnel.

b. (U) On page 2-11, the CDR, Counterintelligence (CI) Company, MI BN, Corps MI BDE, was the Corps Interrogation Facility (CIF) CDR. CIF's were the principal establishment for the exploitation of captured personnel and captured enemy documents (CEDs). The CIF conducted tactical and strategic interrogations based on the intelligence requirements and specific guidance of the Corps G-2 section.

c. (U) On page 2-12, at echelons above corps (EAC), the MI company (Interrogation & Exploitation (I&E)), MI BN (Collection & Exploitation (C&E)), EAC MI BDE, would form the Theater Interrogation Facility (TIF). The TIF, commanded by an MI CPT, provided interrogation support to the theater or joint command and to national level intelligence agencies. The TIF would be tailored organizationally to meet requirements of the theater and situation, and include interrogators, CI personnel, and intelligence analysts from the Army, Air Force, Marine Corps, and in some cases, the Navy.

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d. (U) On page 2-25, the J-2 was responsible for: supervising appropriate censorship activities relating to sources, coordinating with the G-3 to ensure plans for interrogation, CI PSYOP, and CA operations were included in unit training plans and OPLANS; drafting instructions for MI handling, evacuating, and exploiting captured enemy personnel and CEDs; projecting source capture flows; determining the number of interpreters and translators needed to perform intelligence duties; controlling the procedures used to process and grant clearances to the interpreters and translators who need them; and, coordinating with the G5 on screening of non-suspect local nationals and displaced persons.

e. (U) On page 2-26, SJA could provide legal support and advice on the interpretation and application of international regulations and agreements about handling sources. It was also a channel for reporting known or suspected war crimes. (EXHIBIT C-5)

6. (U) FM 101-5, Staff Organization and Operations, dated 31 May 1997, stated:

a. (U) On page 1-1, command was the authority a CDR exercised over subordinates by virtue of rank and assignment. Command included the authority and responsibility for effectively using available resources and for planning the employment, organizing, directing, coordinating, and controlling military forces for the accomplishment of assigned missions.

b. (U) On page 4-1, the CDR could personally communicate his intent or decisions, either verbally or in writing, or he could relay information to his staff through order, CDR's guidance, and other means. When the CDR assigned a staff member a mission, he also delegated the necessary authority for the staff member to accomplish the mission.

c. (U) On pages 4-10 to 4-11, the G-2 was the principal staff officer for all matters concerning MI, CI, security operations, and MI training. The G-2 was responsible for: disseminating intelligence to CDRs and others in a timely manner; collecting, processing, producing, and disseminating intelligence; conducting and coordinating intelligence preparation of the battlefield (IPB), and coordinating staff input to IPB products for staff planning, decision making, and targeting; evaluating the threat; determining enemy most probable and most dangerous courses of action and key events; coordinating with the entire staff and recommending priority intelligence

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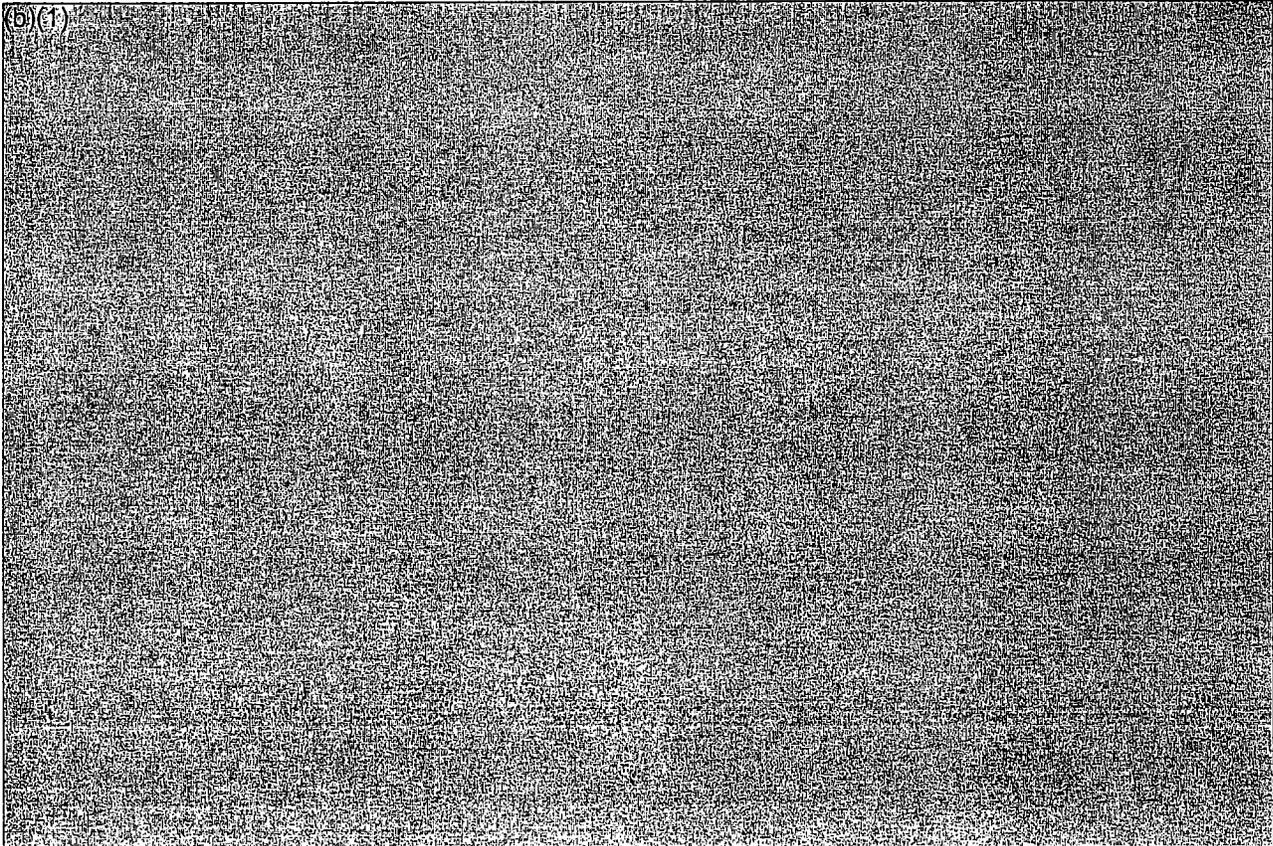
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requirements (PIR) for the CDR's critical information requirements; coordinating with the G-3 PM for processing, for intelligence purposes) materials taken from EPWs and civilian internees; coordinating ground and aerial reconnaissance and surveillance operations with other collection assets; and, recording, evaluating, and analyzing collected information to produce all-source intelligence that answers the CDR's PIR and information requirement.

d. (U) On page 4-32, the SJA, was the CDR's personal legal advisor on all matters affecting the morale, good order, and discipline of the command. The SJA's specific responsibilities included providing legal advice to the CDR on: military law (DODD, DA regulations, and command regulations); domestic law; foreign law, status-of-forces agreements, and international law; the Law of Armed conflict (Geneva and Hague Conventions); rules of engagement; environmental laws and treaties; warfare treaties; and, the treatment of EPWs and civilian internees. (EXHIBIT C-6)

(b)(1)



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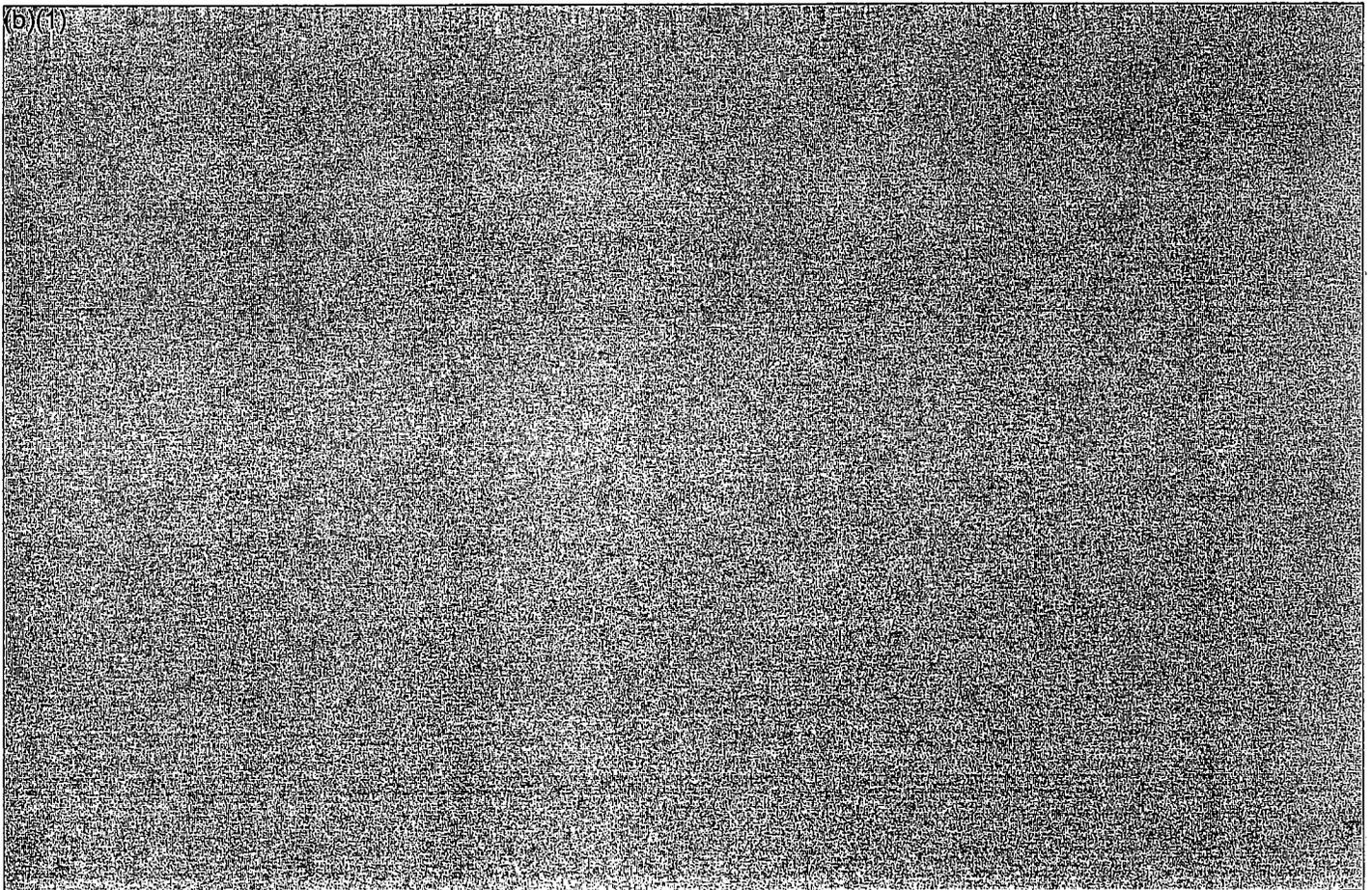
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e. (U) On 14 September 2003, LTG Sanchez informed CDR, CENTCOM, unless otherwise directed, he (LTG Sanchez) intended to implement the policy immediately. (EXHIBIT C-7)

(U) [IO Note: CENTOM had no published interrogation policy. Staffing of this ICRP was at LTG Sanchez' direction.]



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9. (U) The Taguba Report stated:

a. (U) COL Pappas failed to ensure that Soldiers under his direct command were properly trained in and followed the Interrogation Rules of Engagement (IROE), knew, understood, and followed the protections afforded to detainees in the GC, and failed to properly supervise his Soldiers working and visiting Tier 1 of the hard site at AGP. (p. 45)

b. (U) LTC Jordan failed to ensure that Soldiers under his direct control were properly trained in and followed the IROE, knew, understood, and followed the protections afforded to detainees in the GC, and failed to properly supervise his Soldiers working and visiting Tier 1 of the hard site at AGP. Additionally, LTC Jordan made material misrepresentations to the Investigating Team, including his leadership role at AGP. (p. 45-46)

c. (U) There was sufficient credible information to warrant an inquiry UP Procedure 15 to determine the extent of culpability of MI personnel assigned to the 205th MI BDE and JIDC at AGP. It was specifically suspected that COL Pappas and LTC Jordan were either directly or indirectly responsible for the abuses at AGP. (p. 48) (EXHIBIT C-9)

10. (U) The DAIG Detainee Operations Inspection Report, reflected:

a. (U) On 10 February 2004, the Acting SECARMY directed DAIG to conduct an assessment of detainee operations in Afghanistan and Iraq. DAIG inspected internment, EPW, detention operations, and interrogation procedures. The inspection focused on the adequacy of doctrine, organization, training, materiel, leadership, personnel, and facilities. It was a functional analysis of the Army's conduct of detainee and interrogation operations. (p. i)

b. (U) Two teams conducted inspections at 26 locations in Iraq, Afghanistan, and in the US. They were unable to identify system failures that resulted in incidents of abuse. They found the 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. (p. i)

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c. (U) Of all the facilities inspected, only AGP was determined to be undesirable for housing detainees because it was located near a densely populated urban area, on a dangerous main supply route (MSR), and was under frequent hostile fire, placing Soldiers and detainees at risk. (pp. ii, v)

d. (U) Officially approved CJTF-7 policies generally met legal obligations under US law, treaty obligations and policy, if executed carefully, by trained Soldiers, under the full range of safeguards. However, policies were not clear and contained ambiguities. Implementation, training, and oversight of these policies was inconsistent, however, no confirmed instance of detainee abuse was caused by the approved policies. There was no direct link between the proper use of an approved approach technique and a confirmed case of detainee abuse. (p. iii)

e. (U) Doctrine did not clearly identify the interdependent, and yet independent, roles, missions, and responsibilities of MP and MI units in the establishment and operation of interrogation facilities. MP doctrine did not address approved and prohibited MI procedures in an MP operated compound, nor clearly establish the role of MPs in the interrogation process. MI doctrine did not clearly explain MP internment procedures or the role of MI personnel within an internment setting. Contrary to MP doctrine, FM 35-52 implied an active role for MPs in the interrogation process. The subordination of the MP custody and control mission to the MI for intelligence could create settings in which unsanctioned behavior, including detainee abuse, could occur. (pp. v-vi)

f. (U) Shortfalls in interrogators and interpreters, and the distribution of these assets, hampered HUMINT collection efforts. Valuable intelligence may have been lost as a result. (p. vi)

g. (U) The Army's leaders and Soldiers were effectively conducting detainee operations and providing for the care and security of detainees in an intense operational environment. Based on this inspection, the inspection team was unable to identify system failures that resulted in incidents of abuse. (p. vii)

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h. (U) Tactical MI officers were not adequately trained on how to manage the full spectrum of the collection and analysis of HUMINT. MI officers only received a general overview of HUMINT during their Professional Military Education courses. During the MI Officer Basic Course (MIOBC), MI officers received a 9-day Intelligence Battlefield Operating System block of instruction which included a 6-hour block on: review/reinforcement of CI/HUMINT principles; CI organizations; Subversion and Espionage Directed Against US Army and Deliberate Security Violations (SAEDA); and the role of the tactical HUMINT teams. The MIOBC students received approximately an hour block of instruction from their SASO instructor on displaced civilians/refugees on the battlefield.) (pp. 36-37)

i. (U) MI Captain Career Course (MICCC) officers received a one-hour block of instruction in their intelligence support to BDE operations on imagery intelligence, CI/HUMINT, and signals intelligence. Additionally, during practical exercises the students received 40 hours of SASO training, 32 hours of threat training, and 2 hours of crime link training. Also, during intelligence, surveillance, and reconnaissance planning, the basic principles of CI/HUMINT were reinforced during 30 minute practical exercises that addressed imagery intelligence, CI/HUMINT, and signals intelligence being used on the battlefield to collect intelligence information. During the Intelligence Support Course to division, corps, and joint officers, there was one day of CI/HUMINT training. This training included an overview, specific training, and a practical exercise for CI/HUMINT. Additionally, the 35E series (CI Officer) course conducted 8 hours of CI/HUMINT training, and the Strategic Intelligence Officer Course conducted 5 hours of CI/HUMINT training. (p. 37)

j. (U) The Army G-2, in coordination with TRADOC, had created a G2X/S2X Battle Staff Course to begin in July 2004 for MI officers. The G2X/S2X program of instruction will be tailored for a staff operating within a Joint or multi-national (Coalition) environment. The G2X/S2X curriculum was based upon the CI/HUMINT critical tasks and incorporated J2X/G2X/S2X emerging doctrine/methodology and lessons learned. (p. 37) (EXHIBIT C-10)

11. (U) The Kern Report reflected:

a. (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

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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. (p. 8)

b. (U) Inadequacy of doctrine for detention operations and interrogation operations was a contributing factor to the situations that occurred at AGP. The Army's capstone doctrine for the conduct of interrogation operations was FM 34-52. 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 AGP and were implemented without proper authorities or safeguards. (p. 8)

c. (U) 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 AGP 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. (p. 8)

d. (U) The term OGA most commonly referred to the Central Intelligence Agency (CIA). The CIA conducted unilateral and joint interrogation operations at AGP. The CIA's detention and interrogation practices contributed to a loss of accountability and abuse at AGP. No memorandum of understanding (MOU) existed on the subject of 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 AGP, 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. (p. 9)

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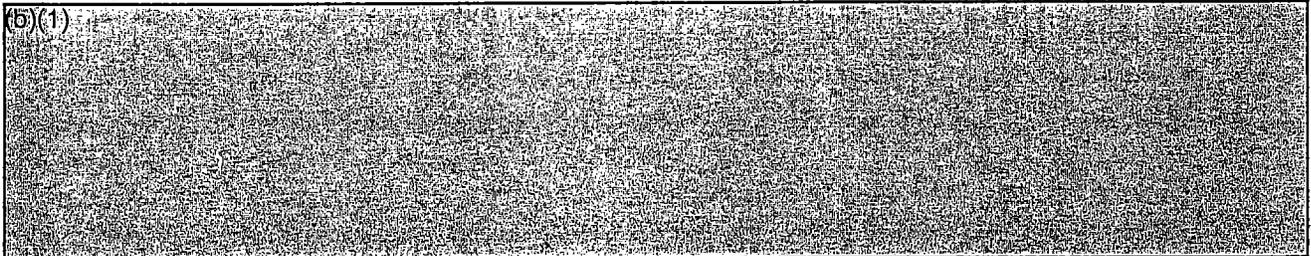
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e. (U) As the need for actionable intelligence rose, the realization dawned that pre-war planning had not included planning for detainee operations. Believing that FM 34-52 was not sufficiently or doctrinally clear for the situation in Iraq, CJTF-7 staff sought to synchronize detainee operations, which ultimately resulted in a methodology and structure derived from the 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. (p. 24)

f. (U) On 10 September 2003, COL Marc L. Warren, SJA, CJTF-7, tasked CPT (b)(6), 2 & 3 205th MI BDE, to work with CJTF-7 OSJA staff officers to produce a set of interrogation rules. The draft policy went to the C-2, C-3, and the CDR, 205th MI BDE. Between 10 and 14 September 2003, the OSJA changed the 10 September 2003 memo to reflect the addition of the techniques that were not included in the 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. (p.25)

(U) [IO Note: MG Fast was out of theater from 6 to 15 September 2003. During the inquiry there was no evidence that indicated that she received a copy of the draft policy.]

(b)(1)



(U) [IO Note: It was within LTG Sanchez' authority to place limits on CJTF-7 interrogation operations.]

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j. (U) This 12 October 2003 memorandum, intended by CJTF-7 SJA staff to be clear, succinct, and understandable at all levels, confused doctrine and policy even further. 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 AGP, 205th 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 at AGP began operating under it immediately. It was not always clear to JIDC officers what approaches required LTG Sanchez' approval, nor was the level of approval consistent with requirements in other commands. 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. (pp. 27-29)

k. (U) Beginning in July 2003, demands placed upon interrogation operations were growing rapidly from both the tactical CDRs as well as from the CJTF-7. The 205th MI BDE had the missions of providing Tactical HUMINT teams to forward deployed combat forces as well as operating a JIDC. The 205th MI BDE had no organic interrogation capability. Those assets were eliminated from the active force

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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/519th MI BN and the interrogation sections from two USAR MI BNs. (p. 32)

l. (U) The idea for the creation of the JIDC came about after a number of briefings and meetings, held from mid-August to early September 2003, among LTG Sanchez, MG Fast, COL Pappas, and COL (b)(7)(C) Deputy C-2, CJTF-7. Additionally, MG G. Miller's discussions with CJTF personnel and the 205th MI BDE influenced the decision to create a JIDC. The objective was to enhance the interrogation process with a view toward producing better, timelier, actionable intelligence. (p. 41)

m. (U) On 6 September 2003, COL Pappas briefed LTG Sanchez on a plan to improve interrogation operations and LTG Sanchez approved the concept and directed COL Pappas to accelerate all aspects of the plan. The decision established the JIDC and modified previous interrogation operations at AGP. COL Pappas decided not to make the JIDC a battalion (BN) operation and thereby did not place one of his BN CDRs in charge. On 17 September 2003, LTC Jordan became the Director, JIDC, and the re-organization of the JIDC occurred in the late September to October 2003 timeframe. (pp. 41-42)

n. (U) The JIDC, a non-doctrinal organization, initially did not have a JMD. There was no approved structure for the JIDC. The JMD was created as the JIDC was already operating. Because there was no JIDC doctrine, procedures were ad hoc and adapted from FM 34-52 where possible. (p. 42)

(U) [IO Note: Although mentioned in joint doctrine, the structure or manning of the JIDC was not addressed. Additionally, the concept of the JIDC was not addressed in Army doctrine.]

o. (U) LTC Jordan became fascinated with OGA and allowed them to do interrogations without the presence of Army personnel. JIDC policy was that an Army interrogator had to accompany OGA if they were interrogating one of the detainees MI was also interrogating. 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. (p. 45)

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p. (U) AGP 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 (TTPs) 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, and connectivity to relevant intelligence data bases was very limited. (p. 47)

q. (U) AGP personnel were unable to respond to requests for information about CIA detainees from higher HQs. It was unclear how and under what authority the CIA could place prisoners in AGP because no MOUs 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 AGP, COL (b)(7)(C) encouraged him to cooperate with the CIA. (pp. 53-54)

r. (U) OGA never provided to the CDR, CJTF-7, the results of their abuse investigation regarding an OGA detainee that died at AGP. 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 Iraqi Survey Group (ISG). LTG Sanchez could neither leverage ISG interrogation assets to assist the detainee operations in AGP nor could he compel ISG to share substantive intelligence reports with CJTF-7. (p. 55)

s. (U) In September 2003, COL Pappas began visiting AGP two or three times per week as opposed to once every week or two. He was also beginning to stay overnight. His visit schedule coincided with the increased emphasis being placed on interrogation operations and the newly formed JIDC. (p. 55)

t. (U) 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. The 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. The JIDC needed to be structured, manned, trained and equipped as a standard military organization. These organizations should be certified

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by Training and Doctrine Command (TRADOC) and/or Joint Forces Command (JFCOM). Appropriate Army and Joint doctrine should be developed defining JIDC's missions and functions as separate commands. (pp. 110-111)

u. (U) Leaders failed to take steps to effectively manage pressure placed upon JIDC personnel. Leaders within the MI community commented upon the intense pressure they felt from higher headquarters, to include CENTCOM, the Pentagon, and Defense Intelligence Agency (DIA), for timelier, actionable intelligence. These leaders stated that this pressure adversely affected their decision making. Requests for information were being sent to AGP from a number of headquarters, without any prioritization. Based on statements from the interrogators and analysts, the pressure was allowed to be passed down to the lowest levels. Protecting Soldiers from unnecessary pressure to enhance mission effectiveness was a leader's job. (pp. 111-112)

(U) [IO Note: LTG Jones and MG Fay both testified that the MI leaders referred to were COL Pappas and the leadership within the 205th MI BDE.]

v. (U) The JIDC was not provided with adequate personnel resources to effectively operate as an interrogation center. 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 formed 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 short-handed to deal with the large number of detainees at hand. The Army and DOD should plan on operating JIDC organizations in future operational environments; and establish appropriate manning and equipment authorizations for the same. (p. 113)

w. (U) MI leaders did not receive adequate training in the conduct and management of interrogation operations. MI leaders at the JIDC were unfamiliar with and untrained in interrogation operations 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 interrogation operations. (p. 115)

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x. (U) There was neither a defined procedure nor specific responsibility within CJTF-7 for dealing with International Committee of the Red Cross (ICRC) visits. ICRC recommendations were ignored by MI, MP, and CJTF-7 personnel. DOD should review current policy concerning ICRC visits and establish procedures whereby findings and recommendations by the ICRC were investigated. (p. 119) (EXHIBIT C-11)

12. (U) The Unclassified EXSUM of the Kern Report reflected:

a. (U) 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 CPA. The CJTF-7 headquarters lacked adequate personnel and equipment. The MP and MI units at AGP were severely under-resourced. Providing support to the CPA required greater resources than envisioned in OPLANS. The OPLANS envisioned the 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. CJTF-7 had to conduct tactical counter-insurgency operations, while also executing its planned missions.

b. (U) 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" (sic. Insurgents) dangerous to US forces and Iraqi civilians.

c. (U) Command and staff actions and inaction must be understood in the context of the operational environment. 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 CDR and staff performed above expectations.

d. (U) LTG Jones found that while senior level officers did not commit the abuse at AGP they did bear responsibility for lack of oversight of the facility, failing to respond in a timely manner to the reports from the ICRC and for issuing policy memorandums that failed to provide clear, consistent guidance for execution at the tactical level.

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e. (U) MG Fay found that twenty-seven of the 205th MI BDE personnel allegedly requested, encouraged, condoned or solicited 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 AGP.

f. (U) Most 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.

g. (U) The leaders of the 205th MI BDE and the 800th MP BDE failed to supervise subordinates, provide direct oversight of the mission, or properly discipline their Soldiers. The 205th MI BDE CDR did not assign a specific subordinate unit to be responsible for interrogations at AGP and did not ensure that a MI chain of command 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 misinterpretation/confusion incidents.

h. (U) DOD and Army doctrine did not cause any abuse. Abuses would not have occurred had doctrine been followed and mission training conducted. Certain facets of interrogation and detention 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 JTF structure and in particular, its intelligence architecture.

i. (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. (EXHIBIT C-12)

13. (U) The Jones Report reflected:

a. (U) The chain of command directly above the 205th MI BDE was not directly involved in the abuses at AGP. Policy memoranda promulgated by the CJTF-7 CDR led indirectly to some of the non-violent and non-sexual abuses. The CJTF-7 CDR and Deputy CDR failed to ensure proper staff oversight of detention and interrogation

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operations. The CJTF-7 staff elements reacted inadequately to earlier indications and warnings that problems existed at AGP. (p. 4)

b. (U) No policy, directive or doctrine directly or indirectly caused violent or sexual abuse. 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. (p. 5)

c. (U) DOD and Army doctrine did not cause any abuses. Abuses would not have occurred had doctrine been followed and mission training conducted. Certain facets of interrogation and detention operations doctrine needed to be updated, refined or expanded including guidance for interrogation techniques at both tactical and strategic levels. (p. 5)

d. (U) 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. (p. 9)

e. (U) MG 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. Only through an aggressive structure of 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. Following MG Fast's initial assessment and report to CENTCOM HQs, changes began to take place to put the right architecture in place. An Intelligence Fusion Cell (IFC) was established, as were a Joint Inter-Agency Task Force and an expanded JC2X HUMINT Management Cell. (p. 11)

f. (U) 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 to the capture of Saddam Hussein. During the time period of the AGP abuses, the intelligence focus was on Saddam Hussein's capture and exploitation of documents related to Saddam

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Hussein, preparation for Ramadan, and large scale enemy activity at Fallujah and Najaf. There were also efforts to expand the intelligence organization, obtain operational intelligence about the counter-insurgency, and support the CPA, all of which consumed the efforts of the CJTF-7 staff. This resulted in responsibilities for oversight of tactical interrogation procedures, intelligence analysis, and reporting at AGP as well as throughout the ITO, being entrusted to the CDRs in the field. (p. 11)

g. (U) MG Fast's initial assessment and report on the intelligence organization and the needed systems architecture to support the mission was invaluable in establishing a roadmap for needed intelligence resources. (p. 12)

h. (U) In accordance with JP 2-01, the use of a JIDC by a JTF was situation dependent. No defined organization existed for implementing the JIDC concept. The JIDC at AGP was established based on MG G. Miller's recommendation during his assessment. LTC Jordan was sent to AGP to oversee the establishment of the JIDC. On 19 November 2003, when COL Pappas assumed duties as the Forward Operating Base (FOB) CDR, he directed the activities, and LTC Jordan became the deputy director. There were conflicting statements regarding who had the responsibilities to implement and oversee the JIDC. MG Fast, through her CJ2X staff, provided priority intelligence requirements for the interrogators and analysts in the JIDC. The JMD earmarked 169 personnel for the interrogation operations and analysis cells in the JIDC. 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 AGP for MI personnel and intelligence operations. (p. 13)

i. (U) The lack of an MI CDR and chain of command precluded the coordination needed for effective operation at AGP. LTC Jordan failed to execute his responsibilities as Chief, JIDC. (p. 13)

j. (U) CJTF-7 responsibility for staff oversight of detention operations, facilities, intelligence analysis and fusion, and limits of authority of interrogation techniques were dispersed among the principal and special staff. MG Wojdakowski had direct responsibility and oversight of the separate BDEs. Priorities for intelligence collection, analysis and fusion were the responsibility of MG Fast. LTG Sanchez used his SJA to advise him on the limits of authority for interrogation and compliance with the GC for the policy memorandums published. (p. 14)

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k. (U) DOD wide, formal written policies for interrogation techniques were prescribed by various levels of command and authority. During the period under investigation there was confusing and sometimes conflicting guidance resulting from the number of policy memorandums 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 CDRs were advised of their acceptability. (p. 14)

l. (U) Initially, no theater specific guidance on approved interrogation techniques was published by CJTF-7 for the ITO. LTG Sanchez reemphasized the limits of authority for interrogations in his 14 September and 12 October 2003 policy memorandums. The first memorandum was rescinded, and the second addressed only security detainees and inadvertently left certain issues for interpretation: the responsibility for clothing detainees, the use of dogs in interrogation, and applicability of techniques to detainees who were not categorized as "security detainees." Some MI personnel executing their interrogation duties at AGP previously served as interrogators in other theaters of operation, primarily Afghanistan and GTMO. These prior interrogation experiences complicated understanding at the interrogator level. The clear thread in the CJTF-7 policy memorandums and published doctrine was the humane treatment of detainees and the applicability of the GC. The existence of confusing and inconsistent interrogation technique policies contributed to the belief that additional interrogation techniques were condoned. (pp. 14-15)

m. (U) Inaction at the CJTF-7 staff level could have also contributed to the failure to discover and prevent abuses before January 2004. There was sufficient evidence to reasonably believe that personnel in the CJTF-7 staff, principally in the OSJA and CJ2X had knowledge of potential abuses and misconduct at AGP. 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 AGP. The CDR, CJTF-7, had to prioritize efforts and CJTF-7, by necessity, devoted its resources to fighting the counter-insurgency and supporting the CPA. LTG Sanchez and MG Wojdakowski relied on BG Karpinski and COL Pappas to run detention and interrogation operations at AGP. The CJTF-7 staff did everything they could have reasonably been expected to do to successfully complete their entire assigned mission. (p. 17)

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n. (U) The leadership failure at BDE level and below was a factor in not sooner discovering and taking actions to prevent both the violent/sexual abuse incidents and the misinterpretation/confusion incidents. Interrogation operations were 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. The leaders from the 205th MI BDE and the 800th MP BDE failed to supervise subordinates or provide direct oversight of the mission. There was a lack of command presence, particularly at night. The 205th MI BDE CDR did not specifically assign responsibility for interrogation operations to a specific subordinate MI unit at AGP, and did not ensure that a chain of command for the interrogation operations mission was established. The presence of a clear MI chain of command and associated responsibilities would have enhanced effective operations. The leaders from the 205th MI BDE and the 800th MP BDE failed to properly discipline their Soldiers and failed to develop and learn from After Action Reports (AARs) and lessons learned. These leaders failed to provide adequate mission-specific training to execute a mission of this magnitude and complexity. (p. 17)

o. (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 was a contributing factor to abuse at AGP. (p. 18)

p. (U) A review of different theaters' interrogation technique policies revealed the need for clear guidance for interrogation techniques at both the tactical and strategic levels. In each theater, CDRs were seeking guidance and information on the applicability of the articles of the GC to specific population sets and on what techniques could be used to improve intelligence production and remain within the limits of lawful authorities. (pp. 21-22)

q. (U) At AGP 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 FMs. Policies for interrogation techniques including policies for counter-resistance techniques were provided for different theaters of operation. Some interrogators conducting operations at AGP had experience in different theaters and used their experiences to develop procedures at AGP. (p. 22)

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r. (U) When policies, SOPs, or doctrine were available, Soldiers were inconsistently following them. "Confusion over policies contributed to some of the non-violent and non-sexual abuses. There was 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. (p. 22)

s. (U) V Corps personnel, to include CDRs and staff, were not trained to execute a JTF mission. The transition from major combat operations to a HQs focused on SASO and support to the CPA was a major transition for which the unit did not have time to train or prepare. (p. 22)

t. (U) The chain of command above the 205th MI BDE was not directly involved in any abuses that occurred at AGP. The CJTF-7 CDR and staff performed above expectations in the overall scheme of OIF. (p. 24) (EXHIBIT C-13)

14. (U) The Fay Report reflected:

a. (U) The idea for the creation of the JIDC came after a number of briefings and meetings were held among LTG Sanchez, MG Fast, COL Pappas, and COL (b)(6)-2&3. These meetings and briefings occurred from mid-August to 9 September 2003. On 6 September 2003, COL Pappas briefed the plan to improve interrogation operations. 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 AGP. COL Pappas decided, when standing up the JIDC, not to make it a BN operation, therefore deciding not to place one of his BN CDRs in charge of the JIDC, but instead relied upon staff personnel to manage the entire operation. COL Pappas requested a LTC to run the JIDC, and since LTC Jordan, an incoming C-2 officer, was excess, COL (b)(6)-2&3 assigned him to AGP to run the JIDC. On 17 September 2003, LTC Jordan became the Director, JIDC. (pp. 41-43)

b. (U) The preponderance of evidence supported that LTC Jordan was assigned to run the JIDC. 205th MI BDE staff officers were adamant that LTC Jordan was sent to run the JIDC. LTC Jordan acted as if he were in charge in all but one important aspect, interrogation operations. LTC Jordan left the actual management, organization, and leadership of the core of his responsibilities to subordinate officers. (pp. 43-44)

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c. (U) The JIDC needed a trained, experienced MI LTC to take total control and 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. (p. 44)

d. (U) LTC Jordan allowed OGA to do interrogations without the presence of Army personnel. JIDC policy was that an Army interrogator had to accompany OGA if they were interrogating one of the detainees MI was also interrogating. Although LTC Jordan was only a little involved in the interrogation operations, he did become involved with OGA and this did not help the situation. (p. 44)

e. (U) Shortly after LTC Jordan's arrival at the JIDC, the 205th MI BDE staff began to note LTC Jordan's involvement in staff issues and his lack of involvement in interrogation operations. 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, both because he was receiving increasing pressure for results, but also because he could not rely on LTC Jordan to run the operation. (pp. 45-46)

f. (U) The systemic lack of accountability for interrogation actions and detainees plagued detainee operations in AGP. It was unclear how and under what authority the CIA could place prisoners in AGP, because no MOU existed between the CIA and CJTF-7. Local CIA officers convinced COL Pappas and LTC Jordan they should be allowed to operate outside the established local rules and procedures. When COL Pappas raised the issue of CIA use of AGP with COL (b)(6)-2 &
(b)(7)(C)- COL (b)(6)-2 &
(b)(7)(C)- encouraged COL Pappas to cooperate with the CIA. (p. 54)

g. (U) From 27 July 2003 to 6 February 2004, twenty-seven 205th MI BDE personnel allegedly violated established interrogation procedures and applicable laws and regulations as preparation for interrogation operations at AGP. While 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, and failed to provide adequate training to ensure Soldiers understood the rules and complied. (p. 109)

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h. (U) DOD's development of multiple policies on interrogation operations for use in different theater or operations confused Army and civilian interrogators at AGP. National policy and DOD directives were not completely consistent with Army doctrine concerning detainee treatment or interrogation tactics, resulting in CJTF-7 ICRPs and practices that lacked basis in Army interrogation doctrine. As a result, interrogators at AGP employed non-doctrinal approaches that conflicted with other DOD and Army regulatory, doctrinal and procedural guidance. (pp. 112-113)

i. (U) OGA interrogation practices led to a loss of accountability at AGP. Lack of military control over OGA interrogator actions or lack of systemic accountability for detainees plagued detainee operations in AGP. The Army allowed CIA to house "Ghost Detainees" who were unidentified and unaccounted for in AGP. Additionally, the treatment and interrogation of OGA detainees occurred under different practices and procedures which were absent of any DOD visibility, control, or oversight. (p. 118)

j. (U) COL Pappas failed to properly organize the JIDC, put the necessary checks and balances in place to prevent and detect abuses, 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; improperly authorized the use of dogs during interrogations and failed to ensure the dogs were muzzled after he improperly permitted their use; failed to properly communicate to higher headquarters when his BDE would be unable to accomplish its mission due to lack of manpower and/or resources; and, allowed his Soldiers and civilians at the JIDC to be subjected to inordinate pressure from higher headquarters. (p. 120)

k. (U) LTC Jordan 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; failed to prevent the unauthorized use of dogs and the humiliation of detainees who were kept naked for no acceptable purpose; and, failed to accurately and timely relay critical information to COL Pappas. LTC Jordan was deceitful during the investigation, as well as during MG Taguba's investigation. His recollection of facts, statements, and incidents were always recounted to avoid blame or responsibility, and his version of events frequently diverged from most others. (p. 121) (EXHIBIT C-14)

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15. (U) The Schlesinger Report stated:

a. (U) On 14 September 2003, LTG Sanchez signed a policy memorandum authorizing a dozen interrogation techniques beyond FM 34-52. The CJTF-7 CDR, on the advice of his SJA, believed he had the inherent authority of the CDR in a theater of war to promulgate such a policy and make determinations as to the categorization of detainees under the GC. CENTCOM viewed the CJTF-7 policy as unacceptably aggressive and on 12 October 2003, CDR CJTF-7 rescinded his September directive and disseminated methods only slightly stronger than those in FM 34-52. The policy memorandums 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. (pp. 9-10)

b. (U) Interrogation policies were inadequate or deficient in some respects at three levels: DOD, CENTCOM/CJTF-7, and AGP. Policies to guide the demands for actionable intelligence lagged behind battlefield needs. The changes in DOD interrogation policies between 2 December 2002 and 16 April 2003 contributed to uncertainties in the field as to which techniques were authorized. (p. 14)

c. (U) The weak and ineffectual leadership of the CG, 800th MP BDE and the CDR, 205th MI BDE allowed the abuses at AGP. The CDRs of both BDEs either knew, or should have known, abuses were taking place and taken measures to prevent them. There was no evidence that organizations above these BDEs were directly involved in the incidents at AGP. (p. 43)

d. (U) The Schlesinger panel agreed with MG Taguba's conclusion that the Director, JIDC made material misrepresentations to MG Taguba's investigating team, and failed to properly train and control his Soldiers, and failed to ensure prisoners were afforded the protections under the relevant GC. (p. 44)

e. (U) LTG Sanchez delegated responsibility for detention operations to MG Wojdakowski. At the same time, intelligence personnel at AGP reported through the C-2, CJTF-7. These arrangements had the damaging result that no single individual was responsible for overseeing operations at AGP. (p. 45)

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f. (U) The creation of the JIDC at AGP was not an unusual organizational approach. The DAIG assessment revealed that joint doctrine for the conduct of interrogation operations contained inconsistent guidance, particularly with regard to addressing the issue of the appropriate command relationships governing the operation of such a organization. CJTF-7 failed to develop an effective command relationship for the JIDC. (p. 46)

g. (U) 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. (p. 46)

h. (U) The C-2, CJTF-7, failed to advise the CDR properly on directives and policies needed for the operation of the JIDC, for interrogation techniques and for appropriately monitoring the activities of OGA. (p. 47)

i. (U) A number of visits by high-level officials to AGP contributed to the perceived pressure to produce actionable intelligence. Both the CG, CJTF-7, and the C-2, CJTF-7, visited AGP on several occasions. Despite the number of visits and the intensity of interest in actionable intelligence, no undue pressure was exerted by senior officials, although their eagerness for intelligence could have been perceived by interrogators as pressure. (pp. 65-66)

j. (U) Neither the leadership nor the organization of MI at AGP was prepared for the mission. The 205th MI BDE had no organic interrogation elements, and Reserve Soldiers filled needed positions. The creation of the JIDC introduced a 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. The CDR, 205th MI BDE failed to ensure his Soldiers were properly trained and followed the Interrogation Rules of Engagement (IROE). The Director, JIDC, was a weak leader who did not have experience in interrogation operations and who ceded the core of his responsibilities to his subordinates. He failed to provide appropriate training and supervision of personnel assigned to JIDC. These leaders did not establish the basic standards and accountability that might had prevented the abusive behaviors. (pp. 67-68)

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k. (U) CJTF-7's 14 September 2003 policy memorandum allowed military working dogs to be used as an interrogation technique when approved by the CG, CJTF-7. This authorization was updated by the 12 October 2003 policy which allowed the presence of dogs during interrogation as long as they were muzzled and under control of the handler but still required approval. The Taguba and Jones/Fay investigations identified a number of abuses related to using muzzled and unmuzzled dogs during interrogations. (p. 77) (EXHIBIT C-15)

l. (U) COL(R) (b)(6)-2 & (b)(7)(C)-2 notes for his verbal outbrief to MG Fast, on or about 10 December 2003, regarding CI-HUMINT Evaluation Visit, reflected:

(U) [IO Note: COL (b)(6)-2 & (b)(7)(C)-2 notes were handwritten and mainly consisted of bullet statements.]

m. (U) Part I was Detainee Exploitation. AGP was over capacity. "3,800 people I have no intention of debriefing." The MP's were overextended. The MI was understaffed and under equipped. The facilities were primitive and dirty. The security was poor, Iraqi Police. Morale was not as low as expected and this was attributed to the mettle and spirit of the Soldiers. COL Pappas was short analysts and was not forthcoming. Part II was Treatment (Mistreatment). Part III was Insurgency. Part IV was C2X. Passive and desk-bound.

n. (U) Detainee Operation Recommendation. Revise and standardize detention criteria for Army divisions. Streamline Release Procedures. Immediately plus up MP and MI personnel, consider contracting security. Have COL Pappas and LTC Jordan provide priority list of requirements. Review MOS utilization. ISG should provide a reports officer to AGP. Request three GTMO assistance teams. C2 should visit AGP. C2X develop a top 25 or 50 list, review population on MI holds and release all who did not fit the category. (EXHIBIT C-16)

(b)(1)

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16. (U) Report of CI-HUMINT Evaluation Visit, the (b)(6) (b)(7)(C) 2 Report, dated 12 December 2003, to MG Fast, reflected:

a. (U) From 2 through 9 December 2003, COL (b)(6) (b)(7)(C) 2 evaluated the CI and HUMINT operations in Iraq.

b. (U) The conditions at AGP were austere, with JIDC personnel complaining of shortages of essential supplies and equipment, including computers, paper, electrical power, linguists, reports officer, vehicles to transport detainees, hand held radios and analyst notebook software. The number of detainees arriving each week exceeded the release rate of detainees.

c. (U) Due to the limits imposed by the facility at AGP and the number of detainees, key principles of detainee exploitation were not followed. Detainees were able to communicate with one another, with many living in community conditions, which enabled them to share ideas on how to cope with interrogations, to organize themselves, and to intimidate fellow detainees. Living conditions for detainees in the tents and those in the prison cells were severe, limiting the options of debriefers. No evidence of detainees being illegally or improperly treated was observed or heard of.

d. (U) There was good cooperation with OGA. When OGA expressed an interest in a detainee, JIDC personnel cooperated in providing access. On occasion, to preserve possible operational utilization of a detainee for OGA, a number was not assigned to the detainee, which created a "ghost detainee," a detainee that was not in the accounting system, and therefore did not exist. This practice carried with it certain risks, not the least of which was that it could be technically illegal or in violation of policy. The C2X should address this issue and develop a solution that both complied with regulations and the law yet permitted the kind of latitude necessary for special exploitation or utilization of a detainee.

e. (U) JIDC personnel were doing the best they could under difficult conditions, and in spite of the conditions, had obtained and reported significant information from detainees. The facility was the equivalent of a Corps level interrogation cage that simply could not be used for sophisticated exploitation of higher level detainees. It was understood that the higher level capability existed at the ISG. After visiting the ISG it

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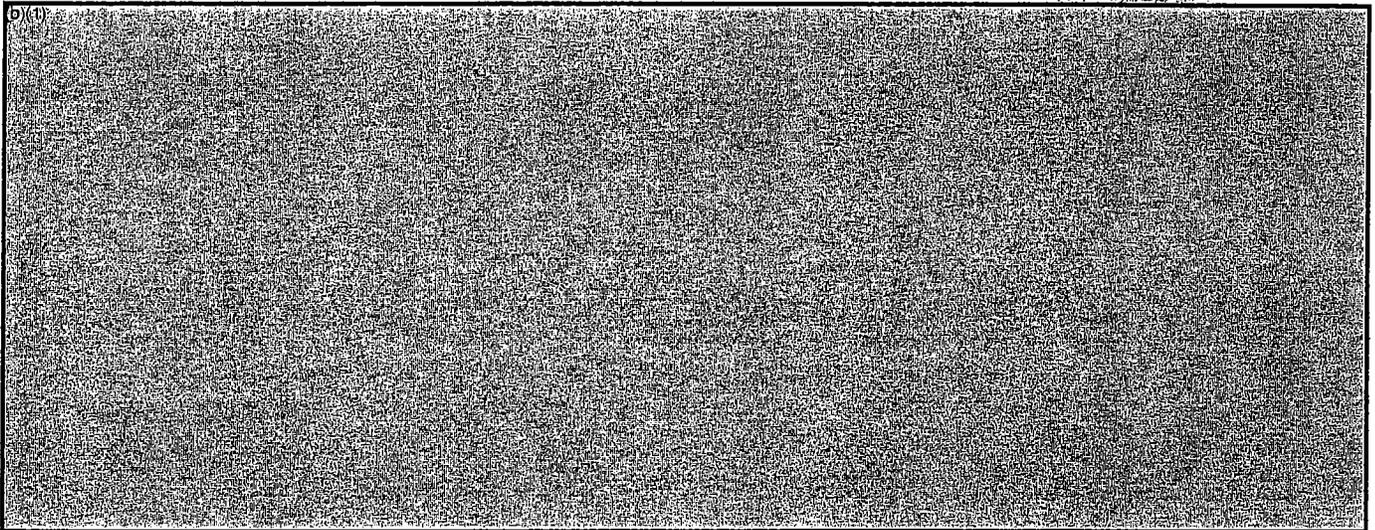
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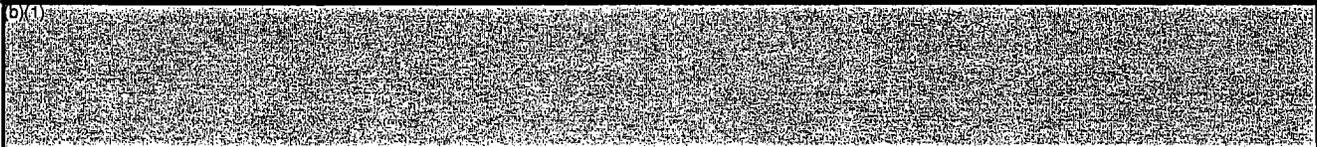
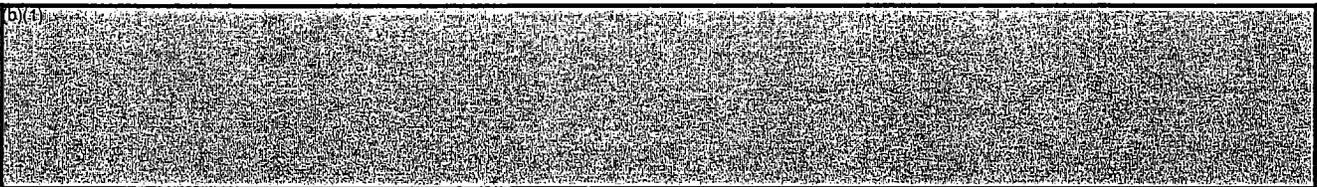
was sensed that the ISG facility did not lend itself to the sophisticated exploitation of the level of detainees it housed.



(U) [IO Note: MG Dayton was the Director, ISG, from June 2003 to June 2004.]

17. (U) An unclassified memorandum for record, dated 26 November 2003, subject: Allegation of Mistreatment of EPW, by COL [redacted] reflected:

(U) [IO Note: COL [redacted] provided this memorandum to MG Fast on or about 10 December 2003, and to LTG Alexander on 13 December 2003.]



b. (U) Mr. [redacted] indicated that the mistreatment was not occurring at the ISG JIDC but was happening during the 72 hours the capturing unit had before turning the detainee over to the JIDC. Additionally, detainees who were checked out of the

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ISG JIDC were taken to another location where mistreatment occurred. Mr. (b)(6)-(2)(8) (b)(7)(C)-2 did not witness abuse but observed the results of abuse. Mr. (b)(6)-(2)(8) (b)(7)(C)-2 tried unsuccessfully to stop the mistreatment.

c. (U) Mr. (b)(6)-(2)(8) (b)(7)(C)-2 complained to MG Dayton, and believed MG Dayton brought the matter to the attention of the Chief of Staff, CENTCOM, and Commander In Chief, CENTCOM (CINCCENT). (EXHIBIT C-18)

18. (U) In a DA Form 2823, Sworn Statement, from the Taguba Report, dated 11 February 2004, COL Pappas stated:

a. (U) The JIDC through the 205th MI BDE was charged with executing interrogations at the FOB. The CDR, CJTF-7 set forth the operating parameters of the JIDC. The FOB existed to house detainees and facilitate interrogations. There were three basic components of detainee operations: detention, interrogation, and release. Staff supervision of these functions was provided by the Provost Marshal, the C-2, and the SJA. The split responsibility for detainee operations increased the pressure at lower levels and blurred lines of responsibility.

b. (U) Policy and procedures established by the JIDC relative to detainee operations were enacted as the result of a visit by MG G. Miller. MG G. Miller focused on four key areas: intelligence integration, synchronization and fusion, interrogation, and detention operations. Key findings were to develop a set of rules and limitations to guide interrogations, and provide dedicated MPs to support interrogations. As a result of MG G. Miller's visit, the JIDC was formed.

c. (U) Basic rules for interrogation operations were contained in FM 34-52. The standards for the conduct of interrogations were outlined in CJTF-7 CG's memorandum dated 5 October 2003, Subject: CJTF-7 ICRP. These rules provided the left and right limits for interrogators.

(U) [IO Note: The memorandum COL Pappas was referring to was dated 12 October 2003.]

d. (U) Despite the articulation of clear rules, there were two violations of these standards prior to him assuming command of the FOB. The first incident was reported to him (COL Pappas) in early October 2003 by the MPs. The incident involved three

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interrogations. These three Soldiers were removed from their interrogation positions and he referred the allegations to CID for investigation. CID was unable to prove that detainee abuse occurred, however, the investigation showed that interrogators failed to follow established procedures. He administered Article 15s on the three Soldiers. The second incident was reported to him by LTC Jordan. The Soldier was removed from interrogation duties and remanded to LTC Jordan for additional training.

e. (U) After the first allegations of abuse, the JIDC leadership implemented a more aggressive policy to ensure personnel were aware of all the limitations surrounding interrogation operations. All Soldiers conducting interrogations were required to sign a memorandum indicating they understood the rules and agreed to abide by them. All personnel prior to working at AGP attended training to familiarize them with the facility and the operations.

f. (U) The CJTF-7 SJA had the lead in facilitating visits by the ICRC.
(EXHIBIT C-19)

19. (U) In a Sworn Statement from the Fay Report, dated 14 May 2004, COL Pappas stated:

a. (U) In mid to late July 2003 he provided LTG Sanchez a briefing on how the BDE conducted interrogation operations. LTG Sanchez was not satisfied that the CJTF-7 was getting information from interrogations that could be turned into actionable intelligence. During the briefing LTG Sanchez directed the BDE to establish an interrogation site to exploit actionable intelligence. He directed the 519th MI BN to establish operations at AGP. During the initial phases of the operation the 519th had a field grade officer on site, but eventually left the mission to CPT (b)(7)(C)-2 an experienced interrogator. The operation was not as successful as was planned. LTG Sanchez was dissatisfied with the information collected and directed the BDE to link up with MG G. Miller during his assessment visit, 31 August to 9 September 2003.

b. (U) On 11 September 2003, LTG Sanchez asked him his plan to implement MG G. Miller's recommendations. He showed LTG Sanchez the initial design for a JIDC and explained how he would resource it. LTG Sanchez told him to draft a request for forces (RFF) to assist in resourcing the JIDC. The 205th MI BDE was given the mission to stand up the JIDC.

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c. (U) The RFF was completed in concert with the C-2 and C-3 staff and was passed on within 72 hours. Training was arranged; GTMO would assist with implementing Tiger Team concept from 5 October 2003 through 3 December 2003, and Fort Huachuca sent a mobile training team for 21 days in early October 2003. Initially, MAJ [REDACTED] was designated as the senior MI officer at AGP. LTG Sanchez gave him specific direction on 11 September 2003 that a LTC was needed to run the facility. COL [REDACTED] detailed LTC Jordan to the BDE to perform that mission.

d. (U) On 20 September 2003, he informed LTC Jordan and MAJ [REDACTED] of his intent and his concept of operation. LTC Jordan was the JIDC Officer in Charge (OIC). MAJ [REDACTED] sent an e-mail that specified LTC Jordan was the JIDC Chief and he (MAJ [REDACTED]) was the operations officer. The organizational charts depicted LTC Jordan as in charge of the JIDC. After he (COL Pappas) became engaged in the day to day operations at AGP, LTC Jordan took on more of a liaison role. He did not rate LTC Jordan because he belonged to the CJTF-7 and he assumed he was being rated by the C-2 chain.

e. (U) The JIDC was filled primarily from a JMD based on the RFF. Although the JIDC was technically a joint operation, most of the JMD remained unfilled throughout his tour. The JIDC was essentially an Army run operation.

f. (U) During the first week in November 2003, LTG Sanchez visited AGP and was still not happy with the operations. Based on discussions with LTG Sanchez and MG Fast, he (COL Pappas) decided to move to AGP.

g. (U) MG G. Miller also recommended the need to have a specific written guidance on interrogation policies and authorities. MG G. Miller worked with the CJTF-7 legal team in developing a CJTF-7 ICRP that was along the lines of the one approved by DOD for GTMO.

(U) [IO Note: Evidence indicated that although MG G. Miller provided copies of GTMO interrogation policy, he did not participate in the drafting of CJTF-7 interrogation policy.]

h. (U) On 14 September 2003, CJTF-7 published its first interrogation policy signed by LTG Sanchez. This policy was revised on 12 October 2003 because of objections from CENTCOM. The 12 October 2003 policy eliminated several techniques that were previously approved. The Interrogation Rules of Engagement (IROE) was a JIDC

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published poster based on the 12 October 2003 policy memorandum. Nothing in the IROE violated the October policy.

i. (U) MG G. Miller worked with the CJTF-7 legal team on developing a CJTF-7 interrogation policy. Prior to the policy there was no guidance addressing interrogation and individual units used their internal SOPs. He believed the SOP at AGP was adequate because he did not receive any complaints concerning interrogations, and he had confidence in the CDR, 519th MI BN. However, the SOP's tactical focus made it inadequate for the conduct of operational/strategic level interrogations that the BDE was directed to perform. (EXHIBIT C-20)

20. (U) In a Sworn Statement, dated 27 May 2004, from a CID investigation, LTC Jordan stated:

a. (U) On 14 September 2003, COL (b)(6)-2
(b)(7)(C) informed him that he would work at the JIDC as the C-2 LNO, and his duties would be determined. The 205th MI BDE was in charge of the JIDC. On 26 September 2003, COL Pappas offered him the JIDC CDR position, and he initially accepted the role. However, a week or two later he declined the position. COL Pappas then referred to himself (COL Pappas) as Director, JIDC. Approximately 20-25 October 2003 he (LTC Jordan) began serving in a mayoral support role.

b. (U) OGA and TF-121 routinely brought detainees in for a short period of time. The term "Ghost Detainee" was used as these detainees were not processed in the normal way and were not categorized. It was difficult to track these detainees. "Ghost Detainees" were referenced in the database with their capture tag number. In November 2003, COL Pappas began a formalized written MOU between OGA, the 205th MI BDE, and the 800th MP BDE. He did not recall briefing MG Fast or COL (b)(6)-2
(b)(7)(C) on "Ghost Detainees" but he did use the term "OGA Detainee."

c. (U) In mid to late October 2003, COL Pappas told him that he and BG Karpinski received the final ICRC report. He (LTC Jordan) did not see the report. He told COL Pappas he had not seen or heard of any detainee abuses. Additionally, he called a formation and addressed these issues to the JIDC Soldiers and civilians. No one indicated they were aware of any such activity. He did not know what action COL Pappas took concerning the issue. (EXHIBIT C-21)

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21. (U) In a Sworn Statement from the Fay Report dated 14 May 2004, MAJ (b)(6)-2, (b)(7)(C)-2 Deputy CDR, 205th MI BDE stated:

a. (U) The 205th MI BDE S-3 section worked multiple actions related to organizing the JIDC and RFF, developed the JIDC battle rhythm and interrogation prioritization process, and worked with the C-2 staff to request GTMO Tiger Teams.

b. (U) Based on the 11 September 2003 briefing and LTG Sanchez' guidance, COL Pappas developed the strategy to align the 205th MI BDE's operations to a GTMO-like model. Placing the right staff at the JIDC was high priority. The Assistant BDE S-3 was assigned as the Operations Officer, JIDC. LTG Sanchez told COL Pappas the JIDC needed a LTC OIC. As the 205th MI BDE did not have any LTCs available to fulfill this role, LTC Jordan was assigned to serve as Director, JIDC.

c. (U) She told LTC Jordan that COL Pappas needed him to focus on interrogation operations and to leave the issue of resourcing AGP to the BDE staff. (EXHIBIT C-22)

22. (U) In a Sworn Statement from the Fay Report dated 24 May 2004, MAJ (b)(6)-2, (b)(7)(C)-2 S-3, 205th MI BDE stated:

a. (U) During a meeting in late August or early September 2003 with LTG Sanchez, the decision was made to consolidate the coalition interrogation facilities. In early September 2003, he (MAJ (b)(6)-2, (b)(7)(C)-2) began planning the consolidation. Based on information obtained from the GTMO assistance visits and discussions with MG Fast they submitted an RFF to establish an interrogation facility that utilized the "Tiger Team" concept.

b. (U) Initially, the 205th MI BDE determined they did not need a BN structure at the JIDC. However, they needed a field grade officer to set up the JIDC and serve as the Operations Officer. COL Pappas selected the Assistant BDE S-3 to run the JIDC. Later, LTC Jordan was assigned as the OIC, JIDC. The JIDC HQ was stood up to facilitate having a company CDR on the ground responsible for the health, welfare, morale, and discipline of JIDC Soldiers.

c. (U) LTC Jordan was supposed to run the JIDC, and the Soldiers viewed him as the OIC. He spoke with LTC Jordan a couple of times about what his (LTC Jordan's) job was and told him where his focus should be. He informed LTC Jordan that the

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BDE staff would be responsible for Soldier support issues and he (LTC Jordan) should focus on running the JIDC. He informed COL Pappas that LTC Jordan was not the right officer to run the JIDC.

d. (U) LTG Sanchez wanted to ensure that interrogations were IAW proper procedures, and therefore directed COL Pappas to move to AGP. LTG Sanchez specified that the BDE's number one mission was interrogation operations.

e. (U) He was involved in a couple of discussions concerning interrogation methods and concepts with MG G. Miller's team. There was no approved IROE until CPT Wood put one together. He did not get involved in the requests or approval for exceptions to the IROE. Interrogators had to get permission to use dogs and sleep deprivation.

f. (U) OGA did not fully identify their detainees. These detainees were accounted for as OGA detainees, "OGA #1, OGA #2," etc. An MOA with OGA and CJTF-7 was worked but was never accomplished. (EXHIBIT C-23)

23. (U) In an undated memorandum, CPT (b)(6)-2 & (b)(7)(C)-2 former JA, 205th MI BDE, stated:

a. (U) He became involved with the IROE during MG G. Miller's visit. The initial interrogation policy utilized the GTMO interrogation policy as a template, but it was changed substantially to reflect the fact that GC protections applied to detainees in Iraq. COL Warren was involved in the staffing of the IROE. The initial policy drafting process took more than one week to complete. The original policy included approaches from FM 34-52 as well as input from MI and MP communities.

b. (U) CPT (b)(6)-2 & (b)(7)(C)-2 called him to check on the status of the IROE. She needed the IROE to inform her Soldiers of the rules. In September 2003, he informed (b)(6)-2 & (b)(7)(C)-2 that LTG Sanchez had signed the interrogation policy but it needed to be approved by CENTCOM. He sent CPT (b)(6)-2 & (b)(7)(C)-2 this policy and she drafted the IROE slide. He staffed the slide with CJTF-7 OSJA and it was okay as long as it remained restrictive in scope and provided minimum protections. CENTCOM did not approve the September policy but they did approve the 12 October 2003 policy. CJTF-7 understood that the GC applied to Iraq.

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c. (U) He kept COL Pappas updated on each proposed change to the interrogation policy. COL Pappas told him the 12 October 2003 policy was very close to FM 34-52 except for the safeguards. One of the changes implemented in the October policy was that the word "isolation" was changed to "segregation." Both the CENTCOM and CJTF-7 OSJAs wanted the language of the policy to be IAW the GC. Segregation of any detainee beyond 30 days required LTG Sanchez' approval. Segregation extension requests would pass through COL Pappas, MG Fast, COL Warren, respectively, to LTG Sanchez for approval or disapproval. The September policy stated the use of dogs during interrogations had to be approved by LTG Sanchez. He never told COL Pappas that the authority to approve the use of dogs was delegated to his (COL Pappas') level.

d. (U) During one of his many visits to AGP, he observed a naked detainee. He told LTC Jordan of the incident and he believed LTC Jordan addressed the situation and corrected it. (EXHIBIT C-24)

24. (U) An e-mail from MAJ b(6)-2 &
b(7)(C)-2 and a JIDC Briefing provided to the DAIG Inspection Team reflected:

a. (U) The Director, JIDC, was responsible for interrogation operations and for producing intelligence derived from interrogations to the C-2. The 205th MI BDE was the JIDC operational and chain of command. The JIDC mission was to provide intelligence derived from the interrogation of detainees to the C-2.

b. (U) The JIDC operation chain of command was the CDR, 205th MI BDE, Deputy CDR, and CDR, CJTF-7.

c. (U) The 6 October and 22 November 2003, JIDC Organization Chart depicted LTC Jordan as the Director, JIDC. (EXHIBIT C-25)

25. (U) In a Sworn Statement, dated 9 May 2004, from the Fay Report, MG Fast stated:

a. (U) The C2 and the 205th MI BDE immediately began to implement the recommendations from the Miller Report. In the C-2 area this included standing up a robust C2X, and an analytic effort that capitalized on debriefing reports and focused interrogations. COL Pappas also began to implement recommendations to include an internal reorganization to establish Tiger Teams, as well as receiving GTMO teams to

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augment his effort and provide additional expertise and mentorship. A Fort Huachuca MTT came and conducted additional interrogation training.

b. (U) The MI BDE was responsible for interrogation and the MP BDE was responsible for detention operations. COL Pappas initially operated from his headquarters in Camp Anaconda, but found it necessary to relocate to Baghdad in order to be closer to CJTF-7 and key components of his command such as interrogation. She did not know when COL ~~(S)~~ assigned LTC Jordan to AGP and the first time she recalled meeting him was just after the mortar attack.

c. (U) She was responsible for the staff supervision for interrogation operations. Concerning abuse at AGP, she did not see or was not made aware of alleged detainee abuse, the use of dogs during interrogations, or aware of any photographs until the investigation was initiated. (EXHIBIT C-26)

26. (U) In an unclassified statement from the Fay Report, dated 20 July 2004, MG Fast stated:

a. (U) On 20 August 2003, she made her initial visit to AGP. Her goal was to visit AGP once a month. With interrogation being 15 percent of her effort and major spikes in enemy actions and activities, she found she could not meet her goal. She visited AGP every month from August 2003 through June 2004, with the exceptions of October and December 2003, and April 2004.

b. (U) In August 2003, interrogation management was fractured, chaotic, and not a coherent operation. Personnel were doing the best they could, but nothing had prepared them for what they were facing, a massive reorganization. LTG Sanchez wanted to consolidate the operations for a longer term beyond the tactical interrogations focusing on the operational level. There was no operational pause between cessation of hostilities and the next phase. They did not have time to plan. They morphed and operated as they stood up resources, procedures, and capabilities, and produced intelligence as they went.

c. (U) Because the detention and interrogation operation was incredibly complex with numerous issues, sometime in the fall 2003, they determined a GO was required to run the entire facility.

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d. (U) During MG G. Miller's visit it was clear that GTMO did not equal Iraq. Interrogation was only one smaller portion of the HUMINT effort and part of a much larger all source intelligence effort. They were in a combat environment and the number and type of detainees were vastly larger and more varied than GTMO. Her takeaways from MG G. Miller's visit included the power of analysis fueling interrogations and the need for a strong C2X management capability. COL Pappas took the Tiger Team concept, the teaming of interrogator, analysts, and linguist. Additionally, COL Pappas decided to adopt the JIDC model.

e. (U) No order was published establishing the JIDC, nor doctrine on how to establish it. They used established TTPs, and applicable doctrine and policies and mapped it over the CJTF-7 operations. COL Pappas reorganized from within his BDE. Additionally, the C2 was reorganized to meet the operational needs. The JIDC operation belonged to COL Pappas. It took COL Pappas moving to AGP to provide the changes and leadership necessary concerning the JIDC.

f. (U) The C2X staff they started with was very small, only partially capable, and lacked experience and senior leadership. The C2X matured with the arrival of personnel and it took until November before it was capable of full spectrum HUMINT and CI operations. C2X personnel visited AGP weekly, principally to work out collection priorities and understand the JIDC's ability to satisfy information requirements. Visits were imperative as communications were so poor that they could go days without good contact. The JIDC provided the C2 staff with interrogation reports, statistics on the AGP population, and list of detainees of intelligence interest.

g. (U) The BDE CDR focused on actual collection as the CDR and asset manager. She, in the C2 staff supervisory role, focused on providing timely, relevant intelligence to the CDR and the force, the intelligence architecture, and capabilities that enabled intelligence operations.

h. (U) She spent roughly 50 percent of her time at Camp Victory and 50 percent of her time at the CPA. She spent a lot of time with CPA personnel and Ambassador Bremer, providing him an intelligence brief every morning, followed by a CPA morning update. Part of her staff was located in the CPA to work intelligence issues and also as part of the Joint Operations Center (JOC).

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i. (U) She and COL Pappas had a normal G-2/MI BDE CDR relationship. LTC Jordan was assigned as the OIC, JIDC, by COL [REDACTED] LTC Jordan received guidance from COL Pappas, not her or COL Boltz.

j. (U) During her visits to AGP she spoke with Tiger Team Soldiers and provided them with a sense of the big picture on how they were seeing the insurgency, to give them a better feel of where their piece fit into the overall effort, and why what they were doing was important. She also met with JIDC leaders during Interrogation Review Meetings at AGP, in those sessions she would do a similar rundown.

k. (U) As she was out of the theater for medical treatment, she did not participate in the development of the 14 September 2003 interrogation policy. The policy was created through the legal channels. Effective 12 October 2003, exceptions to the policy letter had to be requested to and approved by LTG Sanchez. These exceptions were staffed through her to the SJA for a legal review. She could only recall requests for segregation of a detainee beyond 30 days. She heard of other requests drafted by interrogators but they did not make it to the CJTF-7 staff.

l. (U) On one occasion with 10-15 interrogators, she discussed with them their left and right limits (authorities) concerning interrogations. Some of the BDE leadership was also present. All present indicated that they understood their limits and were comfortable with them.

(U) [IO Note: MG Fast visited AGP on 2 and 18 November 2003. On 2 November 2003, she accompanied LTG Sanchez while he spoke to interrogators. On 18 November 2003 she returned and spoke to 10-15 interrogators. See paragraph bb, below.]

m. (U) On 2 December 2003, she was notified of detainee abuse, not at AGP. She notified the SJA and they subsequently informed LTG Sanchez. As the unit in question was not subordinate to CJTF-7, CENTCOM was notified.

(U) [IO Note: The detainee abuse MG Fast referred to was concerning abuse reported to her during COL [REDACTED] (b)(6)-2 & (b)(7)(C)-2] outbrief on or about 10 December 2003.]

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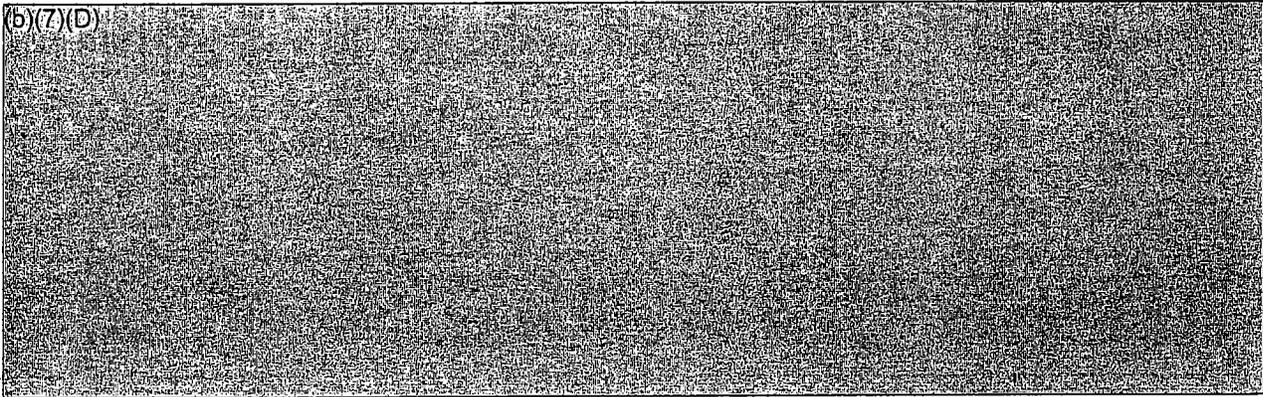
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SAIG-IN (20-1b) ANNEX 2 (DOCUMENTS) to DIG 04-80003 (UPDATE)

n. (U) OGA asked if they could place detainees of OGA interest in a small number of cells. There were continuous problems with the MP accountability of detainees. They constantly were looking for detainees and sometimes it would take them up to two days to find a detainee. Detainees would be assigned a cell and then found back in the general population. They did not receive any specific guidance concerning OGA. She did not recall knowing about "Ghost Detainees" held at AGP prior to the investigation. The detainee who died on 4 November 2003 had just been brought in and had not yet been registered. (EXHIBIT C-27)

(b)(7)(D)



28. (U) In a sworn statement, dated 30 December 2004, COL (b)(6)-2 & (b)(7)(C)-2 SJA, CENTCOM, stated:

a. (U) With regard to the CENTCOM SJA's review of the CJTF-7 interrogation policy, the September 2003 policy was not wrong or illegal per se. He and his action officer for the review, MAJ (b)(6)-2 & (b)(7)(C)-2 were simply more comfortable with a policy that more closely tracked FM 34-52. It was the more conservative approach to take.

b. (U) He considered himself to be a fairly seasoned operational law attorney, and he never had the opportunity to review or draft an ICRP before. It was a highly specialized area not normally dealt with by military attorneys. As such, he was more comfortable with a policy that more closely tracked FM 34-52. He discussed the September policy face-to-face with COL Warren during his (COL (b)(6)-2 & (b)(7)(C)-2) visit to Iraq in September 2003.

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c. (U) The aspects of the October 2003 policy memorandum that dealt with the use of dogs did not raise any "red flags" with either him (COL (b)(6)-24 (b)(7)(C)-2) or MAJ (b)(6)-24 (b)(7)(C)-2)

d. (U) They used the 1987 version of FM 34-52 when they reviewed the CJTF-7 policy letters because that was the default version available on the official Army publications website; the 1992 version was not. This was not a problem or an indication that the CJTF-7 legal staff was confused about applicable law. The law relevant to the conduct of interrogations was found in both the GC and in applicable ARs and manuals. Both the 1987 and 1992 version of FM 34-52 received legal reviews at HQDA for compliance with the law of armed conflict.

e. (U) Standing alone and looking at them with the benefit of hindsight, both the September and October interrogation policies from CJTF-7 might be viewed as confusing. However, these policies were never intended to stand alone or be read in a vacuum. Interrogations were supposed to be conducted in accordance with written plans reviewed and approved by experienced interrogators.

f. (U) LTG Sanchez recognized that he had an "extraordinary pocket of competency" in COL Warren and his SJA staff, and as a perceptive CDR, LTG Sanchez took full advantage of that fact. (EXHIBIT C-29)

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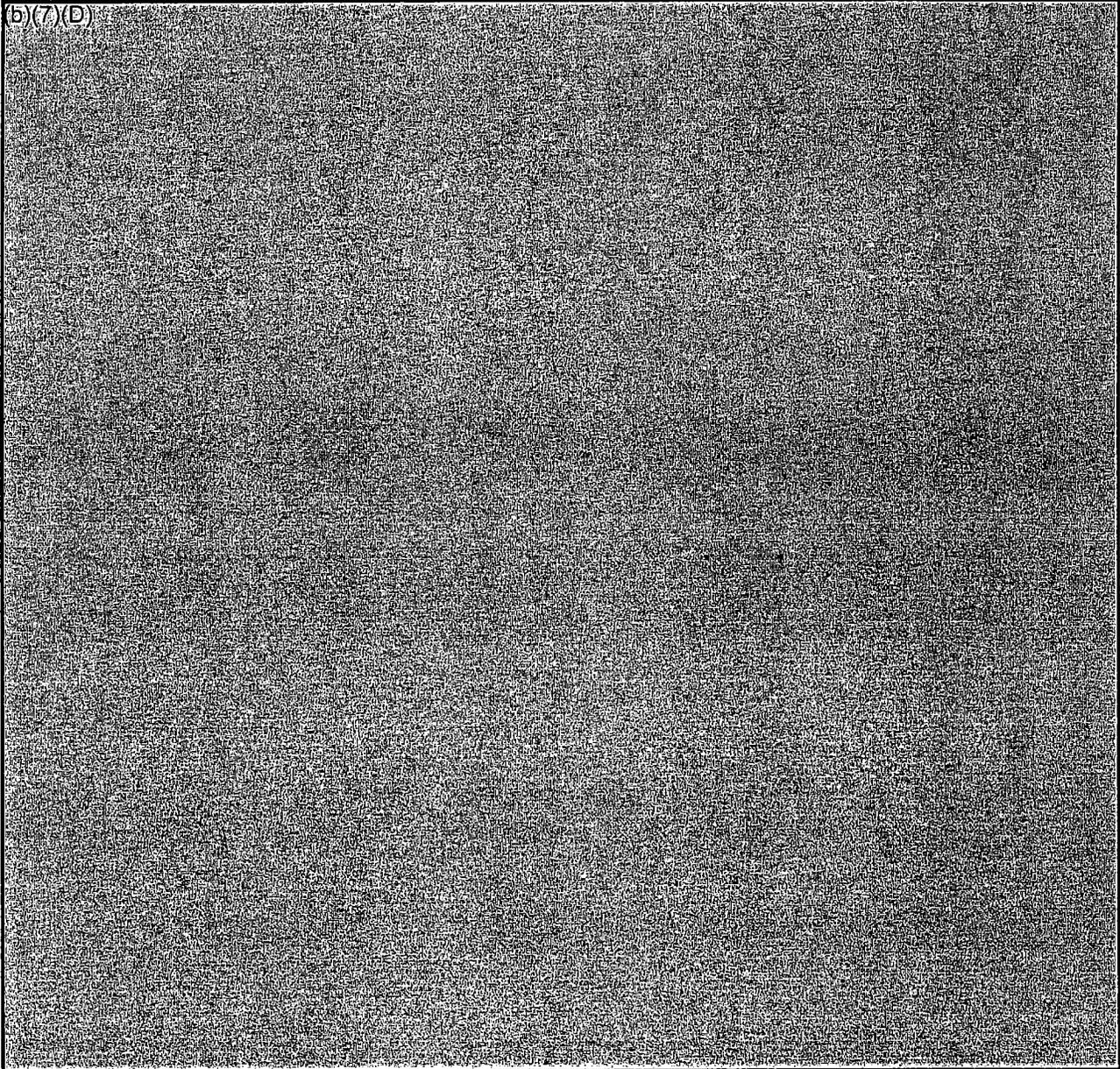
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SAIG-IN (20-1b) ANNEX 3 (TESTIMONY) to DIG 04-80003 (UPDATE)

1. (U) On 26 October 2004, after being advised of his rights, (b)(7)(D) testified to SAIG-IN:

(b)(7)(D)



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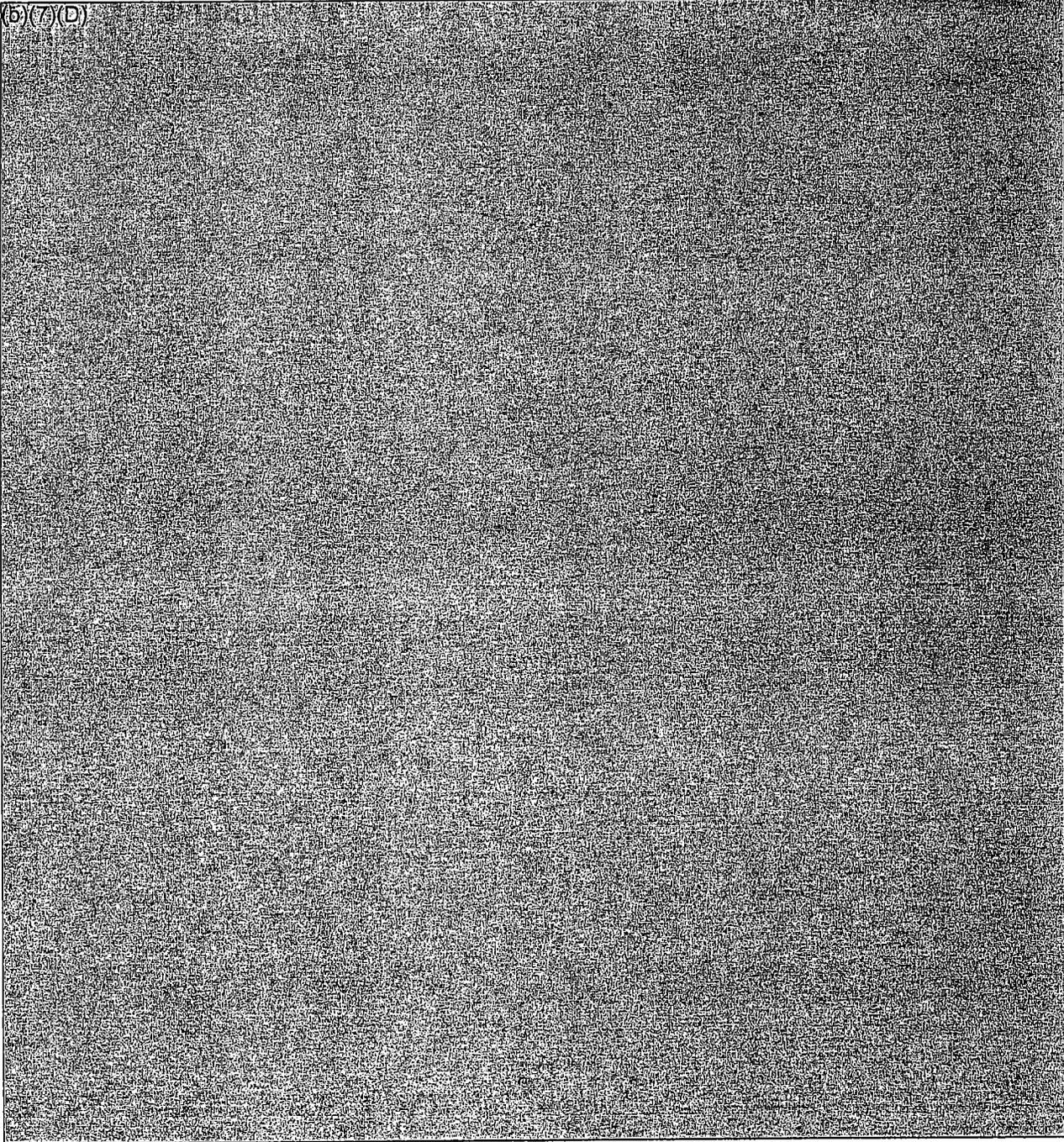
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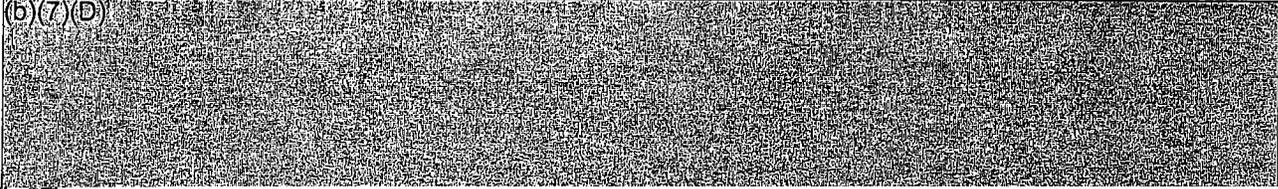
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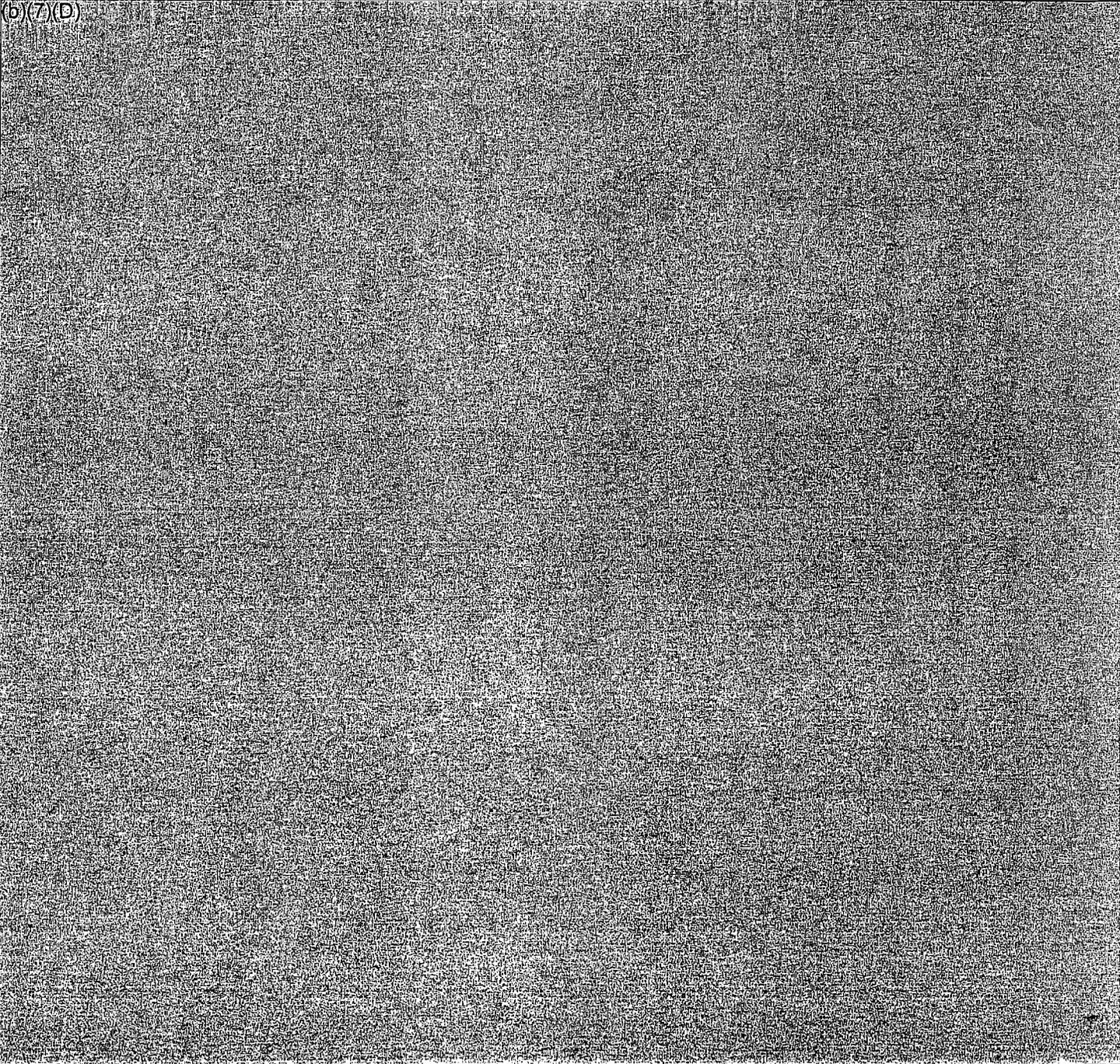


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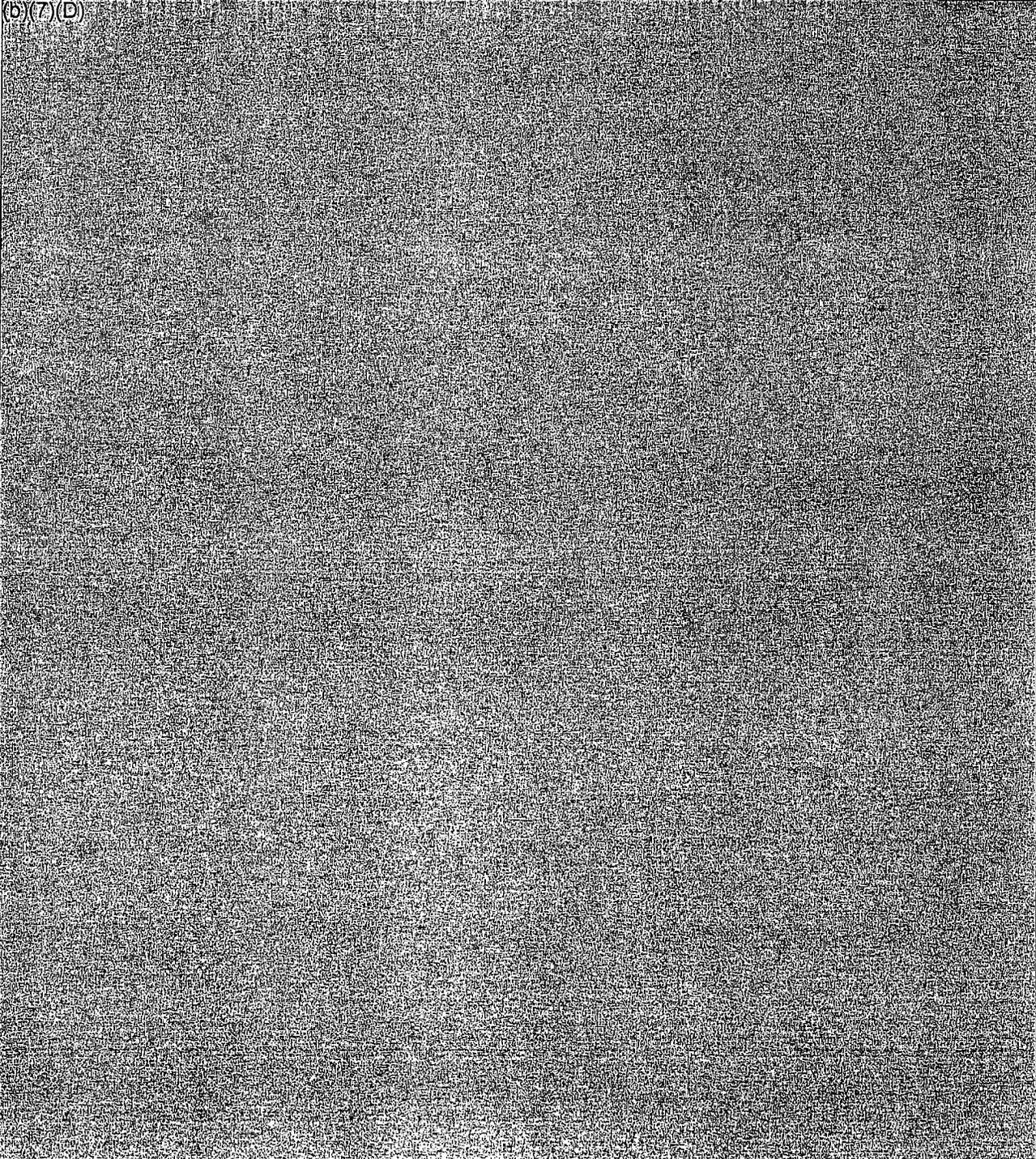
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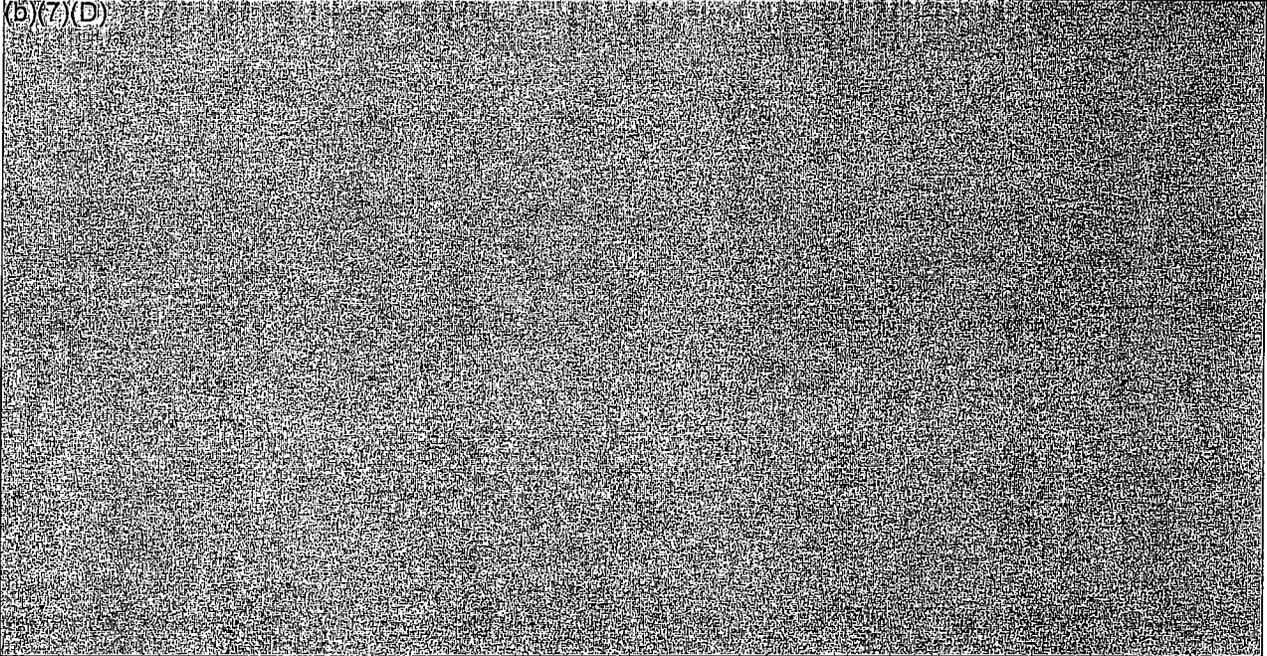
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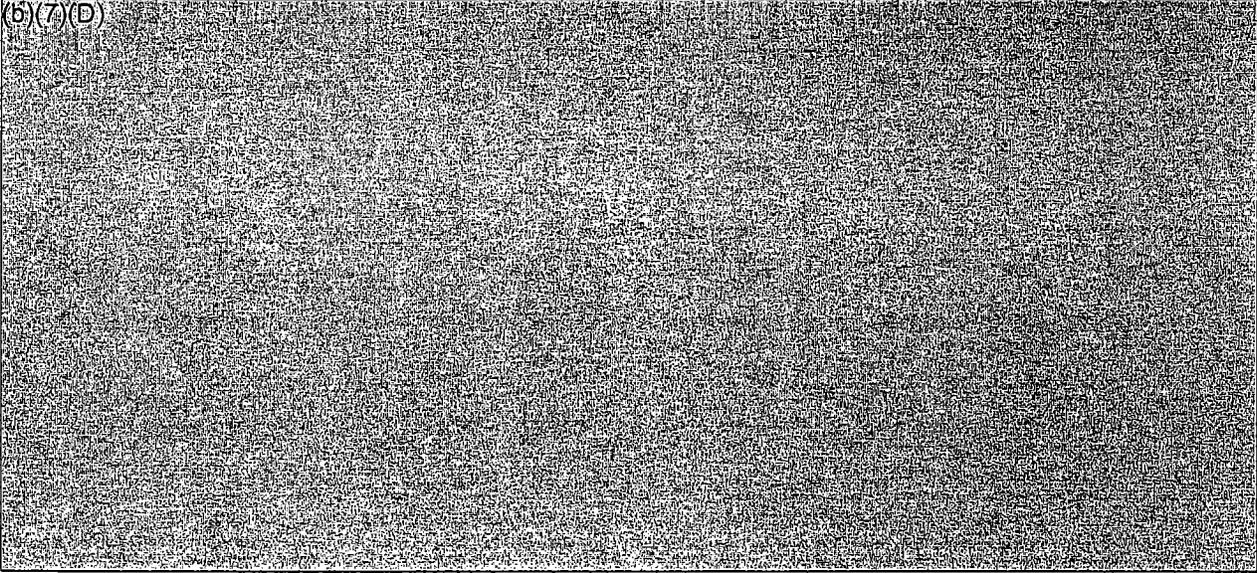
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2. (U) On 13 December 2004,  testified to SAIG-IN:

(b)(7)(D)

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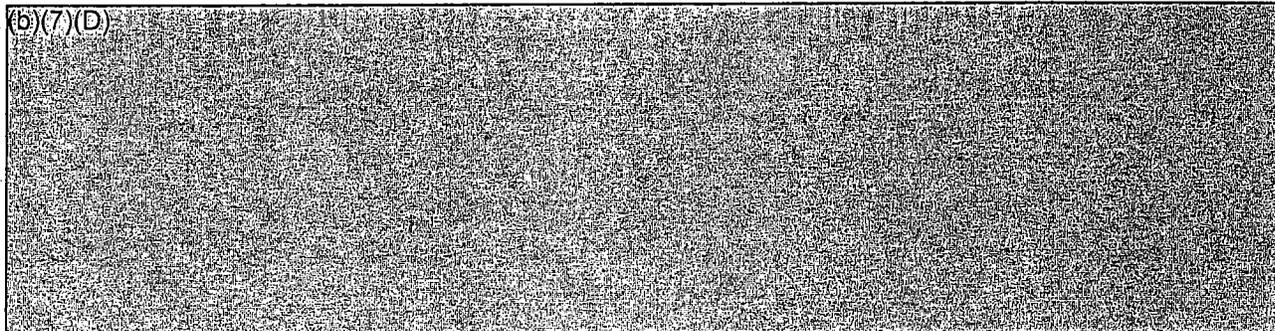
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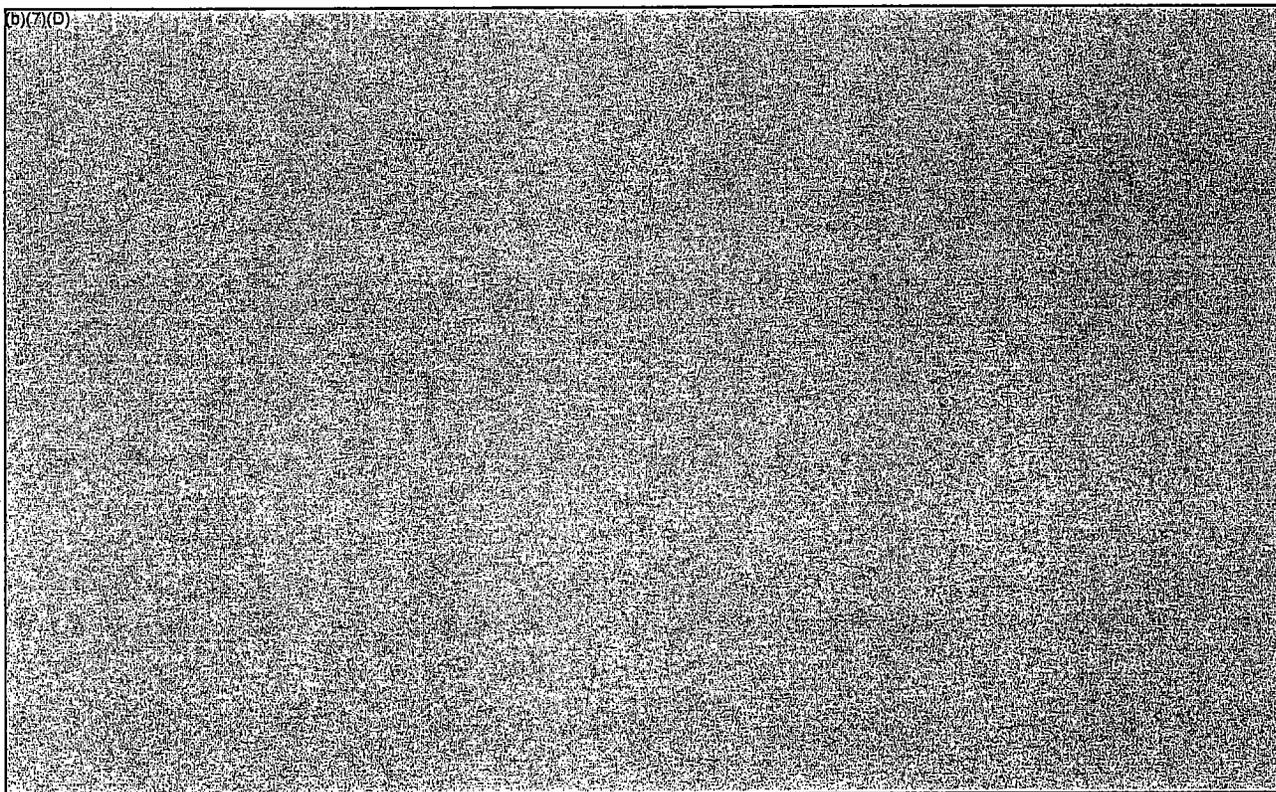
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(b)(7)(D)



3. (U) On 9 November 2004, (b)(7)(D) US Army, testified to SAIG-IN:

(b)(7)(D)



(U) [IO Note: (b)(6)-2 & (b)(7)(C)-2 was a former US Representative from Florida, and one of three Panel Members on the Independent Panel to review DOD Detention Operations, the Schlesinger Report.]

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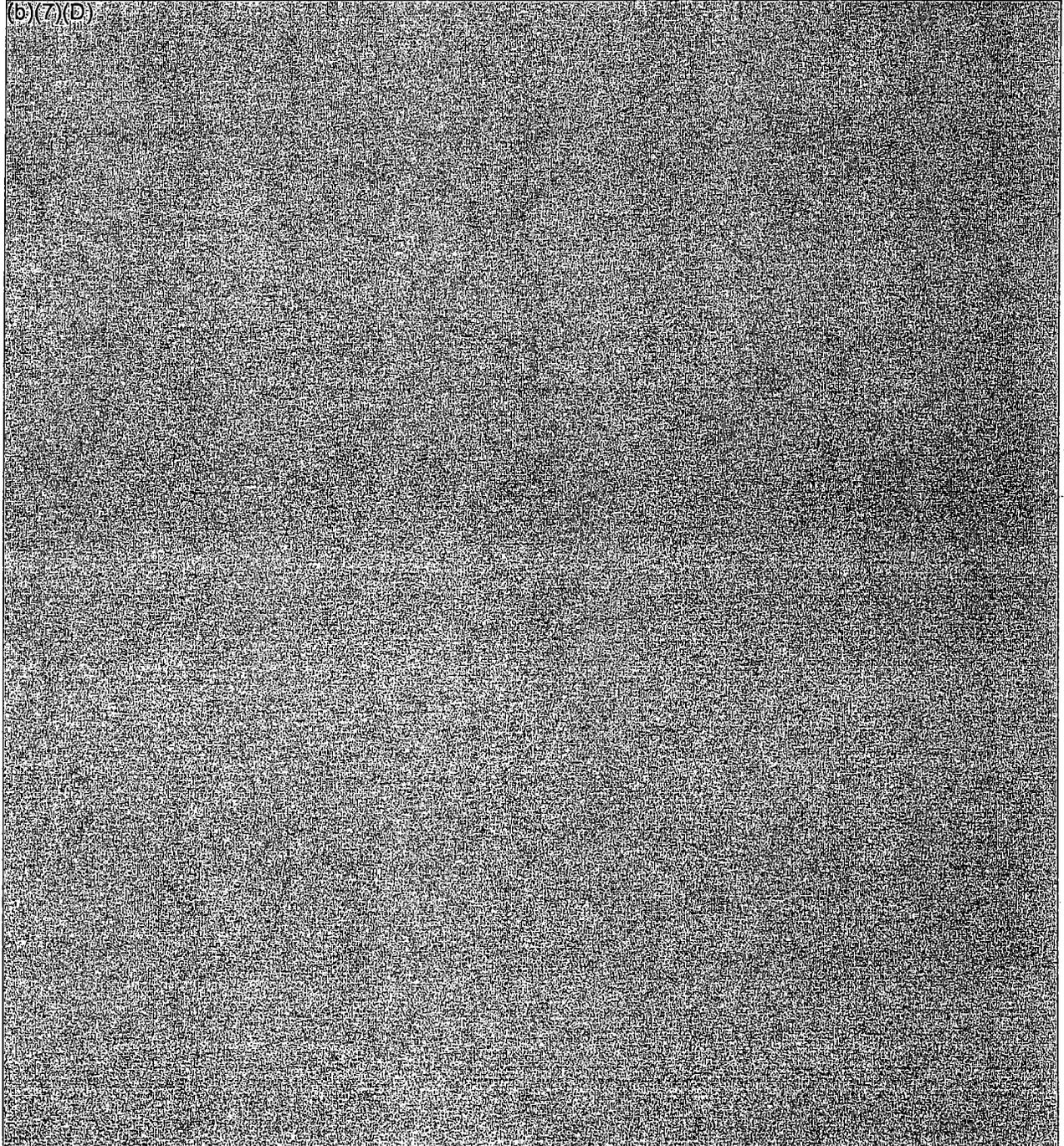
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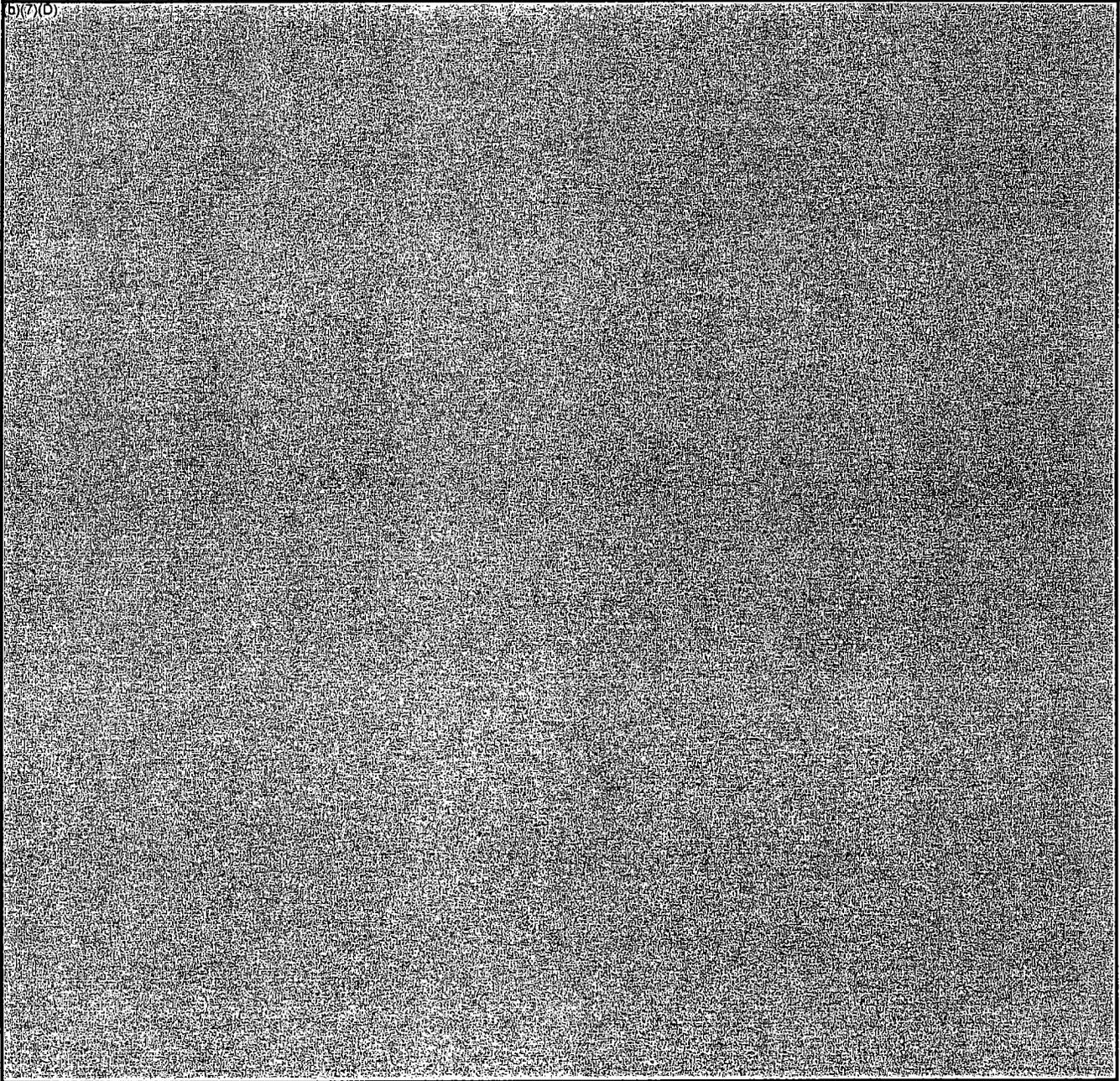
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4. (U) On 24 November 2004, GEN Kern testified to SAIG-IN:

a. (U) The CJTF-7 created a JIDC and it provided reports back up through staffs for the intelligence operations. The BDE CDR was never assigned a task or a subordinate BN CDR to conduct interrogations. The interrogation operation was assigned to the JIDC and they never really grasped the mission. LTC Jordan never acknowledged the fact that he was given the mission of running the JIDC, and there was no company command structure to oversee the Soldiers. It was unclear as to who was in charge of interrogations. No order was published that indicated who had the JIDC mission and what was the chain of command. There was no order assigning a CDR to the JIDC that depicted a company CDR responsible for the oversight of Soldiers, and a LTC reporting to a BDE CDR. (pp. 6-7, 9)

b. (U) COL Pappas should have been in charge of the JIDC with a BN CDR as opposed to a staffing function. The JIDC was an emerging doctrinal organization, and there was no manual that laid out how to stand it up. COL Pappas was responsible for all interrogation operations throughout Iraq not just at AGP. COL Pappas should have placed a BN CDR in charge of the JIDC. (pp. 8, 20)

c. (U) The abilities that MG Fast brought to set up the JIDC were all done with the best intentions and the best capabilities that could be brought to bear. MG Fast came up short because there was not an established organization or chain of command. (p. 11)

d. (U) MG Fast was not derelict in the performance of her duty. MG Fast was responsible to provide MI analysis and advice to the CDR. She was tasked to build an intelligence picture and was not responsible for the oversight of interrogations. She established the JIDC, and established the process of using information received from interrogations. The conduct of interrogation was COL Pappas' responsibility. (pp. 11, 47)

e. (U) Interrogations policies should have stated to abide by the GC above all other things. Policy memorandums from the SECDEF, GTMO, Afghanistan, as well as CJTF-7 draft policy were promulgated down to the JIDC. Soldiers were reading all these policies. Some Soldiers were previously assigned to GTMO or Afghanistan or both. The guidance was unclear after reading all these drafts. This resulted in

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confusion. LTC Jordan should have ensured the correct policy was promulgated at the correct time. (pp. 28-30)

f. (U) Neither of CJTF-7's interrogation policy memorandums violated the GC. The techniques did not violate the GC, it was the manner in which they were implemented. It was LTC Jordan's responsibility to ensure the policy was properly implemented. The second policy only applied to security detainees as opposed to EPWs and civilian detainees that were listed in the first policy and could have caused some confusion as to who fell under the GC, but in the end, they understood that the GC applied at AGP. (pp. 32, 36)

g. (U) A JIDC CPT was the primary MI BDE person involved in the staffing of the policies, and it was primarily staffed with the CJTF-7 SJA and not in the C-2. MG Fast was out of the country when the drafts were prepared and reviewed. She should have been involved in their staffing or at least a COL in the C-2 should have been involved. MG Fast had a thousand things to do, such as the JIDC development and the fusion of intelligence, and when she returned the policy was approved and she was receiving interrogation reports. Why would she go back to relook an approved policy? She had numerous other tasks to complete. It was not MG Fast's responsibility to determine whether the policy complied with the GC, which was a SJA function. (pp. 37-39) (EXHIBIT D-4)

5. (U) On 14 October 2004, LTG Jones testified to SAIG-IN:

a. (U) MG Fast was involved in establishing the intelligence operations and trying to pull the coalition and inter-agencies together. MG Fast did yeoman's work getting the intelligence and the priority intelligence requirements out, and making it seamless from tactical to strategic. She spent about 50% of her time at the CPA. (pp. 3-4)

b. (U) There was much emphasis on finding weapons of mass destruction, Saddam Hussein, and his top 54 advisors. MG Fast identified the need for better communications to facilitate the intelligence fusion capability that was required. The intelligence effort had to be reestablished. She developed the joint inter-agency task force to pull together the information. MG Fast and LTG Sanchez were heroes. They did "Herculean" kinds of things to move Iraq to the point it got to. Their actions were not negligent. (pp. 3, 16, 27)

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c. (U) Whenever MG Fast was apprised of abuse, she took action. COL Pappas reported to her the death of an OGA detainee in November 2003. She reported the incident to LTG Sanchez, who directed her to contact the Baghdad Chief of Station to ensure an investigation, was done. The CIA and CID conducted investigations. She also reported an incident of abuse that occurred at Camp Cropper at the ISG. As the ISG was a CENTCOM not a CJTF-7 unit, the incident was reported to CENTCOM, and was subsequently investigated. (pp. 3-4)

d. (U) There was a lack of leadership at BDE level and below that stepped up and said this was wrong. This leadership fault fell at BDE level and below. COL ~~(b) (6) (2) (b) (7) (C)~~ sent LTC Jordan to the JIDC to take charge of interrogations and debriefing, and he (LTC Jordan) did not take charge. The decision was made to not use a MI unit chain of command to check and oversee what the Soldiers were doing. This led to a permissive environment which allowed some undisciplined personnel to influence what was going on inside the compound. The leadership was not involved. (pp. 7-8)

e. (U) CJTF-7 took guidance that was not meant for the Iraqi theater, interpreted it, tried to emplace some controls, and pushed it down. It was the 205th MI BDE's responsibility to execute the interrogation effort. COL Pappas did not step in and do the right thing. (pp. 8-9)

f. (U) MG G. Miller thought CJTF-7 needed an interrogation policy. CJTF-7 understood that the GC applied in Iraq, although there was some question about their applicability to certain categories of detainees. The CJTF-7 SJA used the 16 April 2003 SECDEF memorandum as a reference, and applied safeguards so that the GC applied. (p. 10)

g. (U) The interrogation techniques contained in the CJTF-7 policy memorandums could have been used without violating the GC. There were safeguards in place, but this led to the perception that additional techniques that were non-doctrinal could be used. LTG Sanchez thought that by putting the safeguards in place he had control of what interrogation techniques could be used. Junior Soldiers were exposed to techniques on which they were not trained. LTG Sanchez' legal advisor should have advised using only techniques listed in FM 34-52. (pp.10, 18-19)

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h. (U) The SJA was seen as being responsible for ensuring the interrogation policies complied with the GC. MG Fast was not in Iraq when the first memorandum was developed. In hindsight, as the staff proponent for intelligence collection, MG Fast should have been more involved in the policy development. It appeared she relied on her subordinates for this interface. She was very busy establishing the intelligence organization and procedures, with a one-third staff, while also supporting the CPA. The State Department never stepped up to support the CPA, so it was left for the military to do. (pp. 3-4, 11)

i. (U) LTG Sanchez trusted his legal advisors when they told him the memorandums were in compliance with the GC. The Kern Report found that the memorandums did not adequately set forth the limits on interrogation techniques because they allowed junior Soldiers to interpret the techniques. The memorandums included techniques that were not in doctrine, and the safeguards were vague. The second memorandum only applied to security detainees. The main fault with the memorandums was they did not provide clear and consistent guidance. CJTF-7 took guidance that was not meant for the Iraqi theater, interpreted it, tried to emplace some controls, and pushed it down to junior Soldiers. It was the 205th MI BDE's job to execute the interrogation effort. COL Pappas did not step in and do the right thing. (pp.18-19)

j. (U) LTG Sanchez should have made one person on the staff in charge of detention and interrogation facilities. With no CofS, there was not a single staff POC regarding detention and interrogation issues. The lack of a full time CofS caused people to go to the various separate staff principals individually. Much was defaulted to the subordinate CDRs; BG Karpinski was responsible for detention operations, and COL Pappas was responsible for the interrogation/intelligence collection mission. In hindsight, MG Wojdakowski should have provided more guidance and oversight to COL Pappas. It was COL Pappas' inexperience that led to the lack of decision about making someone in charge at AGP. He could have moved a BN CDR in there to take charge, especially as the number of detainees at AGP grew. It overwhelmed the intelligence effort. No one stepped up at the 205th MI BDE to tell the Soldiers what their priorities were and manage the pressure. There was no "professional line of command" at AGP. The lack of leadership below the 205th MI BDE caused the young interrogators to feel a lot pressure. There was no evidence that pressure from the White House, Pentagon, and other places permeated down to AGP. (pp. 14, 20, 26-27)

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k. (U) The Army had no doctrine for dealing with ICRC visits in a CJTF environment. There was no established staff responsibility for the ICRC. That was later worked at DOD. MG Fast became aware of the October 2003 ICRC report at the same time as LTG Sanchez, and there was no indication that she was aware of the report before then. (pp. 28-29) (EXHIBIT D-5)

6. (U) On 13 September 2004, MG Fay testified to SAIG-IN:

a. (U) There was confusion as to who was in charge of detainee operations in the CJTF-7. No one person was clearly in charge. Detainee operations was a shared responsibility between staff elements, staff officers, and CDRs. The responsibility for detention operations at CJTF-7 was shared among LTG Sanchez, MG Wojdakowski, the Provost Marshal, the C-2, and the C-3. MG Wojdakowski relied on COL Pappas regarding interrogation operations. (pp. 3-4)

b. (U) LTG Sanchez was facing all the pressures and war-fighting issues. "We" as a country under-resourced and under-appreciated what would be faced in Iraq. The country was optimistic regarding the amount of resistance the forces faced. Because we did not react quickly enough to the insurgency, CJTF-7 was left with a force that was not structured to fight an insurgency. (p. 6)

c. (U) Leaders that specifically failed to take steps to manage the pressure placed upon the JIDC were COL Pappas, LTC Jordan, MAJ (b)(6)-2, MAJ (b)(6)-2 & (b)(7)(C)-2, and CPT (b)(6)-2 & (b)(7)(C)-2. It was not LTG Sanchez' or MG Fast's or MG Wojdakowski's job to protect Soldiers within the 205th MI BDE from that kind of pressure. LTG Sanchez was rightly frustrated about the insurgency and the inadequate amount of intelligence. The pressure he placed on COL Pappas was not misplaced. (pp. 7-8)

d. (U) There was no doctrine that established responsibility and procedures for ICRC visits. He believed the SJA should take the lead. Neither LTG Sanchez nor MG Fast was made aware of the October 2003 ICRC report until after the fact. It appeared that COL Pappas, LTC Jordan, CPT (b)(6)-2 & (b)(7)(C)-2, BG Karpinski and her SJA, and COL Warren, ignored the findings in the ICRC report. No one that saw the report believed the allegations regarding nudity and prisoners wearing women's underwear were true. In the context of the situation, this was understandable. (pp. 9-10)

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e. (U) The CJTF-7 interrogation policies did not contribute to the sexual or physical abuses at AGP. These abuses were clearly violations of law, and the individuals that participated knew they were doing wrong. (p. 12)

f. (U) The CJTF-7 SJA staff took the lead on developing the interrogation policies. He (MG Fay) was unaware of any doctrinal responsibility the C-2 had for interrogation techniques. The memorandums might have been staffed with the C2X. He did not know if MG Fast or MG Wojdakowski reviewed the policies. (p. 15)

g. (U) CENTCOM's review of the 14 September 2003 memorandum indicated it was too broad and gave the interrogators too much latitude. The memorandum was disseminated to the units before receiving CENTCOM's approval. LTG Sanchez should have realized that the unit would implement the memorandum as soon as they received it. The number of draft memorandums that circulated added to the confusion. Some Soldiers were operating from draft memorandums they believed were approved. (p. 16)

h. (U) The development of interrogation policy should rest with the C-2, with the SJA's heavy involvement to ensure the policy complied with all laws and regulations. In hindsight, MG Fast should have reviewed the policies and been more active in the staffing and dissemination. However, MG Fast had just arrived in country, and was heavily involved in assessing the intelligence picture in Iraq and setting up the new fusion center. She was grappling with a huge number of complex issues and trying to put together an intelligence infrastructure that did not exist. (pp. 17-18)

i. (U) The interrogation policies should not have differed from what was in FM 34-52. There should be consistency between what was taught at the intelligence school and what was used in the field. The policy should have indicated only the techniques listed in the FM, and stated that use of the techniques would comply with all laws, regulations, and the GC. (p. 18)

j. (U) It was not a failure on LTG Sanchez' part that he signed policy memorandums that included non-doctrinal interrogation techniques. He could have been more alert to the issue, but he was not negligent. He was a three-star CDR who was fighting an insurgency with an inadequate level of staff. The CENTCOM SJA staff had some responsibility regarding the issue. The CJTF-7 SJA office should have been more careful in their development of the policies, but the SJA staff was also under a lot of strain, were inexperienced, and under-resourced. (p. 19)

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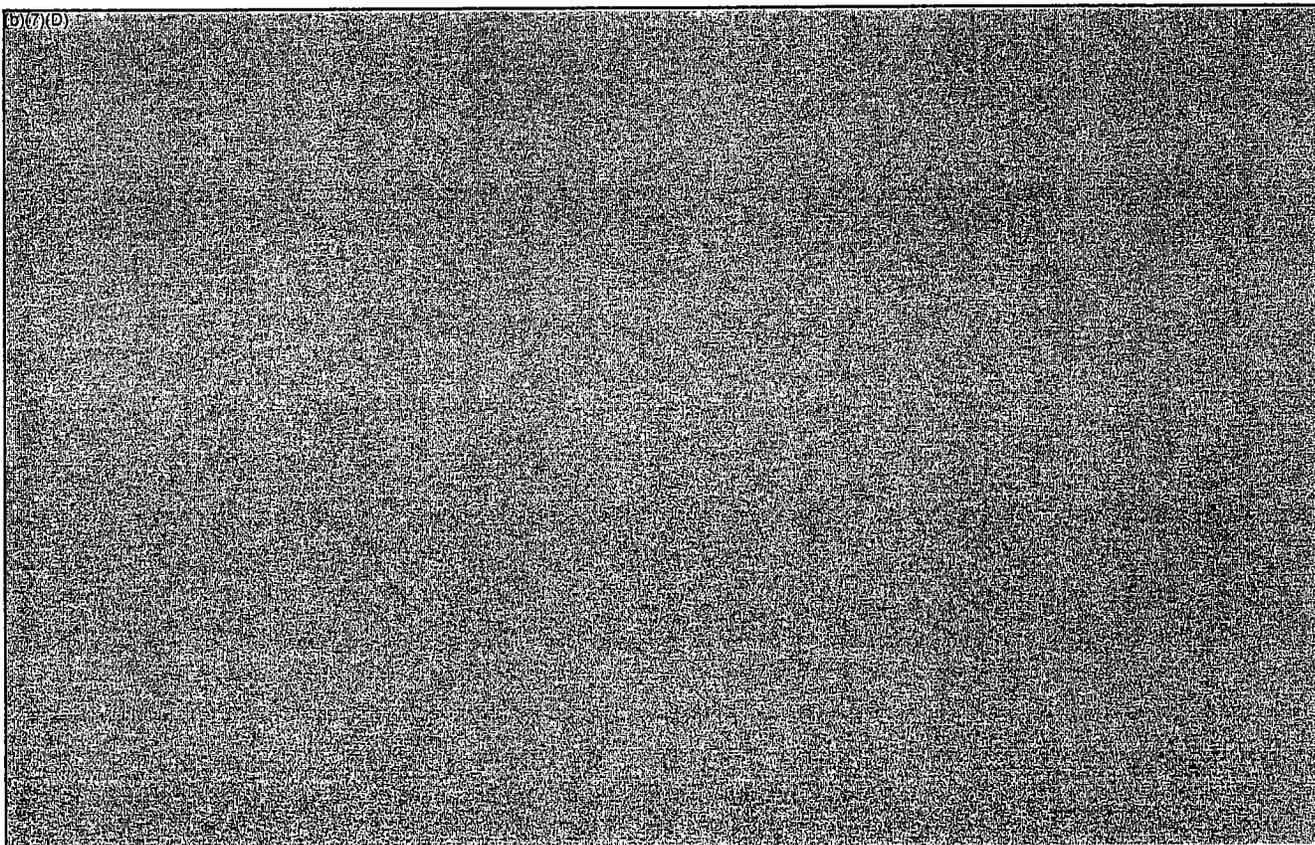
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k. (U) The policies did not violate the GC. The policies stated the requirement to comply with the GC, but left it to the Soldier to decide what did or did not comply. (p. 21)

l. (U) The JIDC was a doctrinal concept that LTG Sanchez, MG G. Miller, COL Pappas, and COL (b)(6)-2
(b)(7)(C) discussed. There was no doctrinal guidance on the resourcing of a JIDC. He characterized the decision to man the JIDC with Soldiers drawn from units all over the world as a "fatal flaw" which resulted in the lack of a cohesive NCO base with which to supervise Soldiers. COL Pappas should have used one of his nine MI BNs to fill the JIDC. (pp. 22-23) (EXHIBIT D-6)

7. (U) On 29 October 2004, after being advised of his rights, MG (b)(6)-2 & (b)(7)(C)-2 testified to SAIG-IN:



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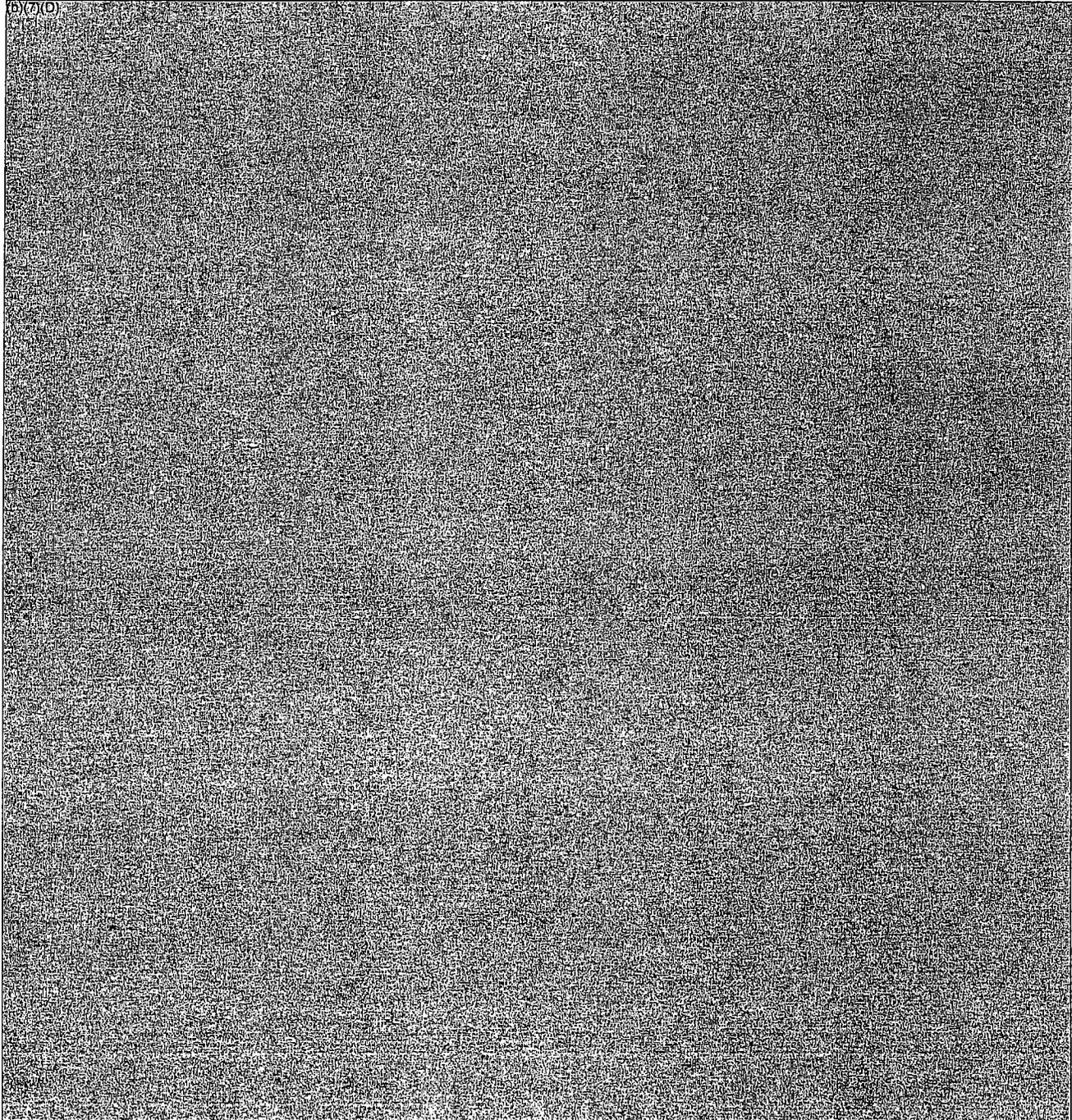
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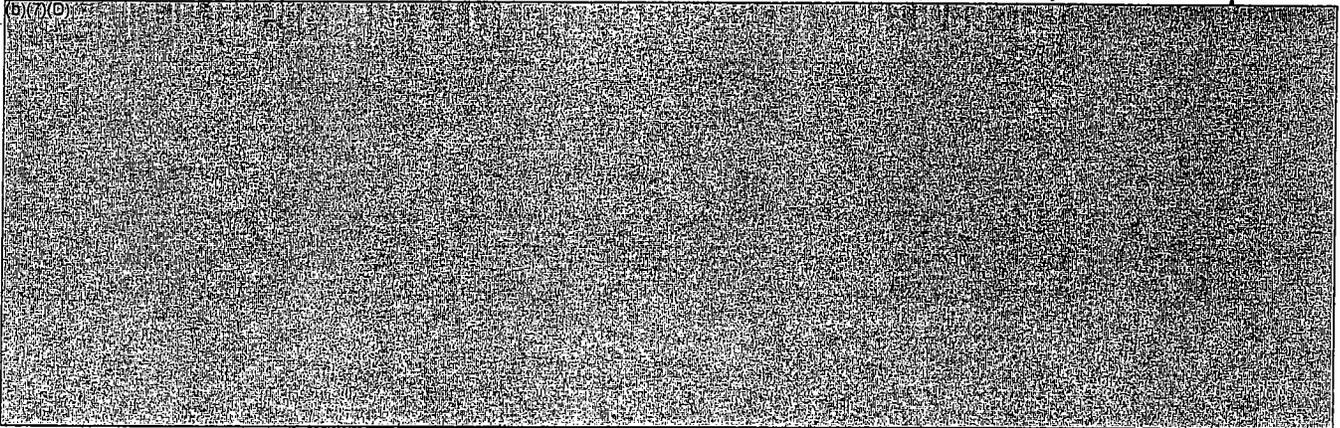
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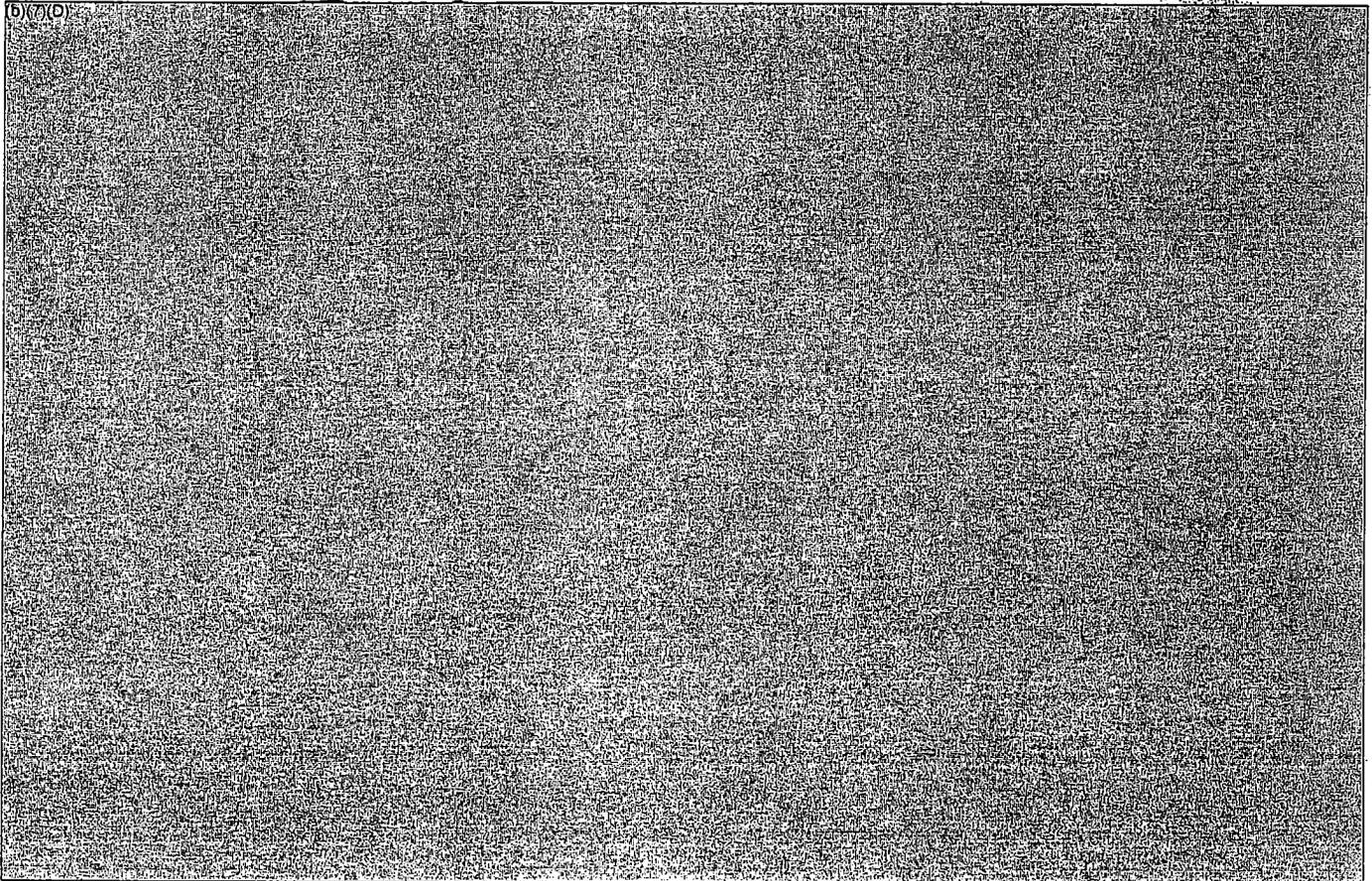
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8. (U) On 21 October 2004, after being advised of his rights,  testified to SAIG-IN:



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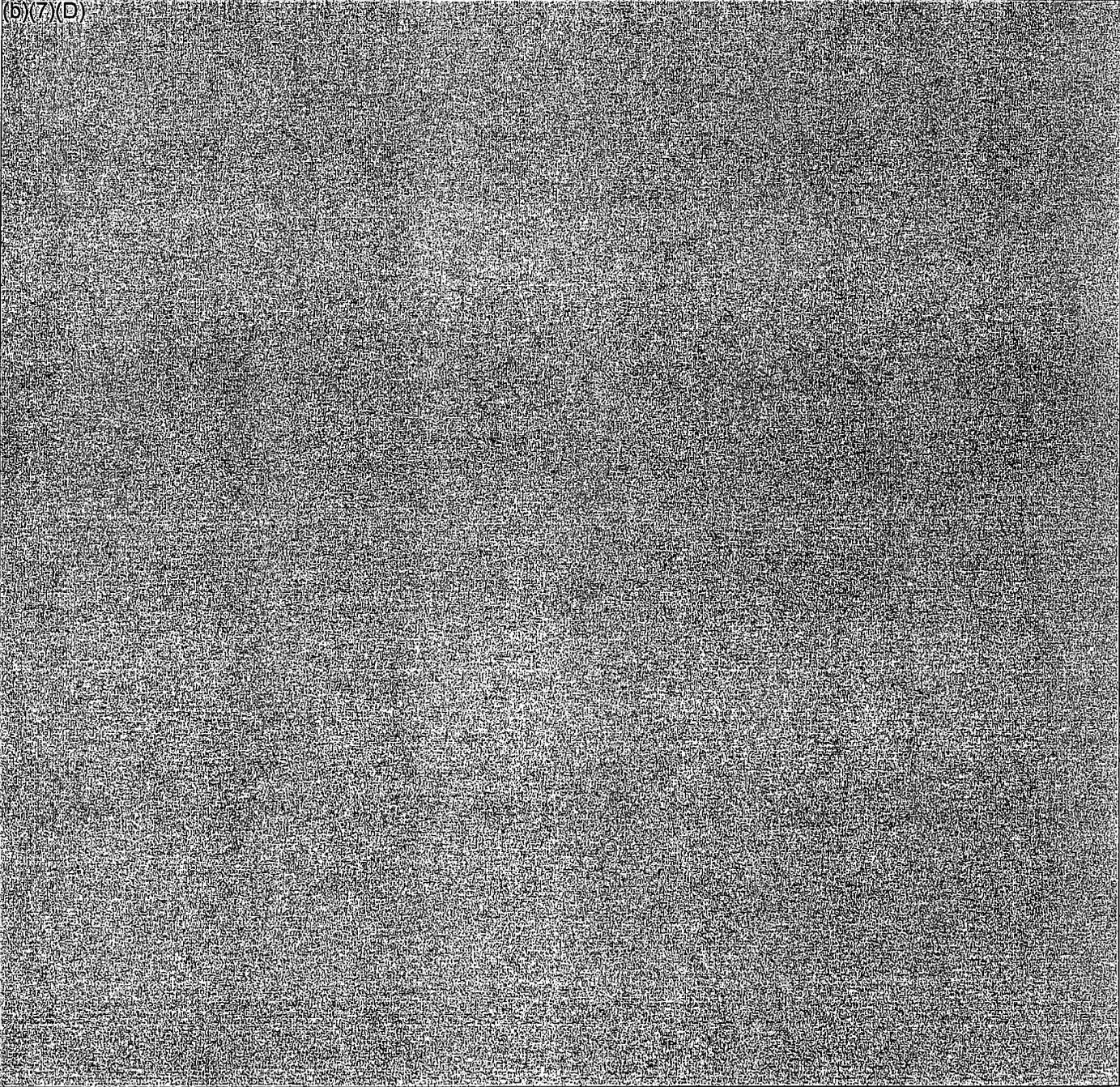
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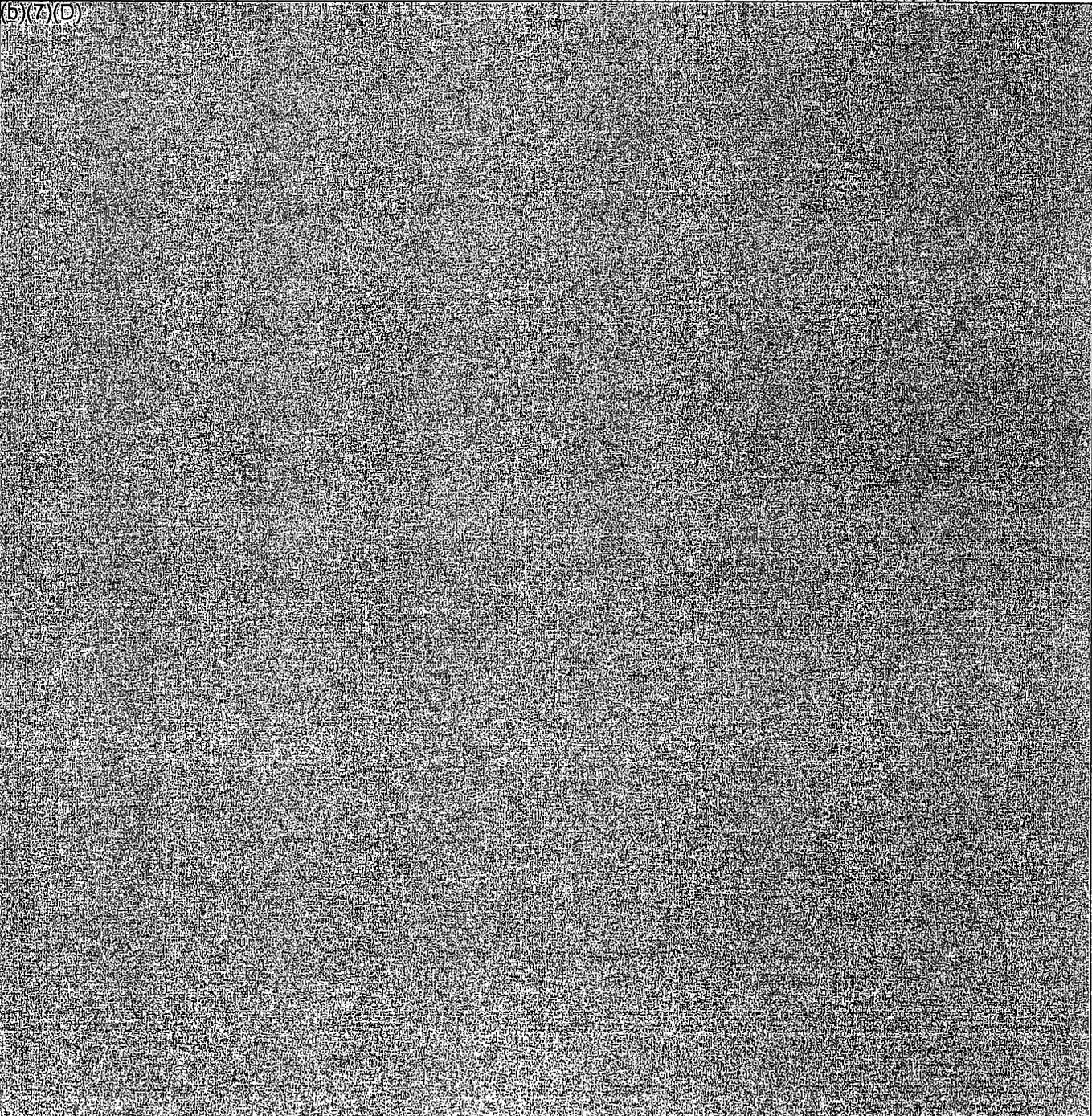
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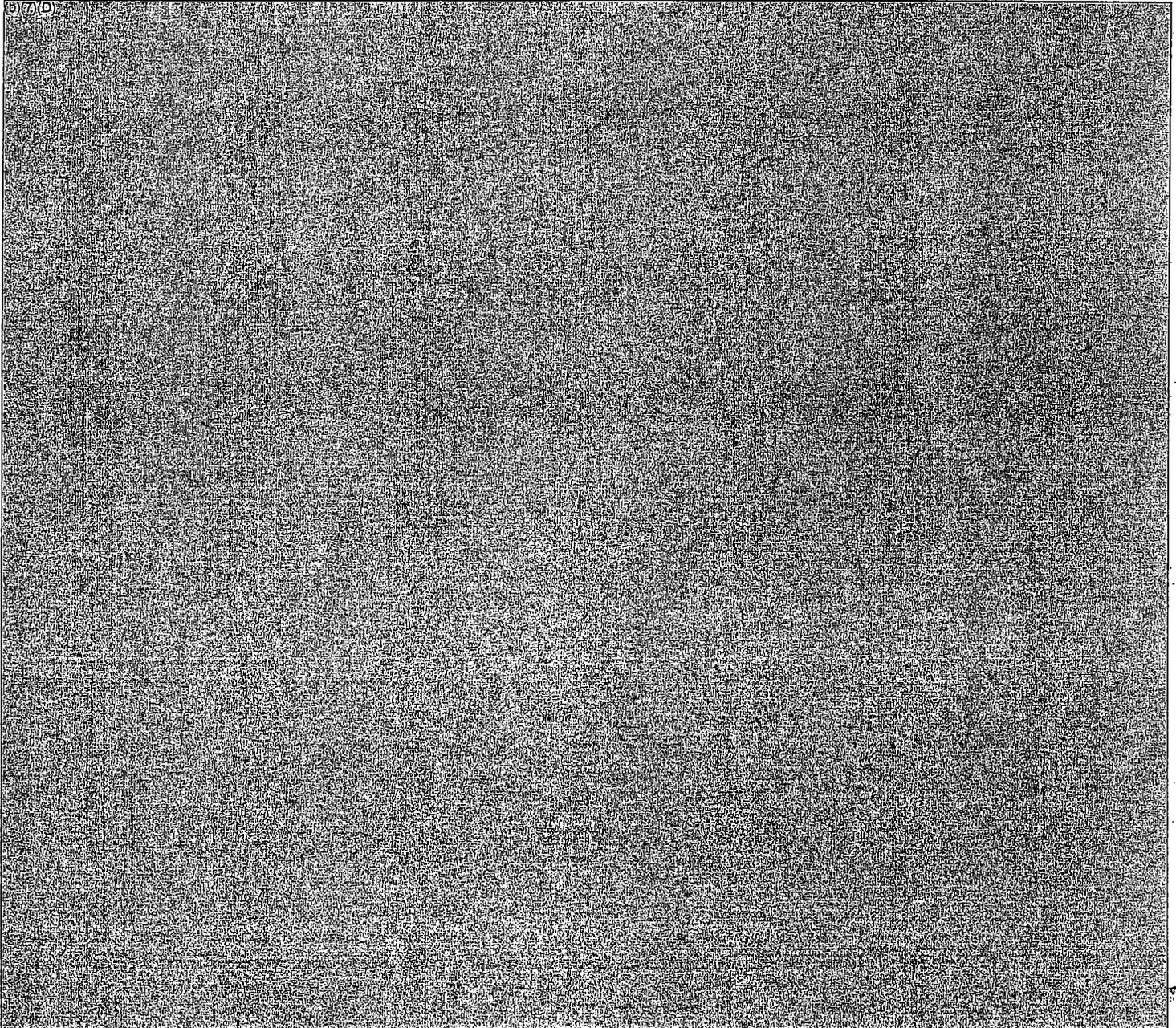
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9. (U) On 20 October 2004, (b)(7)(C) testified to SAIG-IN:



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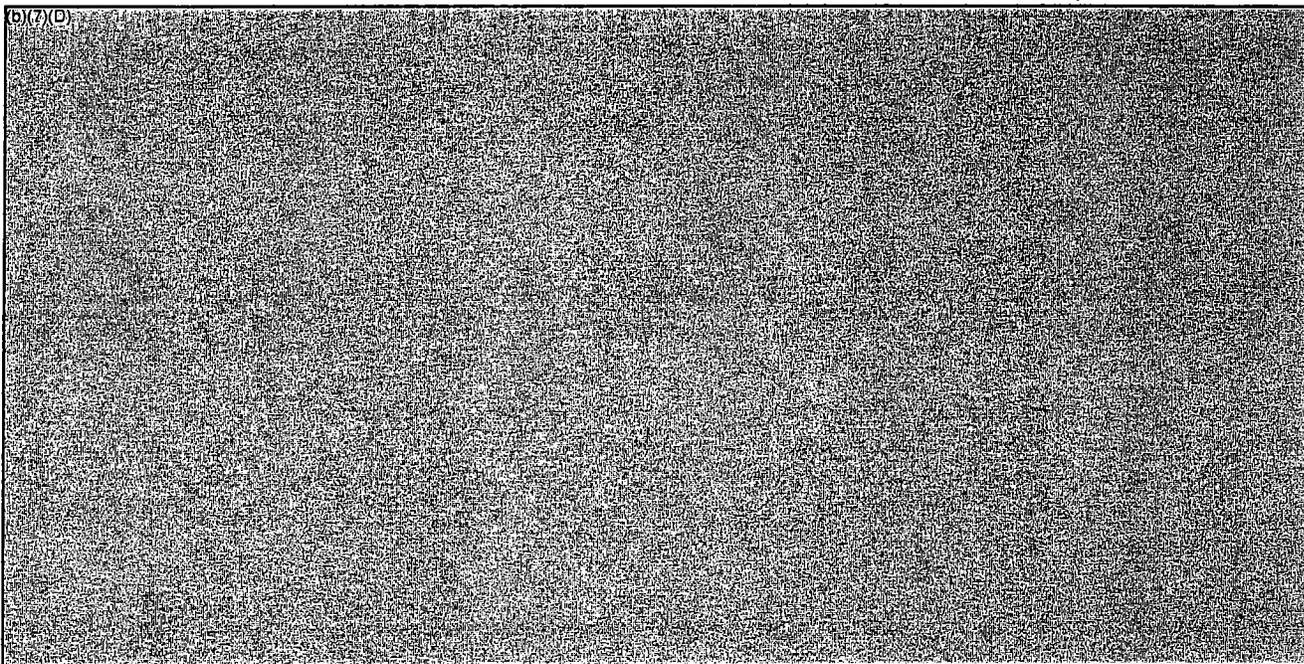
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10. (U) On 3 November 2004, COL (b)(6)-2 & (b)(7)(C)-2 testified to SAIG-IN:

a. (U) Mr. (b)(6)-2 & (b)(7)(C)-2 called him on 24 November 2003, and told him that he wanted to share some information about things that were going on in Iraq with respect to the handling of EPW or detainee personnel. Mr. (b)(6)-2 & (b)(7)(C)-2 wanted him to be aware of, because he (Mr. (b)(6)-2 & (b)(7)(C)-2) heard that he (COL (b)(6)-2 & (b)(7)(C)-2) was preparing to go to Iraq in a consultant capacity dealing with detainees and detainee exploitation. Mr. (b)(6)-2 & (b)(7)(C)-2 said that in June and early July 2003, he was in Iraq, and had established the JIDC at Baghdad International Airport (BIA). Mr. (b)(6)-2 & (b)(7)(C)-2 said he reported alleged abuse multiple times, and was distressed that there was never any follow-up. Mr. (b)(6)-2 & (b)(7)(C)-2 expected someone to call and interview him concerning the alleged abuse. AS OF December 2003, Mr. (b)(6)-2 & (b)(7)(C)-2 said that no one had contacted him. (pp. 2-3, 7)

b. (U) Mr. (b)(6)-2 & (b)(7)(C)-2 personally witnessed the effects of such abuse. Detainees, were brought to his center, where it was evident that they were being abused. Additionally, detainees were signed out for off-site exploitation and returned in a condition that showed signs of abuse. Mr. (b)(6)-2 & (b)(7)(C)-2 observed the effects of abuse by "Agency guys" and "Army guys." Mr. (b)(6)-2 & (b)(7)(C)-2 told him that Mr. (b)(6)-2 & (b)(7)(C)-2 GS-15, Collection Manager, could verify the abuse as Mr. (b)(6)-2 & (b)(7)(C)-2 saw the damage done to

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Mr. [b)(6)-2 & (b)(7)(C)-2] detainee. Mr. [b)(6)-2 & (b)(7)(C)-2] also said that Major [b)(6)-2 & (b)(7)(C)-2] British Officer, was aware of the abuse. (pp. 3-4)

c. (U) Mr. [b)(6)-2 & (b)(7)(C)-2] said he complained to MG Dayton. By complain, he understood Mr. [b)(6)-2 & (b)(7)(C)-2] to mean that abuse was going on by the capturing unit. Mr. [b)(6)-2 & (b)(7)(C)-2] told him that MG Dayton and Mr. [b)(6)-2 & (b)(7)(C)-2] saw the poor conditions at the Interrogation Center; Mr. [b)(6)-2 & (b)(7)(C)-2] felt the conditions were not conducive to good exploitation. Mr. [b)(6)-2 & (b)(7)(C)-2] believed that MG Dayton brought the matter to the CENTCOM Chief of Staff and to the CINCCENT, GEN Tommy R. Franks, Retired. Mr. [b)(6)-2 & (b)(7)(C)-2] believed the Red Cross knew about the problem, and that CENTCOM'S attitude was they would not deal with the issue until the ICRC reported it. Mr. [b)(6)-2 & (b)(7)(C)-2] was sufficiently upset about the problem by early July that he did not want to associate himself with it anymore; he gave up and asked to depart theater. Mr. [b)(6)-2 & (b)(7)(C)-2] told him that MG Dayton e-mailed him (Mr. [b)(6)-2 & (b)(7)(C)-2]) and that MG Dayton said something to the effect, "that it's worse than you think and that one of them was even killed." (pp. 5-6)

d. (U) MG Fast, through the Army G-2, invited him to visit Iraq. While over there, he intended to pursue Mr. [b)(6)-2 & (b)(7)(C)-2] issue. (p. 7)

e. (U) Concerning the ISG, he toured the entire site and spoke to a civilian, Mr. [b)(6)-2 & (b)(7)(C)-2] head of the interrogation debriefing element. Mr. [b)(6)-2 & (b)(7)(C)-2] had seen evidence of mistreatment by the capturing units. Mr. [b)(6)-2 & (b)(7)(C)-2] did not indicate any abuse of detainees by the MP BN. Mr. [b)(6)-2 & (b)(7)(C)-2] said the mistreatment was going on and everyone knew about it. Mr. [b)(6)-2 & (b)(7)(C)-2] had not reported the mistreatment to anyone. Mr. [b)(6)-2 & (b)(7)(C)-2] said that detainees arrived showing signs of being abused and beaten. The detainees' conditions were documented by the medical team during the arrival medical exam. On multiple occasions the medical team documented signs of being beaten in a detainee's medical file. He advised Mr. [b)(6)-2 & (b)(7)(C)-2] to report the abuse in writing to the chain of command, to include the JAG. (pp. 7-8)

f. (U) During his outbrief, he informed MG Fast of the alleged abuse and provided her with a copy of the 26 November 2003 memorandum concerning the issue. She registered her immediate concern and it was clear to him that she understood how serious it was. MG Fast acted on the information he provided. He knew this based on an e-mail MG Fast sent him some months later and the correspondence he had with the CJTF-7 SJA's Office. The SJA e-mailed him as a professional courtesy to share the action they took and it appeared that an investigation was conducted. He

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(COL [b)(6)-2 & (b)(7)(C)-2]) replied that Mr. [b)(6)-2 & (b)(7)(C)-2] could be excused for thinking that this was a cover-up, and expressed a blunt dismay that "their investigation" could conclude what they concluded given that he gave them the names of witnesses and named two people who admitted the abuse occurred. (pp. 9-10)

g. (U) On his way back from Iraq he stopped at the Pentagon and provided an outbrief to LTG Alexander and Mr. [b)(6)-2 & (b)(7)(C)-2], his Civilian Assistant. He believed he briefed them on a Saturday morning, 12 or 13 December 2003. It was about one day before the day Saddam Hussein was captured. Additionally, he provided LTG Alexander a copy of the report and a copy of the 26 November 2003 memorandum concerning Mr. [b)(6)-2 & (b)(7)(C)-2] issues. He told LTG Alexander that MG Fast was taking action concerning Mr. [b)(6)-2 & (b)(7)(C)-2]. He told LTG Alexander what they had encountered at the facility and that Mr. [b)(6)-2 & (b)(7)(C)-2] acknowledged the mistreatment was going on and had not reported it. Mr. [b)(6)-2 & (b)(7)(C)-2] assured him they would follow up and the issue was taken very seriously. (pp. 10-11)

h. (U) When the news about AGP broke in February 2004, it was distressing to him because he and his team were there for the better part of a day and did not observe any such abuse. (p. 11)

i. (U) On 19 March 2004, he received an e-mail from CPT [b)(6)-2 & (b)(7)(C)-2] where she forwarded an e-mail she sent to Mr. [b)(6)-2 & (b)(7)(C)-2] closing the loop concerning his issues. He did not think this was appropriate and called LTC [b)(6)-2 & (b)(7)(C)-2] in the Army G-2, and Mr. [b)(6)-2 & (b)(7)(C)-2]. He told them that the approach taken by CPT [b)(6)-2 & (b)(7)(C)-2] and her colonel was unsatisfying and unprofessional, and asked what kind of amateur hour was going on over there that they should come back with an answer that they were unable to find anything. Mr. [b)(6)-2 & (b)(7)(C)-2] agreed that it was not very professional and he [b)(6)-2 & (b)(7)(C)-2] believed that the matter was brought to the DAIG. (pp. 11-12)

j. (U) On 7 April 2004, he received a letter from the Office of the SJA, COL [b)(6)-2 & (b)(7)(C)-2], that said, "Thank you for your e-mail expressing concerns about the investigation into the reported irregularities occurring at the JIDC in Iraq." And then COL [b)(6)-2 & (b)(7)(C)-2] gave all the reasons as to why they were not able to do much about it. He found it to be unimpressive in that Mr. [b)(6)-2 & (b)(7)(C)-2] asked him to look into the matter, he did and found confirmation. He reported it again while in theater, and three or four months later a colonel wrote him saying they could not find anything due to all the time that passed. (p. 12)

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k. (U) His report was e-mailed to MG Fast on or about 13 December 2003, and on 14 June 2004, MG Fast e-mailed him saying she just found the report in her e-mail account on 27 May 2004. She said that she had not read the e-mail as she received numerous e-mails during that time, they had just captured Saddam, and the e-mail was from LTC (b)(6)-2 & (b)(7)(C)-2 and she did not recognize his name. She had not gotten to a lot of her e-mail and was just now going through it to spruce her memory up on AGP. (p. 14)

l. (U) He verbally out-briefed her on virtually everything in the report. Additionally, he verbally relayed observations about a couple of her people. He did not put this in the written report. He gave her a pretty good detailed out-brief and although when he first received her e-mail, he could not believe that she did not see the report, the question crossed his mind, did she really not see the report or was this just convenient and comfortable. But, knowing MG Fast and her character he ruled that out. (p. 14)

m. (U) MG Fast specifically stated in the e-mail that she took action on the (b)(6)-2 & (b)(7)(C)-2 issue. She discussed it and forwarded the information the next day to LTG Sanchez, and he through CENTCOM and the investigation was conducted. This information was a bit of a curve-ball for him because the CJTF-7 SJA had informed him of the investigation results, yet MG Fast said that the issue was sent to CENTCOM where an investigation was conducted. (pp. 14-15)

n. (U) He was very conscious of the fact that MG Fast invited him to look at an area that she thought was a critical area; probably the most important thing that they were doing in intelligence collection. She knew it was not in a good state of health and she wanted him to look at it. It took a lot of courage for MG Fast to do that. She invited an outsider into the tent to look at an area that she was responsible for; that she considered to be in an ill state of health, and for that reason he thought that showed great character. (p. 15)

o. (U) He made his report confidential to MG Fast although she understood that LTG Alexander would see it. The report was only sent to her and was not sent to her subordinates. (p. 15)

p. (U) During the outbrief, he told MG Fast that he would write the report on the airplane and would share it with LTG Alexander. Additionally, he would e-mail the report to her and if there was anything in the report that she felt that was in error or if

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she was concerned with the language, she could e-mail him and he would make changes. (p. 15)

q. (U) He verbally briefed her with a detailed handwritten outline. She was concerned with the AGP situation. In a couple of cases she said that she was unaware of it or that she thought they had fixed it. He told her it was very evident that COL Pappas and COL [REDACTED] former C2X, CJTF-7, were not keeping her well informed. He told her that his assessment of COL Pappas was very negative based on his visit with him and how he tried to you know guild the lily with him as opposed to being frank. He told her that COL [REDACTED] was a fine and bright fellow but was not the right person to be the Chief, HUMINT/CI. He was desk bound and did not seem to have a grasp on the position. The fact that she did not know what was going on in that critical area told him that the two people that would be responsible to be sure that she did know what was going on, would have been COL Pappas and COL [REDACTED]. And the fact that she did not know, plus his observations of the two of them as they did their jobs forced him to say to her that he thought she was not being well served by either of them. His observations concerning COL Pappas and COL [REDACTED] were not included in his written report. He verbally briefed her the night before we flew back; he believed it was either 9, 10 or 11 December 2003. (pp. 15-16)

r. (U) LTC [REDACTED] stated that in December 2003, before departing Iraq COL [REDACTED] gave MG Fast a very detailed verbal outbrief. Additionally, COL [REDACTED] upon returning to the Pentagon gave LTG Alexander a verbal outbrief as well as a copy of his report. On or about 10 December 2003, he (LTC [REDACTED]) e-mailed via SIPRNET the report to MG Fast. When he did not receive a response to this e-mail, he e-mailed either COL [REDACTED] or MG Fast's XO and asked for confirmation that she received COL [REDACTED] report. The response was that MG Fast received it. He did not know when MG Fast read the report. In June 2004 [REDACTED] informed him that MG Fast had just found the report in her e-mail. (EXHIBIT D-10)

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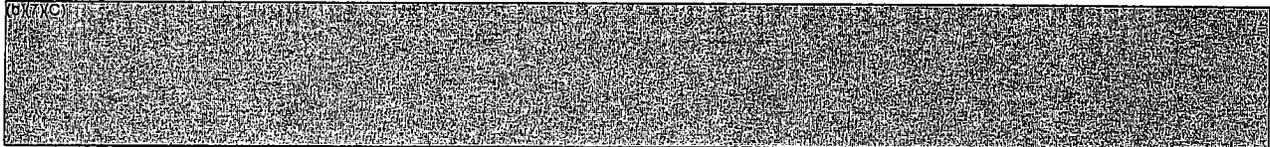
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11. (U) COL Pappas was interviewed on 9 and 19 February 2004, as part of the Taguba Investigation:



a. (U) In a 9 February 2004 interview, COL Pappas stated action was taken when incidents of detainee abuse were brought to his attention. He recalled two incidents of detainee abuse by interrogators. In one incident, UCMJ action was taken; and in the second, he directed the interrogator be suspended of duties. He had no knowledge of any other abuses, until the CID investigation.

b. (U) In a 19 February 2004 interview, COL Pappas stated:

(1) (U) LTC Jordan was his deputy for interrogation operations and was responsible for the JIDC. LTC Jordan was at the scene of a shooting incident and did not inform him of the incident. LTC Jordan was also involved in searching the cell of an inmate who had a hidden firearm. It was not common practice for MI Soldiers to be leading a search. It was also common for LTC Jordan to conduct searches without notifying the MP chain of command or him (COL Pappas). LTC Jordan's rating chain was through the C-2. He did not know who rated LTC Jordan, as he was not assigned to the 205th MI BDE. LTC Jordan was sent down from the C-2 to fill the deputy JIDC's position. LTC Jordan worked in a separate chain of supervision and remained a part of the C-2's operational staff.

(2) (U) LTC Jordan was his assistant and his duties included ensuring that interrogations were conducted properly. MAJ (b)(6)-2 & (b)(7)(C)-2, CPT (b)(6)-2 & (b)(7)(C)-2, and CW2 (b)(6)-2 & (b)(7)(C)-2 were under LTC Jordan's direct supervision. He did not confront LTC Jordan concerning the limits of his duties and responsibilities. He did not discuss LTC Jordan's duties and responsibilities with MG Fast. LTC Jordan was a loner who freelanced between MP and MI, and he (COL Pappas) failed by not reining him in. LTC Jordan wore MI branch insignia and his background was tactical intelligence. As a civilian, LTC Jordan worked for the transportation security agency. In December 2003, he requested that LTC Jordan be removed.

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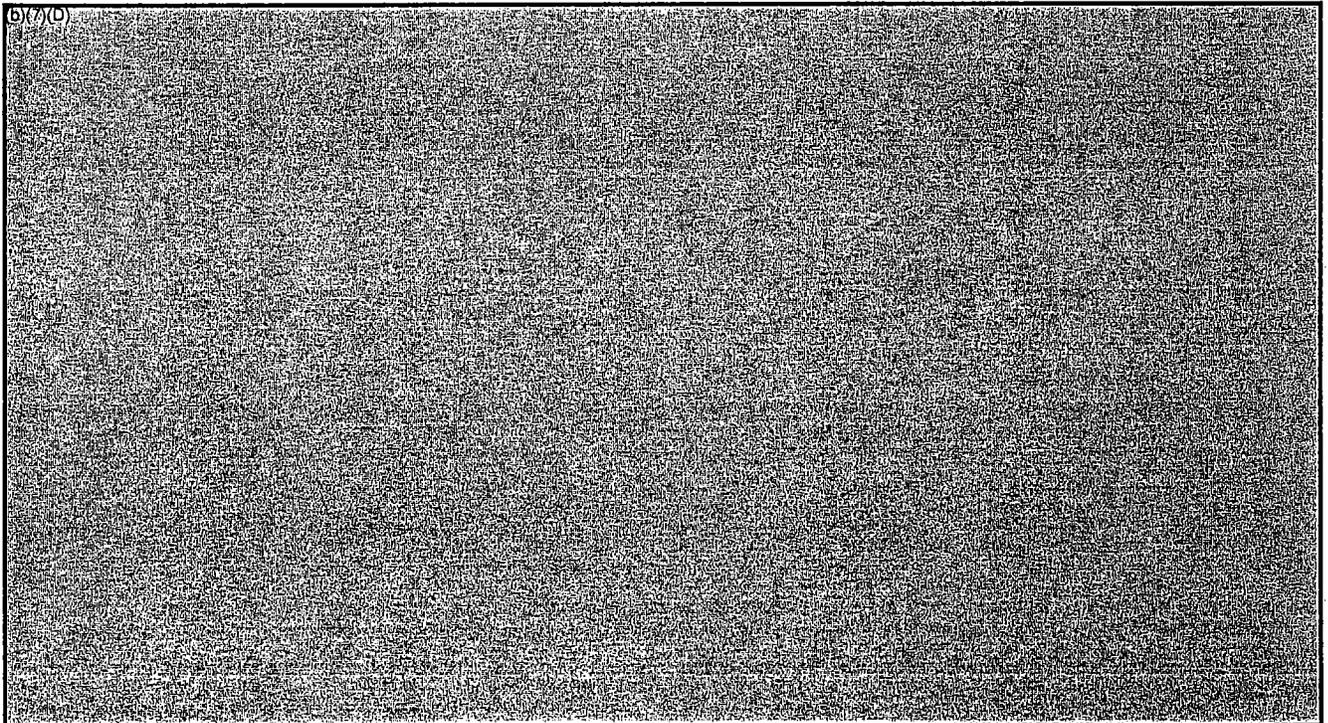
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(3) (U) He sent a request through his SJA to COL Warren requesting certain interrogation techniques be authorized. He believed they requested A through S number of techniques. The first memorandum signed by LTG Sanchez had additional techniques listed when he received it. Concerning interrogation techniques, the 205th MI BDE worked that staff action with the SJA and submitted it to LTG Sanchez for approval. (EXHIBIT D-11)

12. (U) On 8 December 2004, LTC (b)(6)-2 & (b)(7)(C)-2 stated, concerning the assistance visit to Iraq, COL (b)(6)-2 & (b)(7)(G)-2 gave MG Fast a very detailed verbal outbrief. On or about 10 December 2003, he e-mailed via SIPRNET COL (b)(6)-2 & (b)(7)(C)-2 draft report to MG Fast. When he did not receive a response within two weeks, he e-mailed COL (b)(6)-2 & (b)(7)(G)-2 or MG Fast's XO asking if MG Fast received the report. The response was MG Fast had received the report. He did not know how they confirmed her receipt, and did not know if MG Fast had read the report. (EXHIBIT D-12)

13. (U) On 22 October 2004, after being advised of her rights, (b)(7)(D) testified to SAIG-IN:



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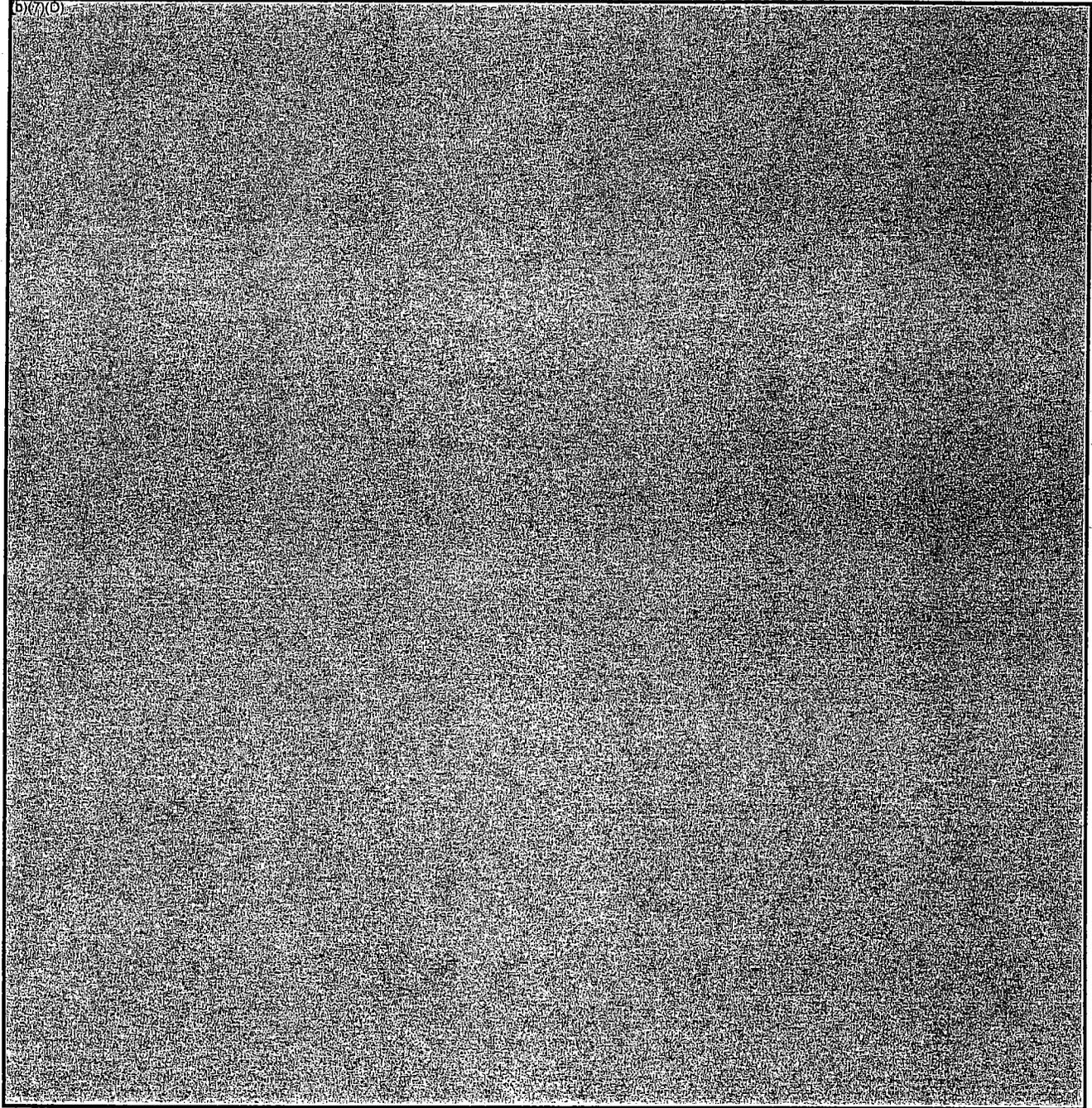
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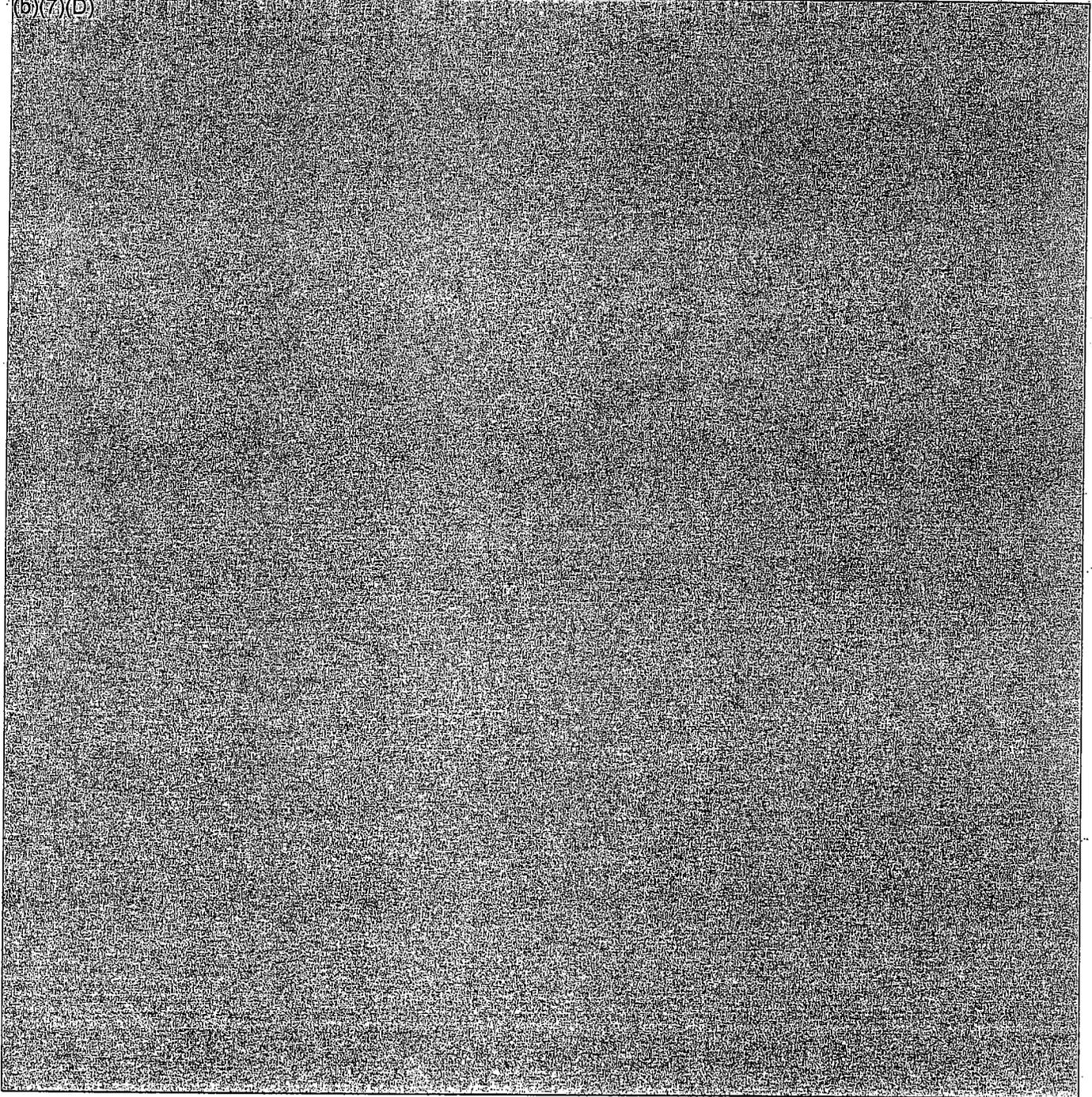
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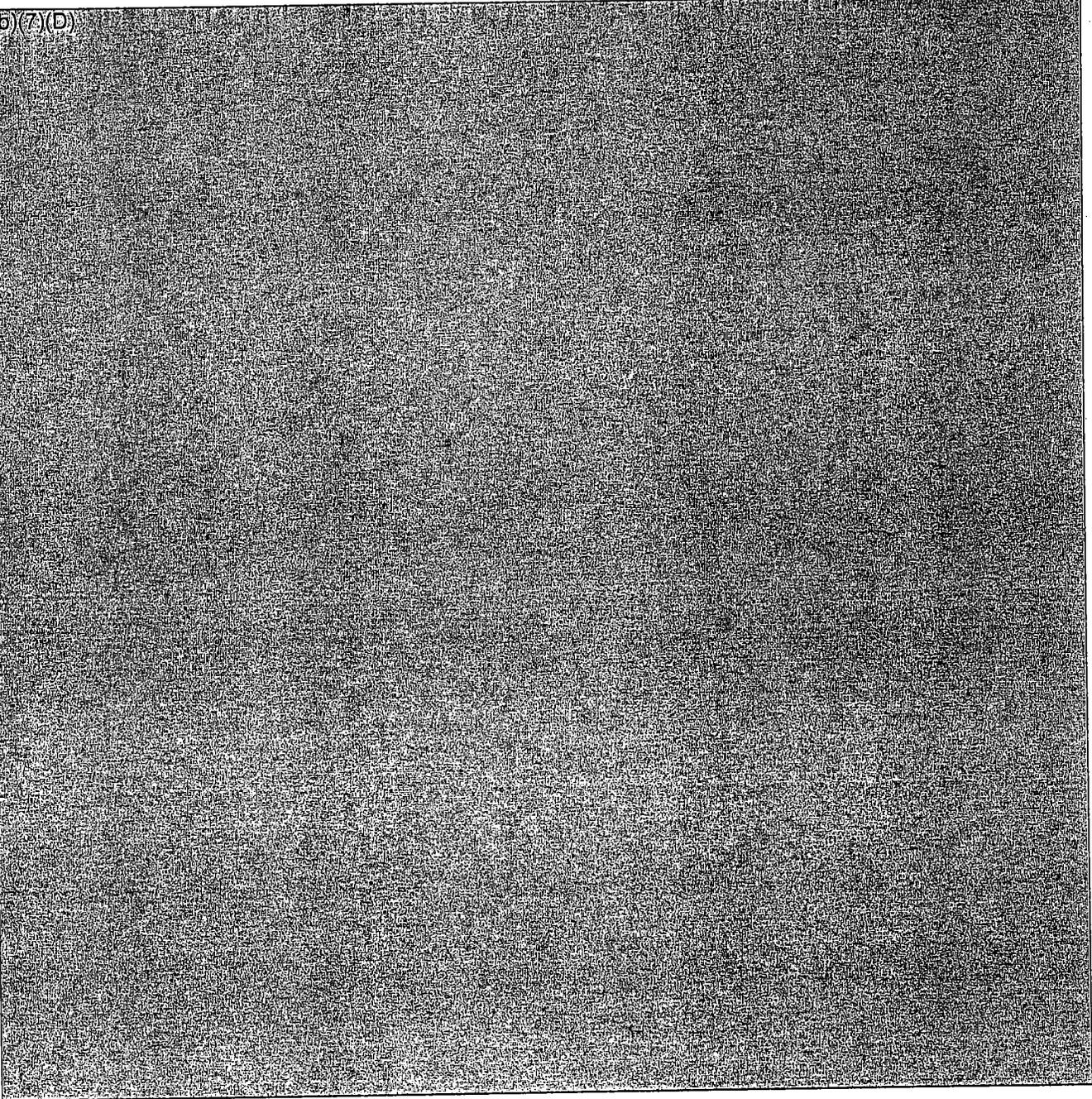
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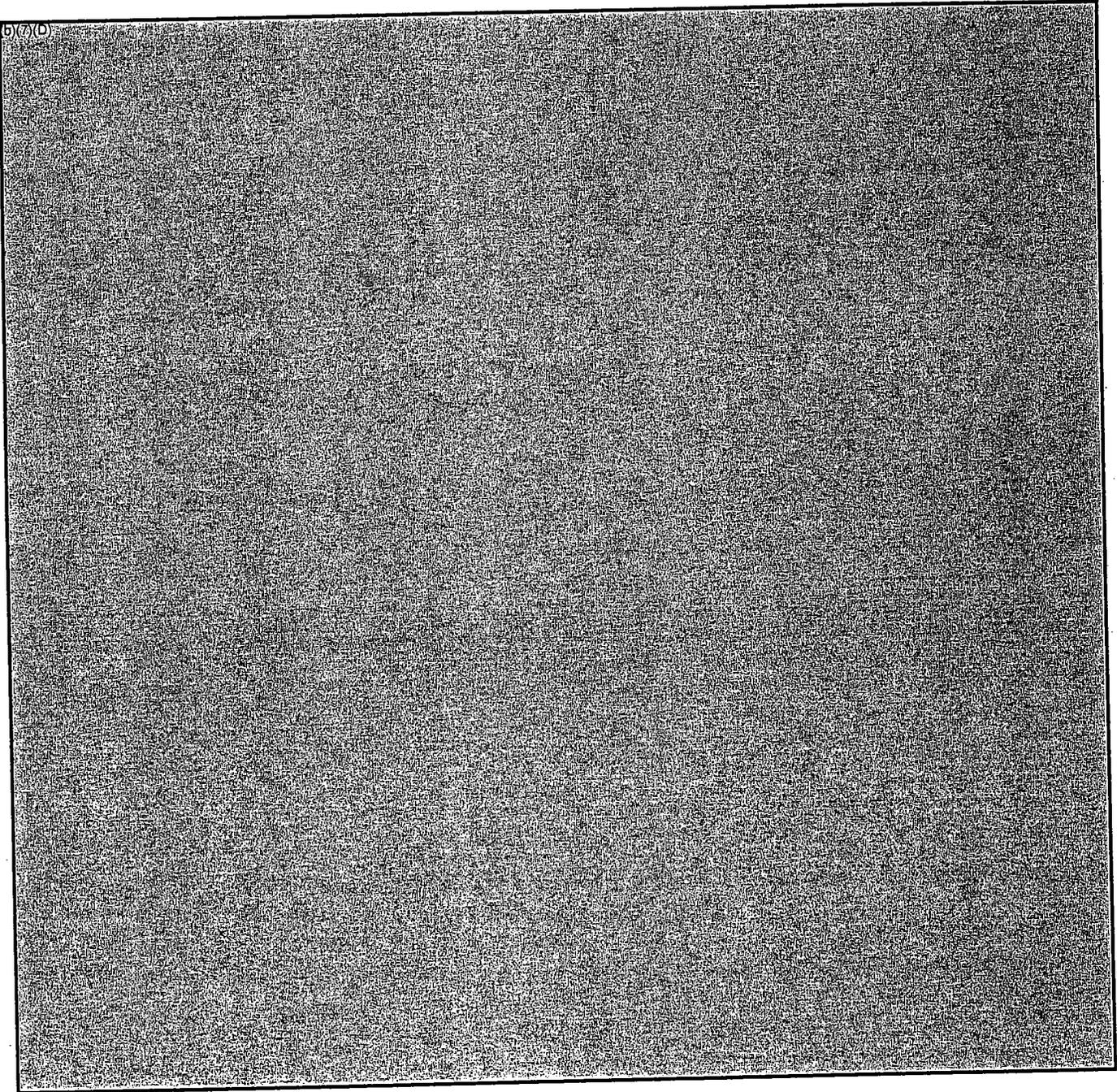
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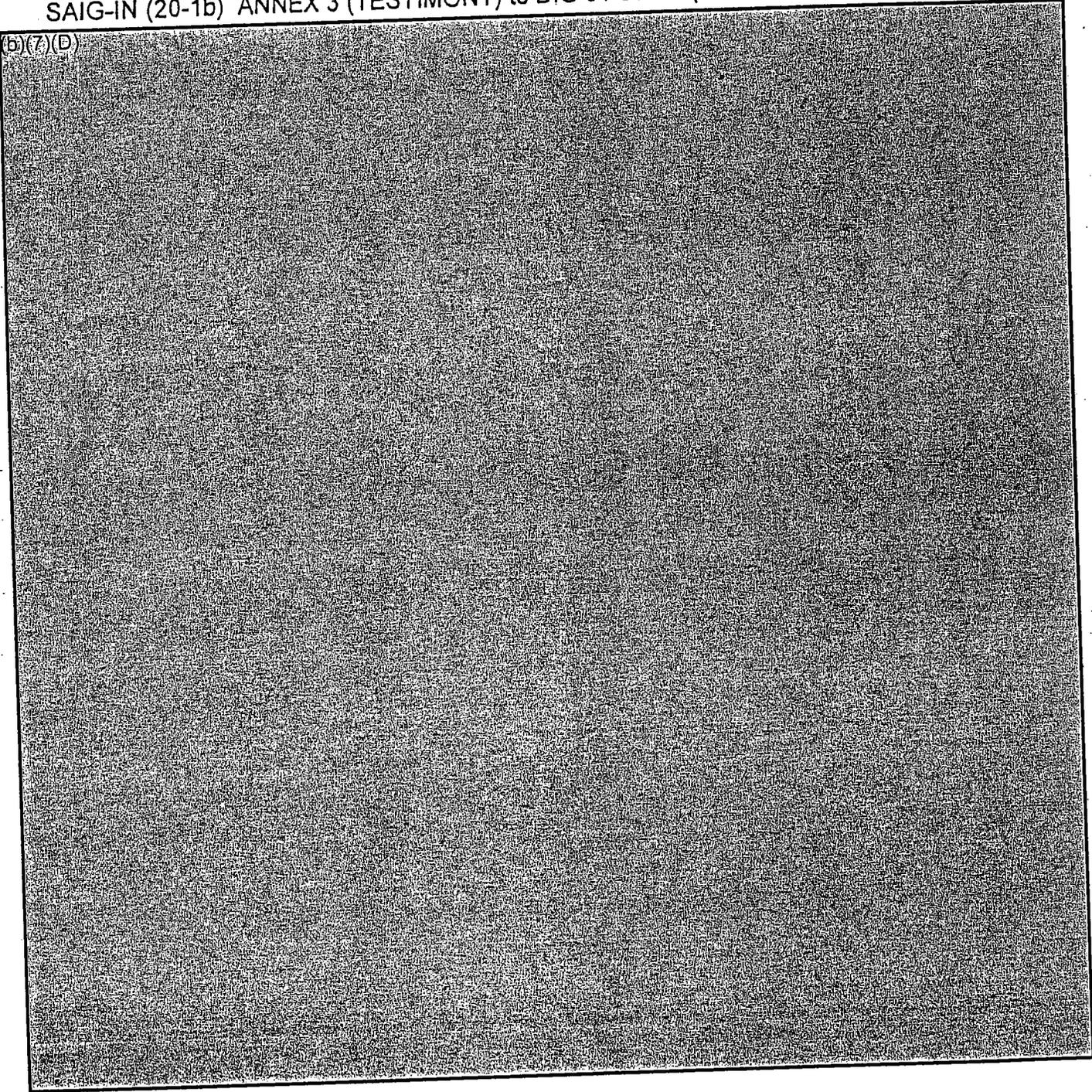
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SAIG-IN (20-1b) ANNEX 3 (TESTIMONY) to DIG 04-80003 (UPDATE)

(b)(7)(D)



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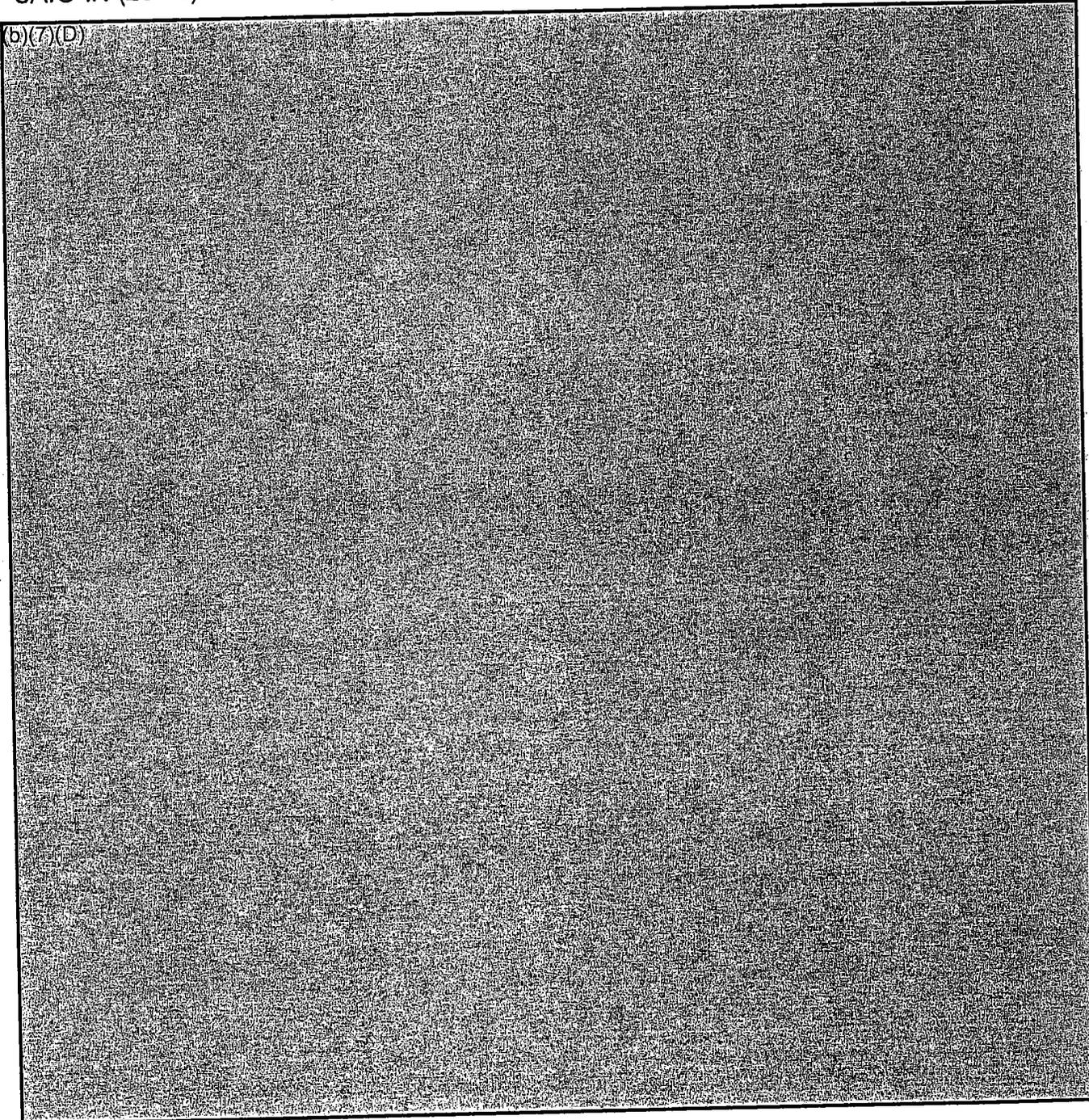
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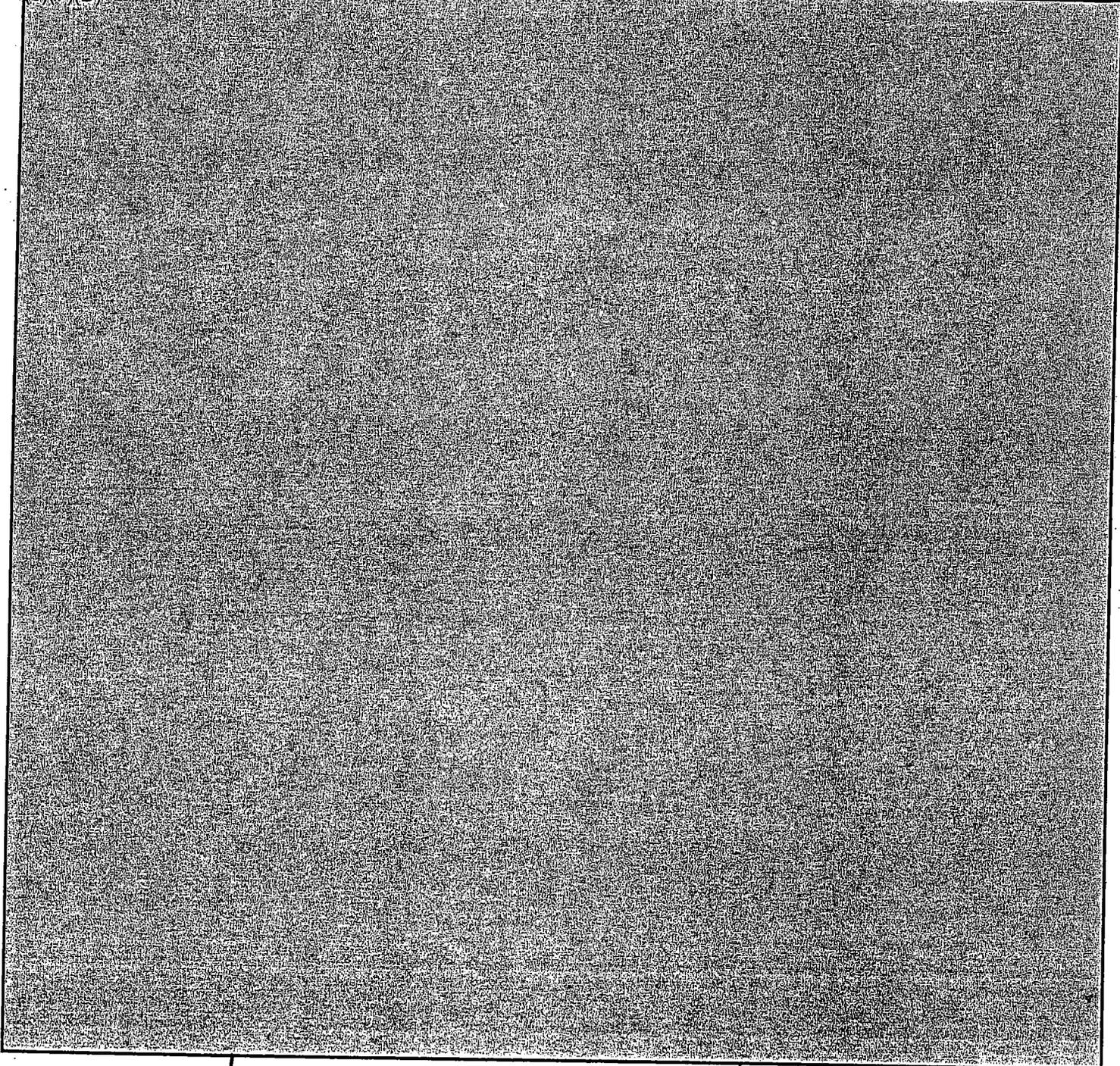
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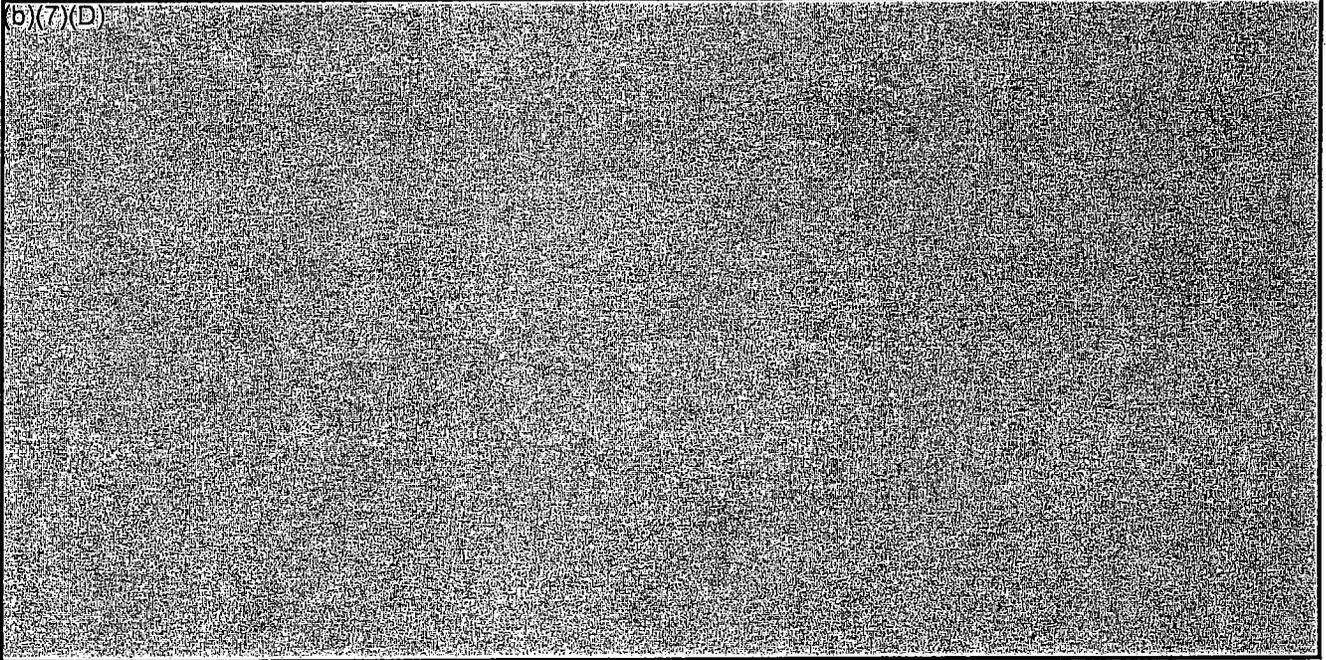
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SAIG-IN (20-1b) ANNEX 4 (DISCUSSION) to DIG 04-80003 (UPDATE)

1. (U) Article 92 of the UCMJ stated dereliction in the performance of one's duties consisted of three elements: a person had certain duties; the person knew or reasonably should have known of those duties; and the person was derelict in the performance of those duties through willfulness, neglect, or culpable inefficiency. Willfully meant intentionally. Negligently meant an act or omission which exhibited a lack of that degree of care which a reasonably prudent person would have exercised under the same or similar circumstances. Culpable inefficiency was inefficiency for which there was no reasonable or just excuse.

2. (U) The allegation that MG Fast was derelict in the performance of her duties was derived from information contained in the Kern Report, the Jones Report, and the Schlesinger Report.

3. (U) **Was MG Fast derelict in her duty to ensure proper staff supervision of intelligence operations?** The Schlesinger Report reflected MG Fast failed to advise the CDR properly on directives and policies needed for the operation of the JIDC, for interrogation techniques and for appropriately monitoring the activities of OGAs within the Joint Area of Operations. The Jones Report reflected that inaction at the CJTF-7 staff level could have contributed to the failure to discover and prevent abuses before January 2004.

a. (U) Element #1. Did MG Fast have a duty to provide staff supervision of intelligence operations? **YES.**

(1) (U) As the C-2, MG Fast was the staff SIO within the CJTF-7 and was responsible for providing strategic intelligence and POLMIL advice to Ambassador Bremer and the CPA, and operational and strategic intelligence and advice to LTG Sanchez and CJTF-7. MG Fast's responsibilities included establishing the priorities for intelligence collection, requirements management, analysis and fusion. Numerous senior leaders testified to MG Fast's responsibilities for providing staff oversight of intelligence operations.

(2) (U) JP 2-01 stated the J-2 could establish a JIDC for follow-on exploitation. The JIDC was normally subordinate to the J-2 and its interrogation and debriefing activities were managed by the J-2 HUMINT staff section of the J2X within the J-2. In this regard, the Army G-2 testified that the JIDC was normally subordinate to the theater MI BDE and that joint doctrine needed to be clarified regarding command responsibility

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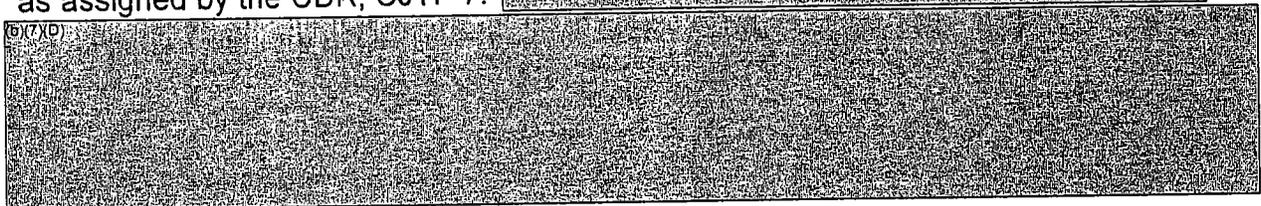
SAIG-IN (20-1b) ANNEX 4 (DISCUSSION) to DIG 04-80003 (UPDATE)

of JIDC operations. Evidence indicated that within CJTF-7, command responsibility for JIDC operations was assigned to CDR, 205th MI BDE. In this case, the theater MI BDE was redeployed and the mission was assigned to a Corps MI BDE that by doctrine was not trained and did not have the interrogation capacity to run the JIDC. Significant augmentation was required. Testimony indicated that although the JIDC was technically a joint operation, much of the JMD remained unfilled and the JIDC was essentially an Army run operation.

(3) (U) AR 600-100 stated GOs were responsible for creating policies, structures and programs and for ensuring that procedures developed at lower levels further support Army policy and values. As a senior leader and CJTF staff officer, MG Fast operated at the operational, strategic, and POLMIL levels in support of both the CPA and CJTF-7. She had no command responsibilities.

(4) (U) FM 34-52 stated that the CIF conducted tactical and strategic interrogations based on the intelligence requirements and specific guidance of the Corps G-2. Evidence indicated the C/J-2 staff responsibilities included providing intelligence priorities, resources and management to the 205th MI BDE for the execution of its command intelligence responsibilities.

b. (U) Element #2. Did MG Fast know or should she have reasonably known of this duty? **YES**. Her own and other senior leader testimony established that MG Fast knew and accepted her duties regarding the staff supervision of intelligence operations, as assigned by the CDR, CJTF-7. (b)(7)(D)



c. (U) Element #3. Was MG Fast derelict in the performance of those duties through willfulness, neglect, or culpable inefficiency? **NO**. Based on an analysis of the state of intelligence upon MG Fast's arrival, the unforeseen high number of detainees, the operational tempo of the understaffed C-2, MG Fast's personal support to the CPA, and COL Pappas' command responsibility for the execution of the JIDC mission, the preponderance of the evidence indicated MG Fast properly executed her responsibilities regarding the staff supervision of intelligence operations.

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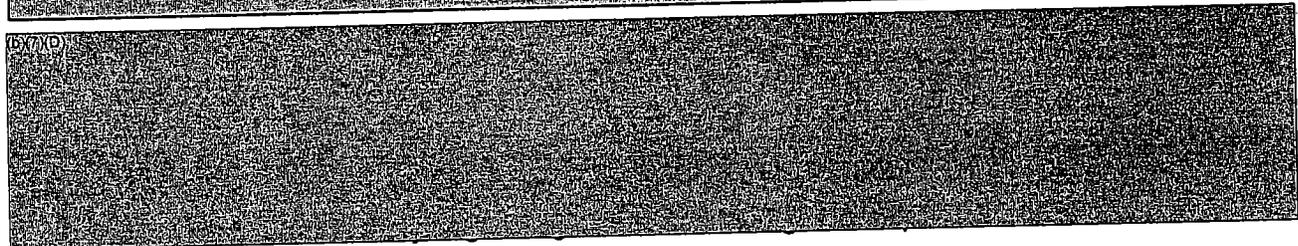
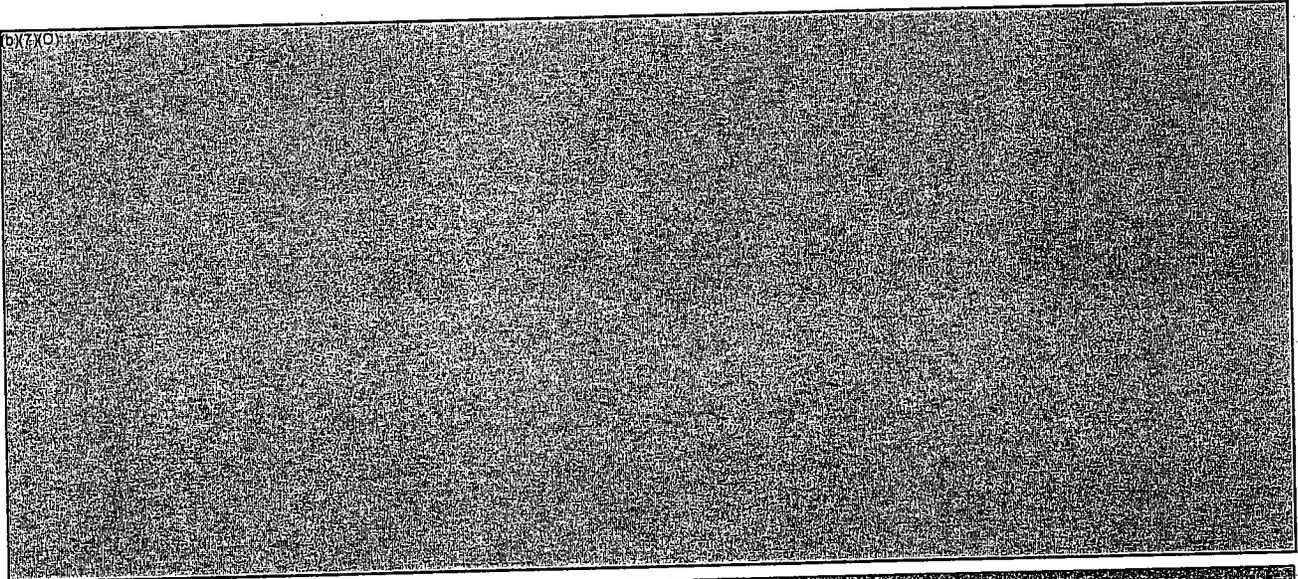
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(4) (U) GEN Kern testified that MG Fast was responsible to provide MI analysis and advice to LTG Sanchez. She was tasked to build an intelligence picture and was responsible for the oversight of interrogations. She established the process of using information received from interrogations. The conduct of interrogations was not MG Fast's responsibility. The 205th MI BDE CDR was responsible for the conduct of interrogations.

(5) (U) CJTF-7 did not have authority over OGA operations. The command and control of OGAs rested with their organic headquarters. However, any OGA operating in the ITO was bound by the GC in the same manner as CJTF-7. The evidence indicated that MG Fast was not aware of an accountability issue concerning OGA detainees. Although COL b(6)-2 & (b)(7)(C)-2 report included comments concerning accountability issues with "Ghost Detainees," MG Fast did not open the e-mail containing the report until May 2004, because she did not recognize the e-mail sender's

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name, she received a high volume of e-mails, and she had to prioritize the e-mails she would read because of the high operational tempo. Additionally, COL (b)(6)-2 & (b)(7)(C)-2 outbrief to MG Fast did not mention "Ghost Detainees," as evidenced by MG Fast's testimony and COL (b)(6)-2 & (b)(7)(C)-2 notes. Furthermore, (b)(7)(D)

(b)(7)(D)

(6) (U) LTG Jones, a senior IO, testified that MG Fast was responsible for the establishment of the intelligence operations and pulling coalition and inter-agency intelligence together. COL Pappas was responsible for the execution of the interrogation effort.

(7) (U) MG Fay, a senior IO, testified that the responsibility for detention operations was shared among LTG Sanchez, MG Wojdakowski and the staff. MG Wojdakowski relied on COL Pappas regarding interrogation operations.

(b)(7)(D)

(9) (U) COL (b)(6)-2 & (b)(7)(C)-2 Deputy C-2, CJTF-7, testified that COL Pappas was in charge of the JIDC, and was responsible for the conduct of interrogations, the training of interrogators, and ensuring compliance with policies and procedures. MG Fast advised and could recommend changes to policy and procedures, but COL Pappas made the decisions on what interrogation techniques were used.

(10) (U) COL Pappas testified that his deputy for interrogation operations, LTC Jordan, was responsible for ensuring interrogations were properly conducted.

(11) (U) Concerning leadership, the Army had different expectations for leaders at different levels of command. MG Fast was a staff officer operating at the strategic level of leadership, not a CDR. As such, she was responsible for advising her CDR on matters such as force structure, integration, joint and interagency operations and the management of complex systems. She assisted the CDR in setting policies, and strategic direction and long range mission accomplishment.

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(12) (U) COL Pappas, by contrast, was a CDR of a tactical unit. As a senior, not strategic leader, the Army expected him to tailor resources and set a command climate. He was expected to direct the operations of complex systems, tailor resources to programs, and focus on mid-range planning and mission accomplishment.

(13) (U) The evidence indicated that the intelligence structures that CFLCC transferred, and CJTF-7's initial capabilities and resources were inadequate in addressing the intelligence requirements to operate across strategic, operational and tactical levels. Prior to MG Fast's arrival there was no structure to synchronize all the intelligence activities. When MG Fast arrived at CJTF-7, she was tasked to focus her efforts on building an adequate intelligence structure. The Jones Report indicated the subsequent success of the architecture created by MG Fast vastly improved the intelligence process and saved the lives of Coalition Forces and Iraqi civilians, and that HUMINT operations and the fusion of intelligence led to the capture of key members of the former regime, including Saddam Hussein.

(14) (U) Additionally, the high number of detainees was not anticipated, and CJTF-7 had to quickly adapt to the growing number of detainees in a country where the existing prison facilities had been virtually destroyed. Expectations of the growth of Iraqi national capabilities were not met, and CJTF-7 retained the additional burden of a civilian criminal population.

(15) (U) The tasks in expanding the intelligence organization, obtaining operational intelligence about the insurgency, and providing support to the CPA, consumed the efforts of the CJTF-7 staff. LTG Sanchez had to prioritize efforts, and by necessity, devoted his resources to fighting the insurgency and supporting the CPA. Concerning interrogation operations, MG Fast had staff responsibility for establishing priorities and for overseeing the types of intelligence collected. COL Pappas exercised command responsibility for conducting interrogations by which the intelligence was collected. LTG Sanchez relied on COL Pappas to run interrogation operations at AGP. MG Fast did not have physical oversight of the interrogation operations at AGP, but was responsible for the larger intelligence picture and providing COL Pappas with the PIR.

(16) (U) Evidence indicated MG Fast and her staff worked closely with the 205th MI BDE. MG Fast put mechanisms in place for staff oversight of intelligence operations. Several witnesses testified that the C-2 staff frequently visited the JIDC and

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SAIG-IN (20-1b) ANNEX 4 (DISCUSSION) to DIG 04-80003 (UPDATE)

LNOs were placed on site. With few exceptions, MG Fast made monthly visits to AGP. In November 2003, she made two visits to AGP; the first with LTG Sanchez where he spoke to interrogators ensuring they understood their left and right limits; during her second visit she spoke with 10 to 15 interrogators, to ensure once again they (the interrogators) understood the interrogation policy.

(17) (U) The evidence indicated that MG Fast provided effective staff oversight of intelligence operations despite the low manning level of the CJTF-7, the staff's high level of support to the CPA, and the demands of the growing insurgency. Both testimony and reports reviewed revealed that CJTF-7 was never fully resourced in terms of personnel. The JMD never reached more than 60 percent fill, and much of the available staff's effort was directed towards supporting the CPA. A portion of the C-2 staff was co-located with the CPA, and MG Fast was required to commit a significant portion of her personal daily efforts in support of the CPA. While this increased the burden on her staff, evidence established that both she and CJTF-7 executed growing operational and strategic responsibilities far in excess of those envisioned for Phase IV, or for which they were resourced.

(18) (U) The evidence indicated LTG Sanchez directed COL Pappas to stand up the JIDC. The JIDC had no defined structure, and initially did not have a manning document. The JMD was created while the JIDC was already operating, and procedures for the JIDC were ad hoc and adapted from FM 34-52 where possible. A repeated criticism was that COL Pappas decided not to assign the JIDC mission to one of his BN CDRs, and did not ensure that a chain of command was established. His reliance on inexperienced staff personnel to manage the entire operation was cited as a point of failure.

(19) (U) The Fay Report reflected COL Pappas: failed to properly organize the JIDC; emplace the necessary checks and balances to prevent and detect abuses; ensure his Soldiers and civilians were properly trained; showed poor judgment by leaving LTC Jordan in charge of the JIDC; and failed to communicate to higher authorities when his BDE would be unable to accomplish its mission. The Schlesinger Report reflected the CJTF-7 failed to develop an effective command relationship for the JIDC. Neither the leadership nor the MI organization at AGP was prepared for the mission. The CDR, 205th MI BDE failed to ensure his Soldiers were properly trained and followed the IROE.

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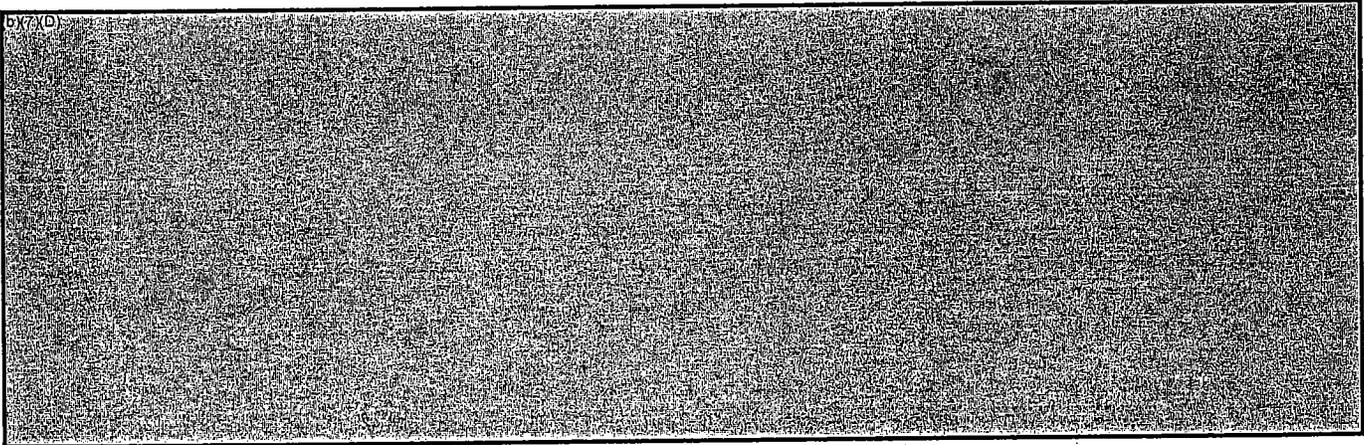
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(20) (U) Evidence established MG Fast was tasked to provide an assessment of the state of intelligence in Iraq. LTG Sanchez charged her to organize intelligence and provide advice and steorage to achieve an operational level of intelligence support. She provided the CPA with much of the intelligence required for LTG Sanchez and Ambassador Bremer to perform the missions. She advised LTG Sanchez on policies and guidance, and the establishment of the JIDC. She exercised staff oversight of intelligence operations. COL Pappas was assigned responsibility for the conduct of interrogation operations.

(21) (U) All testimony was consistent in stating that the JIDC operation was a command, not staff, responsibility, and that the responsibility for the organization, training and leadership of the JIDC rested with the MI BDE CDR, COL Pappas. While there were command failures in execution at the brigade level, these were not attributable to MG Fast.



(23) (U) GEN Kern testified that MG Fast or at least a COL from the C-2 should have been involved in the development of the interrogation policy. The 14 September 2003 policy was approved and implemented while MG Fast was out of country. Upon MG Fast's return she received interrogation reports. GEN Kern further testified there was no need for MG Fast to relook an approved policy as she was consumed with numerous other tasks to complete. He testified it was not MG Fast's responsibility to determine whether the policy complied with the GC. Compliance was a SJA function. Evidence indicated changes were made based on recommendations provided by CENTCOM not restaffing within CJTF-7.

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(24) (U) LTG Jones testified that the interrogation techniques contained in the policy memorandums could have been used without violating the GC. The main fault he cited with the policy memorandums was they did not provide clear and consistent guidance. The SJA was responsible for ensuring the policies complied with the GC. In hindsight, MG Fast should have been more involved in the policy development, but she was very busy establishing the intelligence organization and procedures, with one-third staff. Additionally, she was supporting the CPA.

(25) (U) MG Fay testified that development of the interrogation policy should rest with the C-2 with heavy involvement by the SJA. In hindsight, MG Fast should have reviewed the policies; however, she had just arrived in country and was consumed with setting up an intelligence infrastructure that did not exist.

(b)(7)(D)

(27) (U) The DAIG Detainee Operations Inspections Report reflected that the officially approved CJTF-7 policies generally met legal obligations under US law, treaty obligations and policy, if executed carefully, by trained Soldiers, under the full range of safeguards and there was no direct link between the proper use of an approved approach technique and a confirmed case of detainee abuse. If executed under the full range of safeguards, CJTF-7's policy did not appear to violate the GC. Additionally, the report reflected that MI officers were not adequately trained on how to manage the full spectrum of the collection and analysis of HUMINT.

(b)(7)(D)

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(29) (U) LTG Sanchez appointed his SJA to take the lead on the development of the policy memorandums. COL Warren was generally recognized as a subject matter expert in the law of war. It appeared reasonable to rely on COL Warren's judgment and experience, given his knowledge base and MG Fast's absence at the time of the drafting.

(30) (U) All senior leaders interviewed for this investigation testified that both policy memorandums complied with the GC. The responsibility for the training of interrogators and the planning and conduct of interrogations belonged to COL Pappas.

(31) (U) The preponderance of the evidence indicated that MG Fast was charged with the development of the intelligence architecture to support the CJTF-7 mission as well as support to the CPA. She personally spent 50 percent of each day with the CPA providing strategic and POLMIL support. Had CJTF-7 been provided more personnel and resources, and had she been in theater at the time, MG Fast might have been more active in the development of the interrogation policy. However, the evidence indicated that MG Fast was not in theater during the policy development, and she was unaware the September policy was being drafted. Although MG Fast was not present, evidence indicated that personnel from the 205th MI BDE were directly involved in the drafting of the interrogation policy. LTG Sanchez sent the signed 14 September 2003 ICRP to CENTCOM stating it would be implemented unless otherwise directed. Subsequently, CJTF-7 incorporated revisions recommended by CENTCOM into the 12 October 2003 ICRP. Upon MG Fast's return to theater, the September policy was implemented but the revisions were pending. MG Fast testified she reviewed the completed policy, noted that it was basically FM 34-52 plus segregation and complied with the GC. Later, she reviewed requests for exception to the policy. Further the evidence indicated that MG Fast spoke with interrogators to ensure they understood their limits with regards to the policy.

(32) (U) The preponderance of the evidence indicated that MG Fast properly executed staff supervision of intelligence operations for CJTF-7. She clearly understood her duties and priorities as assigned by her CDR, and testimony by multiple senior officials supported both her responsibilities and accomplishments. MG Fast's actions must be evaluated in the context of the volatile and rapidly changing operational environment, and the multiple responsibilities assigned to CJTF-7. The preponderance of the evidence indicated that MG Fast was not derelict in her duty to ensure proper staff supervision of intelligence operations.

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SAIG-IN (20-1b) ANNEX 4 (DISCUSSION) to DIG 04-80003 (UPDATE)

4. (U) **Was MG Fast derelict in her duty to coordinate ICRC visits and respond to ICRC recommendations?** The Kern Report reflected that there was neither a defined procedure nor specific responsibility within the CJTF-7 for dealing with ICRC visits, and that ICRC recommendations were ignored by CJTF-7 personnel.

a. (U) Element #1. Did MG Fast have a duty to coordinate ICRC visits and respond to ICRC recommendations? **NO.** LTG Jones and MG Fay testified there was no Army doctrine that established responsibility and procedures for dealing with ICRC visits. ICRC practice was to report to the lowest level CDR having responsibility. Neither Army nor ICRC policy required MG Fast's involvement in responding to the ICRC. The reports referred to were ICRC Working Papers provided to the chain of command who after inquiring into specific allegations, did not believe the allegations were true (b)(7)(D)

(b)(7)(D) There was no evidence that MG Fast was responsible for coordinating ICRC visits or for responding to ICRC recommendations.

b. (U) MG Fast did not have a duty to coordinate ICRC visits or respond to ICRC recommendations, therefore, the second and third elements of dereliction of duty were not discussed.

5. (U) **Was MG Fast derelict in her duty to report allegations of potential abuse?** COL Herrington testified that he informed MG Fast of potential abuse of detainees by a CENTCOM unit.

a. (U) Element #1. Did MG Fast have a duty to report allegations of potential abuse? **YES.** DODD 5100.77 stated that all military personnel would report reportable incidents through their chain of command.

b. (U) Element #2. Did MG Fast know or should she have reasonably known of this duty? **YES.** MG Fast testified that when apprised of potential abuse she had an obligation to report it.

c. (U) Element #3. Was MG Fast derelict in her duty to report allegations of potential abuse? **NO.**

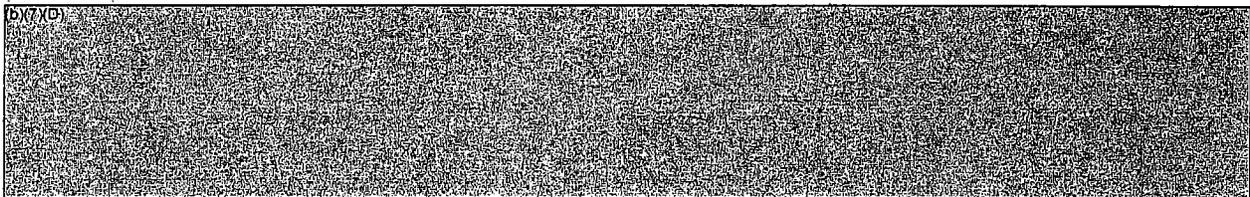
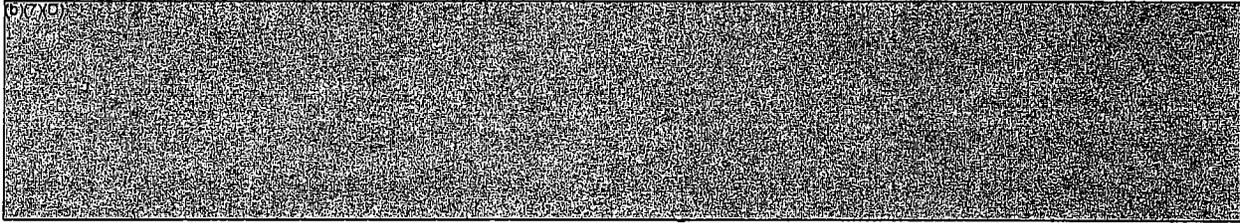
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(3) (U) The evidence indicated that in instances where MG Fast was apprised of alleged abuse she took prompt action to inform proper authorities.

6. (U) The standard required that to prove dereliction of duties, a person must be derelict in the performance of the duties through willfulness, neglect, or culpable inefficiency. Senior leaders interviewed indicated that MG Fast performed admirably given the challenges and resources with which she was faced. While some reports indicated failures and some senior officials testified that actions could have been conducted differently, none characterized MG Fast's actions as derelict. Many praised her performance. The preponderance of the evidence indicated that MG Fast properly provided staff advice on strategic and operational intelligence and promptly reported potential abuse to proper authorities. MG Fast had no responsibility to coordinate ICRC visits or respond to ICRC recommendations.

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SAIG-IN (20-1b) ANNEX 5 (OTHER MATTERS) to DIG 04-80003 (UPDATE)

1. (U) Other Matters:

a. (U) Evidence indicated that MG Dayton as Director, ISG, was informed of potential detainee abuse by a capturing unit. As the ISG was not an Army organization, this inquiry did not address the matter.

b. (U) While limited reference was made to JIDC operations in Joint Doctrine, there did not appear to be Army doctrine regarding JIDC operations.

c. (U) Evidence indicated potential allegations that COL Pappas, CDR, 205th MI BDE, and LTC Jordan, Director, JIDC, were derelict in their respective duties.

2. (U) Recommendations:

a. (U) Refer the issue in paragraph 1a to the IG, DOD, for appropriate action.

b. (U) Refer the issue to paragraph 1b to the Deputy Chief of Staff, G-2, for appropriate action.

c. (U) Refer allegations against COL Pappas and LTC Jordan to SAIG-AC, for appropriate action.

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Volume II of III

A Allegation

B Standard
Article 92, UCMJ

C Documents:

- C-1 DODD 5100.77, dated 9 December 1998
- C-2 AR 600-100, dated 17 September 1993
- C-3 JP 2-01, dated 20 November 1996
- C-4 FM 2-0, dated 17 May 2004
- C-5 FM 34-52, dated 28 September 1992
- C-6 FM 101-5, dated 31 May 1997
- C-7 CJTF-7 Interrogation Policy, dated 14 September 2003
- C-8 CJTF-7 Interrogation Policy, dated 12 October 2003
- C-9 The Taguba Report
- C-10 DAIG Detainee Operations Inspection Report
- C-11 The Kern Report
- C-12 EXSUM of the Kern Report
- C-13 The Jones Report
- C-14 The Fay Report
- C-15 The Schlesinger Report
- C-16 COL Herrington's Notes
- C-17 The Herrington Report
- C-18 Memorandum, dated 26 November 2003
- C-19 COL Pappas, Sworn Statement, dated 11 February 2004
- C-20 COL Pappas, Sworn Statement, dated 14 May 2004
- C-21 LTC Jordan, Sworn Statement, dated 27 May 2004
- C-22 MAJ (b)(6) Sworn Statement, dated 19 May 2004
- C-23 MAJ (b)(6) Sworn Statement, dated 24 May 2004
- C-24 CPT (b)(7) Memorandum
- C-25 MAJ (b)(6) E-mail, dated 8 May 2004 and JIDC Briefing Slides
- C-26 MG Fast, Sworn Statement, dated 9 May 2004
- C-27 MG Fast, Statement, dated 20 July 2004
- C-28 MG Fast, Statement, dated 23 December 2004
- C-29 COL (b)(6) Sworn Statement, dated 30 December 2004

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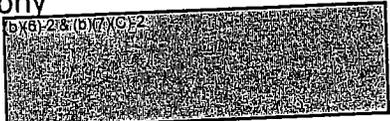
SAIG-IN (20-1b)(DIG 04-80003) (UPDATE)

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(b)(6)-2 & (b)(7)(C)-2



GEN Paul J. Kern
LTG Anthony R. Jones
MG George R. Fay

(b)(6)-2 & (b)(7)(C)-2



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Testimony of GENERAL PAUL J. KERN
Taken at Fort Belvoir, Virginia,
Between the hours of 1030 and 1245,
24 November, 2004, by Ms (b)(6)-2 & (b)(7)(C)-2 and
Colonel (b)(6)-2 & (b)(7)(C)-2
Department of the Army Inspector General Agency,
Washington, D.C.

[U] MS (b)(6)-2 & (b)(7)(C)-2 Sir, the time is 1030. This tape-recorded interview is being conducted on 24 November, 2004, at Fort Belvoir, Virginia.

[U] Persons present are the witness General Kern and the Inquiring officers (b)(6)-2 & (b)(7)(C)-2 and Colonel (b)(6)-2 & (b)(7)(C)-2

[U] This inquiry is directed by the Inspector General of the Army concerning allegations against senior officials in CJTF-7.

[U] An Inspector General is an impartial fact-finder for the Directing Authority. Testimony taken by an IG and reports based upon that testimony may be used for official purposes. Access is normally restricted to persons who clearly need the information to perform their official duties. In some cases, disclosure to other persons may be required by law or regulation or may be directed by proper authority.

[U] Upon completion of this interview I will ask you whether you consent to the release of your testimony if requested by members of the public pursuant to the Freedom of Information Act. Since I will ask you to provide your Social Security Number to help identify you as the person testifying I've previously provided you with an explanation of the Privacy Act.

[U] Do you understand it, Sir?

[U] GENERAL KERN: Yes, I do.

[U] MS (b)(6)-2 & (b)(7)(C)-2 You are not suspected of any criminal offense and are not the subject of any unfavorable information. Before we continue, Sir, I want to remind you of the importance of presenting truthful testimony. It is a violation of Federal Law to knowingly make a false statement under oath.

[U] Do you have any questions before we begin?

[U] GENERAL KERN: No, I don't.

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[U] MS [b)(6)-2 & (b)(7)(C)-2] Sir, please raise your right hand so I may administer the oath.

[U] [General Paul J. Kern was sworn and testified under oath as follows:]

BY [b)(6)-2 & (b)(7)(C)-2]

[U] Q. Sir, you may lower your hand. For the record please your name?

[U] A. Paul J. Kern. K-E-R-N.

[U] Q. Your rank and component?

[U] A. General, United States Army.

[U] Q. Your position and organization?

[U] A. Formerly the Commanding General of the United States Army Material Command.

[U] Q. All right, Sir, your Social Security Number and this is voluntary.

[U] A. [b)(6)-2 & (b)(7)(C)-2]

[U] Q. And an address either home or office, keeping in mind that the return address on any correspondence from this office will indicate that it is from DAIG.

[U] A. [b)(6)-2 & (b)(7)(C)-2] and that's

[b)(6)-2 & (b)(7)(C)-2]

[U] MS [b)(6)-2 & (b)(7)(C)-2] All right. Thank you, Sir. All right, we will go ahead and get into the questions. Sir, did you want to start or shall I just go ahead and start.

[U] COL. [b)(6)-2 & (b)(7)(C)-2] Sir, we have some prepared questions, , but we'd like to offer you the opportunity, if you'd care to, to make any comments before we begin.

[U] GENERAL KERN: I think from--you know I've spent 41 years wearing a uniform. Almost 42. This is perhaps one of the most challenging pieces of it from the perspective of what we found that Soldiers did at Abu Ghraib and then trying to determine a cause and accountability for it. And so this is both a disturbing event from my perspective of and career in the Army, but I think in which one we did a very through investigation in trying to link all the pieces and clearly there is many

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organizations and many people involved that have to be brought into account. So I would suggest that this task that you have right now of trying to fix the final accountability with the Senior General Officers who are involved in it, is one that is both important to the United States Army and also one which is going to have different interpretations I think based upon where people were sitting and watching and seeing how the events unfolded.

[U] MS (b)(6)-(7)(C)-2: Yes, Sir.

[U] COL. (b)(6)-(7)(C)-2 Thank you, Sir.

BY MS (b)(6)-(7)(C)-2

[U] Q. All right, Sir, I am going to just jump right in then to some of the findings that were made in the report and just ask you some clarifying questions about some of them and just give you an opportunity to comment on them.

[U] A. Okay.

[U] Q. The first one, Sir, "The Commander and Deputy Commander of CJTF-7 failed to provide proper staff oversight of detention and interrogation operations." And that was a finding in both your report as well as the Schlesinger Report. Sir, we have reviewed a lot of these reports and we are aware of some of the mitigating circumstances, that were present at the time that CJTF-7 was--was conducting these operations. And we are familiar with the resourcing issues, some of the personnel problems, the operating environment, and how there really never was a transition to Phase IV.

[U] A. Right.

[U] Q. And security and civility operations. So given that, can you tell us specifically in what way General Sanchez failed to provide proper oversight?

[U] A. First I think as we all believe both in our hearts and by orders that Commanders are responsible for everything that it done within their command.

[U] Q. Yes, Sir.

[U] A. So it emanates from his overall responsibility within the theater of Operations for which he was assigned to command. Second, the responsibility of the Commander is more than just what explicitly is written. It is also implicitly what you need to be able to ask the right questions of

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Staffs to get the responses that you need. And third, and this truly isn't a lack of the--of responsibility it's the--it does pertain more to the conditions. But the mission that he was given in retrospect, it was the wrong mission and it was never challenged. I was reminded of that in-- when General Abrams, Senior, Creighton Abrams, took over the command of--in Viet Nam, he asked the question what was his mission. He was never given one. So Westmoreland was operating as the Commander of the United States Army-Viet Nam, without a Mission Statement. The first question that Abrams asked when he took over was, "What's my mission?" And it really changed the perspective of it. So that has flavored I guess my thinking in this from what is the Commander's responsibility.

[U] The assumptions that went into Phase IV, that you would be in stability and support and the mission to send people home turned out to be wrong. And in fact he was in an insurgency operation which increased in intensity during that entire peak period and the people that were being sent home needed to stay. Military Police, check points, who were responsible for detention facilities in this particular case and then the Military Intelligence organizations necessary to build the intelligence picture, that was theirs. So that's sort of an overarching statement of the conditions in which he was operating. And then clearly if we had put him through a BCTP type, Battle Command Training Program type exercise I think this would have all come out. The mission and task would have been reviewed in some detail rather than taking a Division Commander, throwing him into a Corps Commander Headquarters, taking away half his staff; and saying you now have a mission as a Combined Joint Task Force Headquarters.

[U] And so the conditions made it extremely difficult to go back and do that kind of a BCTP type analysis. A rigorous task analysis of the missions that would have resulted in answer--asking the questions, should I expect that the number of detainees is going to increase or decrease? Should I have the right--do I have the right command structure? Do I have the right missions assigned to CFLCC and CJTF where we had the 800th Military Police Brigade assigned to one Headquarters and the Military Intelligence Brigade assigned to a second Headquarters with the responsibility delegated to a Deputy. Were those subordinate Brigades?

[U] And that part was not done. Now, while we criticize both General Sanchez and General Wojdakowski on that process, we didn't give them the time or the resources to do it either. And so while we fault them as being the Commander and Deputy Commander, it was much more the environment that we threw

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them in. But in the end they're accountable for their command and you cannot take that away.

[U] Q. Yes, Sir. You said earlier in your statement that CJTF-7 was given the wrong mission. What was that wrong mission and who in your view gave it to them? Was it difficult to state it or did it--

[U] A. If you go back and look at General Jones' report and he went back and looked at all the orders and FRAG Orders that were given. It was the basic order that was prepared for Operation Iraqi Freedom which was a phased operation. General Sanchez was given the mission of assuming command of first V Corps. Then within a few days, V Corps being disestablished and reestablished as a Combined Joint Task Force, without a new mission statement and without a new order being given. And so the Phase IV operation of the original mission said that he was to conduct stability and support operations. Support the Coalition Provisional Authority, Ambassador Bremer, and return forces. And that mission statement was not reviewed at that time or asked whether or not it was still current.

[U] Now, implicitly the actions that General Sanchez took it was clear that he understood that he was not in stability and support. That he was in an insurgency and his actions reflected his understanding of that; and his actions to build an intelligence picture so that he knew the appropriate missions to assign to his subordinate commands were in accordance with that. So he behaved as if his mission were stated differently but in fact the mission that he was given was not ever revised.

[U] Q. All right, Sir, can you think of anything specifically that he should have done differently? Either he or General Wojdakowski?

[U] A. I think he should have gone back to originally General Franks and then later General Abizaid and said we ought to restate our mission. And in that staffing function he also should have said, and I think General Abizaid saw this, in the command structure that is created now that he needed to establish a different command structure to conduct the missions both with CFLCC and in support of Ambassador Bremer and the CPA. And what we found is that the mission statement telling him to do both stability and support what became in fact conduct insurgency operations or counterinsurgency operations and the mission to support Ambassador Bremer were unresourced. He did not have adequate resources to conduct both of those missions.

[U] Q. Did General Sanchez----

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[U] A. I shouldn't say unresourced. Under resourced.

[U] Q. Yes, Sir, did General Sanchez recognize this and make attempts to fix the shortfalls? In your view did he do that adequately?

[U] A. Yeah, I think he did. I mean he clearly recognized it based on both his statements and the discussions I've had pursuing that with both he and General Abizaid in terms of what they saw happening and then listening to his staff. And the actions he was taking. I don't think he was perhaps adamant enough about really forcing the senior Commanders to restate his mission though and then relook the resourcing of that, with the real mission in front of him as opposed to the assumed mission that in the Phase IV part of the operation.

[U] Q. Yes, Sir. A similar question then for General Wojdakowski. Can you think of what specifically he should have done differently given that he had the responsibility of direct oversight of those two Separate Brigades?

[U] A. And this is very easy to say retrospectively and very hard to do, because I met with him a number of times on other issues during that period. He was overwhelmed with things to do. He should have done, one, the same thing I just suggested as to General Sanchez. As his Deputy he should have got back to General Sanchez and say we need to restate our mission and relook these. These tasks that we've assigned. And I think out of that would have come a new command structure where the MP Brigade and the MI Brigade would have fallen under the same command structure and a single person would have been put in charge of both. In particular when you take it one notch down and--and if you look at where General Wojdakowski was focused we had a staff running Military Intelligence Operations and we had a Commander, MP Brigade, running Detention Operations and they weren't integrated. And that was--that's both a failure of our own doctrine and training I think to bring those pieces together as well as the command relationship that was established there. Not challenging what they had in front of them saying this is not effective.

[U] Q. Sir, you said that they had a staff running intelligence operations whereas they----

[U] A. Well you--if you can find a set of orders that assigns intelligence to a commander at Abu Ghraib I will be amazed. They created a JDIC. That was a staff function. They reported back up through staffs through the intelligence operations. And so the MI Brigade Commander was never assigned a

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task or a Battalion subordinate commander of conducting intelligence operations in terms of interrogations. It was assigned to a JDIC which never really grasped the mission. And that was one of our issues with Lieutenant Colonel Jordan, who never acknowledged the fact that he was given the mission. There was no command structure underneath that where you have Company Commanders and First Sergeants overseeing their personnel. And that's really the nature of the way we have done our military intelligence operations almost historically. Where we break them down into Teams and task organize them and they lose that command structure. It was very clear on the Military Police side that you had a MP Brigade which was responsible for detention. It was less clear then on Military Intelligence side who was in charge of interrogations. And it became a staff function rather than a command function. In my view it should have been assigned to a Military Intelligence Battalion Commander.

BY

(b)(6):2 & (b)(7)(C):2

[U] Q. Sir, let me follow up on that. The answer can be one of two. Who do you believe the JDIC worked for? It sounds like you believe they worked for the CJ-2. Is that correct or did they work for the 205th?

[U] A. Well, I mean we kind of drilled that. They really worked for the Three. Operations are--come under the Three, but it was never clarified that way. Miller was never given that real task of pulling those as an operational consideration to give that mission until they sent General Miller back over there and said you're in charge of detention and interrogation. That was not done.

[U] Q. But at the time--at the time of your investigation, Sir, --

[U] A. It's unclear who was in charge of Military interrogations.

[U] Q. Unclear.

[U] A. Because it was done as a staffing function with information it collected--now they created a JDIC but find an order that says who does the JDIC report to. Where is a Commander involved in that? In that chain of authority. There isn't one. Its reports that are provided through a staffing function.

[U] Q. Sir, if I were to make the statement, the JDIC worked for Colonel Pappas and it was a command function. How would you respond to that?

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[U] A. I would--I would have said that that would have been a correct way to do it. I would have rather seen rather than Colonel Pappas that there'd a Lieutenant Colonel Battalion Commander as opposed to a--the JDIC staffing function. And we were creating an organization, the JDIC, which is an emerging doctrinal organization. Not one of which you can go pull out a manual and say here's how you do it. Here's how it's staffed. Here's how it reports. And then we put a Lieutenant Colonel in charge of it who never acknowledged. Who hasn't at least to my knowledge has never acknowledged the fact that he was in charge. The staff, anyone on the staff, we talked to never thought he was. Now--and then Pappas, was given--still had authority and responsibility across the entire Country or Iraq for the Military Intelligence activities. Not specifically for interrogation activities And so I--I never found any order unless you could show me something that said that you know the JDIC reports to the MI Brigade.

[U] Q. Did you have the opportunity to discuss that with Colonel Pappas, Sir?

[U] A. I did not. No.

[U] Q. So you don't have any insight as to what he might have believed as far as his ownership or responsibility?

[U] A. I think he felt ownership for all the intelligence interrogation operations. The JDIC being one of them. But there are no orders specifically that I know of that directly say that. I mean the MI Brigade was assigned a number of missions but they covered the entire operation and then he specifically then was given a second in the FRAG Order that directed him to be in charge of the security. Not interrogation at Abu Ghraib. So you have kind of an overarching order where you would--you would assume that there's an implied mission that all interrogations are to come through him as a tasking. But there's no specific order that says once we created the JDIC that it reports to him.

BY MS

(b)(6) (b)(7)(C)

[U] Q. Sir, the interrogation policy letters that we'll talk about in more detail a little bit later, included language that indicated that the 205th MI Brigade Commander would ensure that the interrogators were trained for those specific techniques. That he was responsible for interrogation plans; that he was responsible for certain levels of approval for certain techniques and insuring that the various controls were in place.

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And that's--that's in the policy letter signed by General Sanchez. So----

[U] A. Not early on but later on.

[U] Q. Right. I'm talking about the September letter and the October letter. Which would lead one to assume that the 205th MI Brigade Commander had responsibility for those interrogations.

[U] A. I agree. I think he had responsibility for all the interrogations that were taking place throughout the country not just at Abu Ghraib. I don't think there was any question about that.

[U] Q. Yes, Sir.

[U] A. The problem that I have with chains of authority and command is that the JDIC--there is no chain of command that the JDIC falls under and there is no--the problem--and this is not specific just to this MI Brigade, it's the way we've orchestrated all of our Military Intelligence over a long time. The chain of command disappears. You break them down into teams and these teams--and in this particular case were created out of ad hoc organizations because they just got people with the right MOS from different command structures and put them into this organization. So the part that fails in my test of this is that there's no order that assigns a commander in charge of the JDIC, whether it's a Lieutenant Colonel reporting to that MI Brigade Commander, with Company Commanders responsible for the oversight of how those Soldiers assigned there would behave. In our Military Intelligence organizations historically this has never captured that and we've never really put them under the pressure that they were here to reveal some of these challenges. That's my opinion.

[U] Q. Yes, Sir, where should that order have come from?

[U] A. Well, I think the order should have come out of the CJTF Staff, and that's one of our recommendations that they should have written clear orders on how that chain was to work, and that did happen afterwards. There was a new order written.

BY COL. (S)(S)2&(b)(7)(C)-2

[U] Q. Sir, you mentioned earlier General Miller, General Tom Miller's----

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[U] A. Right.

[U] Q. --responsibility as the operations guy to overwatch the detainee and interrogation functions. Did he have a responsibility in the interrogation function as the C-3 in your mind?

[U] A. None that was evident in my mind. He had a responsibility from an operational standpoint to assign missions and tasks and resource them. And I--and I didn't--you know I don't think that ever got there.

[U] Q. Much of what we've learned, there is quite a clear picture painted in the minds of folks we've talked to about a clear delineation of CJ-2 responsibility for interrogation operations versus the C-3 responsibility for detention operations. And most people seem to paint a pretty clear separation between the two as far as what General Fast's responsibilities were and General Miller's responsibilities were. Do you see those in the same light, Sir, or do you think C-3 should have had a greater role in the integration of the intelligence and interrogation aspect?

[U] A. I agree with you on all the things that we found on how people saw the C-2/C-3 roles. I do believe however that the C-3 should have had a stronger role in bringing those pieces together. Not keeping them as separate staff functions. And it's very clear when you go back and you ask, in our view, my view personally, from all the reports and investigations that the Military Policemen were receiving directions from Military Intelligence Personnel. But neither of them truly understood on either side of their areas of responsibility what their boundaries were. And that was both this lack of an integrated C-2/C-3 approach to interrogation processes. And a doctrinal and training problem that we have the way we train detention operations and intelligence operations.

[U] And one of the things that we found is there is--there had been an annual exercise where they should have come together and it didn't occur. So these units had not worked together; and therefore when you separate them in C-2 and C-3, kind of world one for detention and one interrogation, the boundaries between them were unclear. And so if a MI person--it could be a contractor not just a Soldier--told a detention Military Policeman to do something, it was unclear to them as to who really had the right authorities. And it's a murky area I think that we're all trying to sort our way through in this particular one because it's one that doesn't happen very frequently where you have this large scale kind of an operation under these types conditions.

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[U] Q. Well one of the challenges we have obviously is a lot of decisions and a lot of events converge around this whole JDIC situation.

[U] A. Right. Yes.

[U] Q. And that's--obviously that's one of the places where we're trying to get greater clarity.

[U] A. Right.

[U] Q. I think we have a pretty thorough understanding of what people did. And what people believed they should have done, but what we're trying to get some assistance on is what folks should have done.

[U] A. The 'should have' one becomes one of interpretation because there is no doctrinal organization processes to deal with the JDIC, and so we were creating that as we were going. I say 'we' the CJTF was doing that. And I think the abilities that General Fast brought into it when she was asked mid-stream to come in and set this kind of an operation up were all done with the best of intentions and the best capabilities that could be brought to bear in there. Where we came up short is since nobody had an established organization or chains of command is how that the pieces were to fit together. And we further complicate that when you bring in the CIA and other organizations who would intervene in this process periodically who were not in that chain of command either with the ISG piece completely set aside reporting to CENTCOM.

BY MS (b)(6)-(7)(C)-2

[U] Q. Sir, what responsibility in your view did General Fast have to establish that chain of command or chain of authority at the JDIC?

[U] A. In my view she had a staff function to provide military intelligence, analysis, and advice to the Commander. And the Commander then has to--a staff officer of any rank cannot write an order unless it's delegated to them and it was never delegated to the C-2 that you can sign an order to do that. C-3 normally is the person who is issuing orders. Not the C-2. So she was doing the staff analysis, building the structures, making the recommendations and doing it. And I think as you've reported and found reported that there was a distinct distinction between the two. They never really did come together where the C-3 picked up any staff integration requirements. So, okay, the C-2 says they need X number of people to man the JDIC

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and we need another number of people to man the detention operations; and there is some interface between those two where somebody may come out of the JDIC and say put this person into solitary and so there's an automatic establishment there de facto. But there is going to be some interchange between those two functions. And that's the part I think we have not come to grips with is how that should occur.

[U] Q. Yes, Sir.

[U] A. And the only way that you, as a Commander, can fix that is write an order. That says this is who will be-- make the decisions and who will be in charge. Is it the Lieutenant Colonel who is running the JDIC or is the Lieutenant Colonel who is running the detention facility; or is it the Colonel who is out there running the MI Brigade? And that's part that from a strict command and orders that I found to be missing in this structure.

[U] Now, I don't know if you have any evidence of anything different but I couldn't find any.

[U] COL. (b)(6)-2 & (b)(7)(C)-2: I don't know if I could say I've seen something like that at this point or not.

[U] MS (b)(6)-2 & (b)(7)(C)-2 No.

[U] GENERAL KERN: After the fact there's been stuff done.

[U] MS (b)(6)-2 & (b)(7)(C)-2 Right.

BY COL. (b)(6)-2 & (b)(7)(C)-2

[U] Q. Sir, at the time, CJTF-7 was new.

[U] A. Yes.

[U] Q. People were new. They went into what they believed was one situation and obviously encountered something else. Given all the operations that were on-going at the time, the search for WMDs, the search for all the folks in the deck of cards--

[U] A. Right.

[U] Q. The reintegration of Abu Ghraib under the Iraqi National Prison System and the growth of the prison population, should those kind of decisions been apparent at the time, do you think, given the complexity of the situation and

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what officials such as General Sanchez and General Wojdakowski knew at the time?

[U] A. That's a difficult question. And if I could just put a footnote on it. I just had, yesterday, spent briefing the Abu Ghraib findings to a group out in the West Coast. And the former Secretary of Defense Bill Perry was there. And he asked me the question. He said, "Did anybody highlight what would happen after the Baath Regime was taken down and the Iraqi Army was defeated in terms of insurgencies and potential for detainees et cetera?" And I said, "Not to my knowledge." I wasn't part of the early staff planning so I don't know what occurred in all of those discussions nor did I find any of that in our investigation. And his comment was, "Going into the Balkans when we sent the 1st Armored Division in we spent an awful lot of time discussing that that was going to be the outcome, insurgencies, detention operations, et cetera." Which raised another set of questions to me did that occur. And I don't know that it did. And I think our focus had been on--and this is an assumption I'm making. That we looked at defeating the Iraqi Army as clearly the primary task at hand when Iraqi Freedom was initiated. And so the CENTCOM focus was on Phases I, II, and III. I think there was an expectation and since I wasn't part of it nor did I see any evidence of it, this is an assumption on my part. That it was going to be much like Desert Storm when Phase III was completed. And that you're going to have a large number of EPWs not detainees. And that you would decide what to do with them and then they would go back into the general population after some agreements were made. And we would have peace, stability, and support. Not an insurgency. And so I have to believe that based the way that order was written that's the way the thinking went and that's the way the discussions were promulgated. Not around the fact that there was a highly--high probably that an insurgency would occur and that there would be a large number of detainees who we would have to deal with after the defeat of the Iraqi Army.

[U] I also gave the Kermit Roosevelt Lectures in England this past spring. And I was challenged by the--this was April before I was given this mission. I was challenged by some of the students there. Their War College is the equivalent National Defense Universities. Why weren't we prepared for the insurgency? Why didn't we know this was going to happen? And in the British planning, documents, they had those assumptions. I don't believe they were in ours. At least I don't--I saw no evidence of that. Both by the orders that were written and by the actions that were taken. And so I had in two cases I've been questioned since then why weren't we more prepared for these types of insurgency operations and detention capabilities, and I have to believe based on what I know, that we did not adequately

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assess that part of the situation. And so the organizations that ensued were not adequately structured to take into account what happened.

[U] We didn't--we established the CJTF but we didn't have a Manning Document for a CJTF. The orders that sent Military Police home and not prepare for future detention of larger numbers. We did not go out and prepare for intelligence collection operations to determine the leadership and targets of the insurgency. All of which were things that General Sanchez did. But he did it based on events that were unfolding and implied tasks that he had rather than on orders that were given either originally or subsequently.

BY COL.

(b)(6)-2& (b)(7)(C)-2

[U] Q. Yes, Sir, when you speak of planning for this potential insurgency, can you differentiate between CJTF-7, CFLCC, or CENTCOM responsibility in regard to recognizing that potentiality?

[U] A. The way we established the borders between CFLCC and CJTF-7, which nobody I think was terribly comfortable with retrospectively, where CFLCC was responsible for everything south of the Kuwaiti borders and CJTF-7 everything north, and then you had an MP Brigade that was split between them, suggests that CFLCC was sort of cut out of the operational side of it during that period. They were part of it up till the Phase II, Phase III, and in Phase IV were cut out of it. And so the players then are not CFLCC. They're the CJTF-7, the CPA, and CENTCOM. And I don't know--understate that because I think Ambassador Bremer and the CPA played a large role in direction given to General Sanchez. And the amount of time and resources he spent responding to that. In his Mission Statement, going back to Phase IV Operations, said support CPA.

[U] Now, where you start getting into, now okay let's back off to say we're a CENTCOM's role. Now, CENTCOM then had an integrating responsibility across that, but they also had to deal with the Horn of Africa, they also had to deal with Afghanistan, their Headquarters. But between Qatar and Tampa, not being in the Baghdad area, ended up defaulting many of the assessments and decisions directly back then to General Sanchez and Ambassador Bremer working together. Could have and should have CENTCOM played a stronger role? Yes, I think they should have.

[U] The ISG reported to them, not to Sanchez. And so you had a split there of intelligence activities as you suggested with a focus on WMD and other fifty-two high priority targets. It was a great frustration in talking--and I did not

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talk with General Franks, but talking with General Abizaid of the lack of cooperation with the ISG in supporting his operations. They had--they were far better resourced at the proper level with the ISG than they were at Abu Ghraib with the CJTF-7 efforts and so that was a frustration that he displayed or he reflected.

[U] And then you had--so you have in the middle of it, Bremer and Sanchez almost co-equals in terms of it, but by the way we operate, we look at the Ambassador role that Bremer was playing as being the "Senior Country Team Leader." And so there's almost an implied role there of subordinating the CJTF to the CPA. I say 'implied' not 'stated' because it said support. It didn't say you're subordinate. And so CENTCOM therefore should have been the integrating Headquarters to play a stronger role in that. But again, we had a change of command and a change of structure taking place there with General Franks departing and General Abizaid coming in. So that--you had lots of transitions. I mean one of the things you might want to do is, is just stack up the number of transitions and changes that were taking place--

[U] COL. (b)(6)-2 (b)(7)(C)-2 Sir, we've done that----

[U] A. --through out that whole process. And look when these things--when these events occurred and it's all during this period of transitions of Headquarters and lack of clarity as to who was responsible between CJTF-7, CFLCC, CENTCOM, CTF. And so there's a lot of confusion. Now, and that was one of our conclusions. Who is in charge? Not clear. Particularly the interrogations side of it.

[U] MS (b)(6)-2 (b)(7)(C)-2 All right, Sir. Sir, some have argued that in retrospect, General Sanchez and perhaps General Wojdakowski should have--and I don't really want to say "seen this coming" but should have seen these indications and warnings that surfaced at the CJTF-7 level that indicated there were problems at Abu Ghraib. And the incidents that were cited in your report included the incident at Camp Cropper, the ICRC Reports at Abu Ghraib, the CID Investigations that were going on; specifically at the point of capture types of abuses.

[U] A. Right.

[U] Q. That were happening then. The death of the OGA detainee at Abu Ghraib and so on. How would you characterize that, Sir? Should--should General Sanchez have----

[U] A. Retrospectively there were lots of warnings. That's what we said. Retrospect is wonderful for all us, right?

[U] Q. Right.

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[U] A. My view is that the staff did--there's two things that happened to General Sanchez and General Wojdakowski that were unfortunate. Retrospectively. One, they were overwhelmed with things to do, and under resourced to do them. And so they were trying to divide their attention between supporting the reconstruction of Iraq and support of the CPA and the building of the Government, and conducting military operations. And there were not enough--there was not enough time in the day or people to do both. I'm not even, I think today, with finally with two Headquarters there, we're probably structured to do that. But clearly we were not during this period.

[U] Secondly, we should have taken the time to do a thorough mission analysis and do some rehearsals for General Sanchez taking command of the CJTF. That didn't happen. It would have even been worse if we hadn't saw that in order for General Sanchez to take over the CJTF he had to be relieved by Harold Dempsey. General Dempsey was working for me at the time in Saudi Arabia. And had just been attacked. He just had thirty people killed in the terrorist attacks that took place against his contractor support for MELCO Corporation.

[U] Q. Which corporation, Sir?

[U] A. In Saudi Arabia. This is OPM-SANG that's where General Dempsey was assigned. He was conducting a NEO.

[U] Q. Right.

[U] A. I called up Franks and said, "Hey, time out." He can't pull Dempsey out of here now to go change command with Sanchez. He's got a military operation he's conducting. And Franks said, "Yeah. Okay. I agree." So that was delayed. But we were in a--we trying to push the change of command of getting Rick Sanchez into command of the CJTF without giving him all the preparation that we give every other Corps Commander. And this more, far more complex, than a Corps Command because we were also bringing in the Coalition Forces under the Polish Multi-National Division. So as the CJTF Commander he had to reorganize a Staff; build that command structure; and he did it without the benefit of doing the rehearsals and mission analysis that we would do prior to that type of operation. And perhaps that's a process problem that we have to do in-stride changes, and to really keep all that in focus on how much you're asking one person to do. One staff. Who had just fought a war and half of them had gone home. Wojdakowski happened to be one of the few that remained. He had a Chief of Staff of the CJTF who I never met because he spent his whole time with Ambassador Bremer--a Marine. And you had people

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who were coming into organizations like a CJTF without a Manning Document, a JDIC without a Manning Document. And the pace of operations during the entire period is increasing.

[U] The tempo just keeps building and building and building. So instead of detainees going away, detainees are increasing. Attacks are increasing. Who's causing the attacks? Unknown. Have to build the intelligence picture. So while we're critical of the Commander and the Deputy Commander and the staff, they were overwhelmed with things to do. I mean absolutely. I mean I saw that every time I visited. Every time I visited Rick Sanchez before the investigation he was just more and more tired. Okay? And he was just burning the candle at both ends.

[U] Q. Yes, Sir.

[U] A. And he in retrospect--and you look at the documents and he wasn't--it's not that he wasn't paying attention to Abu Ghraib. He was telling people treat prisoners, detainees, humanely. Abide by the Geneva Conventions. Improve the security at Abu Ghraib. So he personally was doing things and seeing things. But what failed to happen is; now the simple fact that the ICRC reports had been put on his desk, I think by an IG independent of the rest of the staffs who might feel some responsibility for not properly resourcing for doing it and say you've got a problem. Well and we need to do something. Never happened. Not until after we had the young Specialist report that there were abuses taking place.

BY MS (b)(6)2-2
(b)(7)(C)-2

[U] Q. And of course that wasn't their procedure at the time, the ICRC Reports were being handled at lower levels.

[U] A. Right. And I just think that's flat wrong.

[U] Q. And I believe that General Sanchez changed that process after this?

[U] A. After. Right. He did. And you know we ought to view--and you know I view IGs, my IR organizations, all of our independent review we have as a Commander's benefit. A plus not as a minus. And we should be using organizations like that and also you have another independent organization the Red Cross. We don't always agree with the Red Cross. I mean sometimes they make crazy recommendations that we ought to be feeding people you know filet mignon and living in air conditioning et cetera when our Soldiers are living in the dirt and eating MREs. That's a little bit of an overstatement but sometimes their recommendations are pretty wild. But they ought to be viewed as by the Commander as

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an independent group looking at how we are perceived by the world. And that didn't happen. Not until as you suggested after. And so I think that's one of the real shortcomings is that the staff held this stuff as a staff function. Of well that's probably not really going on. That's not true.

BY COL. (b)(6) (b)(7)(C)

[U] Q. Two things we learned there, Sir, I'm interested to hear your comment on. One was as (b)(6) (b)(7)(C) mentioned that was--that was the ICRC process at that time.

[U] A. Yeah.

[U] Q. But that was designed to be given to the lowest level commander responsible, and the staff people that assisted in making those replies were doing that were Assistants. That procedure has since been changed.

[U] A. Yeah. Right.

[U] Q. Secondly some interesting comments we heard were that, some of the folks who read that report simply did not find it believable. Some of the stuff they read, they just felt was so outlandish that it could not have possibly been true because we asked some of those questions.

[U] A. Yeah.

[U] Q. You know did you see it? Who did you talk to? And--and those were some of the responses we heard. And I wondered if you had heard anything similar to that?

[U] A. Exactly the same. Exactly the same thing. Yeah, the process caused the reports to get staffed. People were unbelievers. And nobody went down to check it. Now could this possibly be happening? And the other assessments that I've got is they said if you believe that independent--number one, we use the Red Cross to help our Soldiers. And we have people who are captured then one of the first things we ask is for the Red Cross to go see them and report back to us. So why wouldn't we want to have that same visibility on the other side? And so it was--the process was--you know, and it's easy to go back in retrospect. Well that was just not good. It did not help General Sanchez. It did not help the US. Whether the reports are outlandish or not, we ought to say well this is an independent body which the rest of the world believes that we ought to go see for ourselves what's going on at the Command level not the staff folk. And so I--that is one of the I think the real places where we undermine

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General Sanchez' ability to take the right action not giving him that report and say, "God, look at this."

BY MS (b)(6) (b)(7)(C)

[U] Q. Sir, whose responsibility would it have been to change that process so that reports did come to General Sanchez?

[U] A. All of our staff's processes are generally under the supervision of the Chief of Staff.

[U] Q. Yes, Sir.

[U] A. Where they run the staff functions with change processes like that, but in this particular case, as I said, the Chief of Staff was supporting Ambassador Bremer so you end up then with Wojdakowski almost becoming a de facto Deputy and Chief of Staff for the Military Operations. And so you could say that the Chief of Staff should have done that, but the Chief of Staff was assigned something else to do. And so it defaults itself back to the Deputy.

[U] Q. And did you note any evidence where General Wojdakowski was involved at all in reviewing Red Cross Reports?

[U] A. I did not see where he ever got the Red Cross Reports, no.

[U] Q. Yes, Sir.

[U] A. As far as we could determine is the most senior person that ever saw the Red Cross Report before all the abuses became apparent was General Karpinski.

[U] Q. Did she have a duty to notify General Sanchez in your view?

[U] A. She should have. Absolutely. And she had the responsibility for running the detention operations. That was clear. Her Commander, the Lieutenant Colonel, who was relieved, understood and all the Colonels who were in the Military Police, not just the Colonels but all the Military Police, understood that they were responsible for the care, feeding, welfare of the detainees. And when that report came to her, she should have, in my view, taken it directly to Sanchez, Commander to Commander and say, hey, we have a problem.

[U] Q. All right, Sir. Sir, changing tacks a little bit here. One of the findings in the report was "Leaders failed

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to take steps to effectively manage pressure placed upon JDIC personnel. Leaders within the MI Community commented upon the intense pressure they felt from higher Headquarters for timelier actionable intelligence. And these leaders stated that this pressure adversely affected their decision making." From our discussions with some other witnesses, the prevailing opinion is those leaders had failed to effectively manage this pressure were pretty much at the 205th MI Brigade level on down. Do you share that view or--

[U] A. Yes. And it has two parts to go with it I mean because there--as I said there was no chain of command there in the MI Brigade. So normally you would expect a Battalion Commander to protect his Company Commanders, and his Company Commanders to protect their Platoon Leaders; and the First Sergeants. Et cetera in the same chain of command. But that's not the way the MI Brigade is organized. You know, they--and I said in one of the earlier discussions we had they never assigned a mission of interrogations to a Battalion Commander and said you're responsible for all interrogations. And so the Brigade Commander who had responsibility for the whole country then became the only one there who had that mission. And that became just a mission far greater than any one person could handle. So the, , you know I just think the way we were structured there failed us.

[U] Q. Sir, whose responsibility should it have been to place a Battalion Commander in charge of the JIDIC?

[U] A. Pappas.

[U] Q. Yes, Sir. Okay. Sir, let's talk a little bit about the TACON relationship between the 800th MP Brigade and CJTF-7. That's generated a lot of discussion amongst folks on whether or not that was a proper relationship and whether it was dysfunctional and did that dysfunction somehow contribute directly or indirectly to the abuses. Would you like to comment on that?

[U] A. I think a lot of the discussion is smoke. I mean if--whether you're TACON, OPCON, or attached or whatever, your command relationship is with a higher, if things aren't going right Commanders need to take it to the next level of their command for action regardless of the relationship. And so, you know, we have this all the time. When you--when it's habitual and you're use to it. Where you have FSB Commanders that are in support of, direct support, but not attached to Brigade Commander. And they take mission statements every single day from a Brigade Commander. If it really gets out of hand, they go back up to the DISCOM Commander. The same thing is true with our Air

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Defense Battalions or MI Battalions. We have all these people broken out and the command relationship are TACON or some other, OPCON or attached but not very infrequently attached directly.

[U] In every case my experience has always been if things aren't going right the Commanders go back to their Senior Commander who can implement a change and say, fix it. That's a command responsibility that we all have. And so this thing about TACONs and OERs and all that to me is while from a direct authority and perhaps a legal standpoint correct, from a Command responsibility standpoint I don't believe is pertinent. I just--that's the way I've operated as a Commander through my career. Is hey, if I get some Battalion Commander, for which I have an element working for me, who may have no command relationship, but he happens to be in my area and it's not right, I'll pay attention when he comes in. And says, hey this is not right.

[U] Q. In your view would General Wojdakowski and General Sanchez have responded to General Karpinski if she came to them for help with resourcing even though technically her chain for support actually went back to the 377th?

[U] A. Yes. I think. And clearly----

[U] Q. They argued that they did.

[U] A. And there's a couple of--there is a couple of cases there where Sanchez would say, she should have been standing on my desk saying, "Hey, you dummy, you know we've got some problems going on down here and you need to do something." And that's--I don't think that was very comfortable for her to do that. You know, and so you could fall back, well I really belong to CFLCC. She wasn't getting orders from CFLCC. That the detention facilities weren't in CFLCC's area of responsibility. Nothing that was relevant was in the CFLCC area of responsibility. It was in the CJTF. And so she really didn't, in my view, have a choice but to go to Sanchez and say, "Look you've given me these missions. You have not resourced me to do these missions, and so I've got to change something or you're going to have to move...." She also took no opportunity to move people. She could have moved some of the people who were at the detention facilities up north or down in Bucca to Abu Ghraib.

[U] Q. Why didn't she do that, Sir?

[U] A. I just--that's a wonderful question. It's a failure I believe on her part to say okay, if you're going to go to the Commander, and say, all right, Sanchez, you've given me a mission. It's a mission which I can't accomplish. Here's what

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I've done. I've taken every resource that I own and I've given-- I've reallocated them so that I have given Abu Ghraib absolutely the most resources of any place I can. The only place left is the Camp Cropper of the ISG and I can't touch them because they've been directed there by CENTCOM. I need your help. We cannot conduct this mission. He couldn't, I mean he couldn't have ignored that, if she did that. But first you have to do your part say okay what are the resources I have at hand? How can I best reallocate my resources? And then how do I then want when I'm out what do I do next? Only one choice. She could have taken McKiernan with her. Said, okay, Boss, you and I need to go talk to Sanchez. I mean there's lots of ways you could do that. But you can't just sit there and not do anything.

[U] Q. Is that what it appears she did, Sir?

[U] A. In my view.

[U] Q. Did you come across any evidence, Sir, where she went back to the 377th? Her immediate higher Headquarters and asked for help, asked for resources?

[U] A. I couldn't find any. But the 377th is another story. Now I didn't investigate that.

[U] Q. Right.

[U] A. But, no, I dealt with them all the time in my role as the AMC Commander in terms of--that's where all my people were attached.

[U] Q. Right.

[U] A. And they were overwhelmed by their mission of just trying to provide the logistics support into the theater and that was just overwhelming for them.

[U] Q. In your view did they 'fail', and that might be a harsh word, to provide their doctrinally required support of the 800th MP Brigade in terms of logistics and personnel and administrative support?

[U] A. I did not look at that. So--but my judgment probably is yes, they didn't provide, it. But I don't know that they were ever asked either. I saw no evidence that Karpinski went back to the 377th, either to the Commander or the Deputy, whoever was there at the time and said, hey, you know give me some truck drivers to go secure this prison. I don't have enough people. I saw no evidence of that, but I didn't investigate that

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part of it. So I'm just giving you that as my perception from my dealings with the 377th.

[U] Q. So, Sir, the report said that this TACON relationship created a dysfunctional relationship for proper oversight and effective detention operations. Can you pinpoint for us where it became dysfunctional? Because you're already-- you've kind of clearly laid out that----

[U] A. It was dysfunctional.

[U] Q. Right. But it--it probably shouldn't have been given the normal command responsibilities that----

[U] A. Right.

[U] Q. --Commanders should take.

[U] A. Right. I mean where it fell down is again it goes back to the assumptions of what Phase IV was going to be. And this whole piece kind of started snowballing on people by the time it got to the end of the summer and into the fall when the majority of the abuses took place. And so if your assumption was that we're going to be in a--it is Desert Storm II, and when it's over, it's over. And then you start sending people home. And a new Commander shows up, Karpinski, then everything looks like okay, now this is going to be a piece of cake. And each day it starts growing on you. It gets worse. And then by the time it gets to the point by late summer or early fall, August-September timeframe, where the numbers start increasing, the attacks start increasing, you have all these changes taking place at all different levels throughout the organizations. I don't think that General Karpinski had the perspective to even ask about TACON versus attached versus OPCON. She went and did her tour of the theater. Talked to Wojdakowski, understood what the mission was and never went back to challenge it, not until after the fact when people started pointing fingers at her. Then she said, well this relationship was all screwed up.

[U] So I don't--I'm not sure that she really--and we didn't--I didn't ask her, and I don't remember General Fay's many hours and pages of interrogation of her after the fact that he went back and asked her, did you ever ask for that relationship to be changed. I just don't think that happened. So when you say it's the wrong relationship but you never ask for somebody to change it, again it's the same as the resourcing problem. If you're given a mission and you take all your resources and do the best you possibly can and are still short, then you need to go back. So if it was the relationship or whether it was the resources, in either case she either needed to

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go back to McKiernan, Wojdakowski, or Sanchez or all three and say this is broken. Fix it.

[U] Q. So in your view was either----

[U] A. And I just don't think she had the wherewithal to understand that.

[U] Q. Yes, Sir, and that sort of leads to my next question, in your view, did General Sanchez or General Wojdakowski, did any of their actions contribute to the dysfunctionality, if that's even a word, or--it sounds like the brunt of that rested with General Karpinski. Her failure to understand what a TACON relationship meant, her failure to have the wherewithal to address the problems?

[U] A. In my view, the brunt of it did. On the other side, we--what we said--I think it was in General Jones' report was that General Wojdakowski having more experience than she did, being senior, should have changed either the relationship or just gone directly to the tasking through CFLCC or some other way, to fix the problems that were occurring. In my view, General Wojdakowski had so many other things that he was being asked to do, it was just one of the many tasks. And since he never got reported through him the gravity of what was going on, he never saw really why it was something I needed to put on the top of the list and go fix.

[U] MS (b)(6)28
(b)(7)(C)2 All right, Sir. Sir, do you have questions along the same line before we talk about policy letters?

BY COL. (b)(6)28 (b)(7)(C)2

[U] Q. I do have a question related to --Sir, you brought up some comments about General Sanchez being moved into a position of Corps Commander and then CJTF-7; didn't have the traditional training and familiarization we give our Corps Commanders as part of that process. And the numerous transitions that went on during that period between leaders. I do want to ask you with respect to General Wojdakowski and Colonel Pappas. We've heard similar comments that General Karpinski was a new commander. Colonel Pappas was a new commander.

[U] A. A new commander, right.

[U] Q. Given this big mission not only in Iraq but at this particular facility. In General Wojdakowski's position, I think at the time he was just the DCG of the Corps. He had about nine separate Brigades----

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[U] MS (b)(6) (b)(7)(C) All right, Sir. Sir, do you have questions along the same line before we talk about policy letters?

BY COL. MILTNER:

[U] Q. I do have a question related to --Sir, you brought up some comments about General Sanchez being moved into a position of Corps Commander and then CJTF-7; didn't have the traditional training and familiarization we give our Corps Commanders as part of that process. And the numerous transitions that went on during that period between leaders. I do want to ask you with respect to General Wojdakowski and Colonel Pappas. We've heard similar comments that General Karpinski was a new commander. Colonel Pappas was a new commander.

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[U] A. Right.

[U] Q. --reporting to him. And I think some people tell us as many as about eighteen under CJTF-7.

[U] A. Right.

[U] Q. Some of the people we've talked to believe that given the situation where General Wojdakowski understands he has two new, Brigade Commanders, one who needs guidance. The other who would be more receptive of it and is seeking it. Both are new to Brigades. Both are new to this combat situation. Both are in this difficult situation at this prison. One with detention. One with interrogation. And with regard to General Wojdakowski's responsibilities as the direct supervisor and Commander of those organizations, did he do enough to recognize he had these two new commanders in this particular situation they were in to provide proper oversight?

[U] A. I mean retrospectively I would say, no, he didn't do enough. But I also don't know if he had enough time to do enough. I don't believe he did. With 18 Brigades, up to 18 Brigades, depending upon when and where you count them. He had somewhat of an overwhelming responsibility. And I can throw in LOGCAP issues, and I could throw in CPA issues, and I can throw in things that are not command but are delegated to him. He was acting both as the DCG and the de facto Chief of Staff within that organization. And I don't know what the other 16 Commanders were throwing at him. That were coming at him from all the different perspectives. The Polish Multi-National Division. What new dimensions that brought into it. You know so we asked him to do an awful lot. Far more I believe than was achievable by one person in a 24-hour day. So should he have done more? To answer that question is blatantly yes. Could he have done more? That's a different question. I know his personality. I don't know Karpinski's personality. But I'm going to guess that a Two Star six foot three male General who had just been through a war and a One Star Female, Brigadier, who just showed up are going to be a little bit different in personalities in how they behave and react.

[U] No, so I know if you want to get Wojdakowski's attention you know you had better cuss at him a few time, stomp on his foot, and stare him right in the eye and say, "Do it." I don't think--you know, Karpinski wasn't ready to do that. You know that's an Infantry Commander who is put in that mission and has just gotten six thousand things to do, and everyday the priorities on them are changing. Whether it Bremer. Whether it's the Poles. Whether it's logistics. Whether it's

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operations. Or whether it's detention operations. And so he was trying to balance all those things. And that is, you know it was an almost an inhuman task to try to do all that.

[U] Q. And again the reason I asked we looked--we keep coming back to this Brigade level problem at the prison. And we're not trying to reinvestigate Abu Ghraib. We're trying to get a much broader look at what happened across Iraq and across CJTF-7. But when you get back reconstructing this whole thing and you can find a number of reasons why this occurred now with the 205th and the interrogation problems; and we looked to leadership and failures in leadership. That's why we get to General Wojdakowski. Because he was directly tasked with supervising those Brigades.

[U] A. Right.

[U] Q. Understanding what he was resourced to do. Understanding what he was charged to do, the question comes, did he fail in anyway in his responsibilities regarding, the supervision of those Brigades?

[U] A. In my view the answer is it's a matter of degree. He had, I don't know how many tasks he had on his plate. I was only investigating one Brigade. One aspect of it. So when you add it all up, it's a different question than when you just look at did he fail in the supervision of that Brigade. Those two Brigades.

[U] And--and in my view the answer to that is in the end, yes, he did. Otherwise these things would have been fixed. That's what people are paid to do. But when you put on top of that, the 16 other Brigades that he was asked to supervise and the twenty other missions that he was trying to accomplish, then the question is if I put the same lens on everyone of those other ones, I probably would have found other failures too. We put the lens on these two Brigades. Because that's where the abuses took place. He may have prevented ten other things from happening under those other Brigades and missions because his energy was going towards those. And failed to do it over there. So I believe that the failure is the one of his being adequately resourced to accomplish all the missions that he had, and having the staffs not providing him the right--and the Commanders not providing him the right feedback that says we need help. This is not going right.

BY MS (b)(6)-(7) [REDACTED]

[U] Q. Sir, was there anything that General Wojdakowski could have done to get help? To help him to handle

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this myriad of tasks that he now had? Was there something that General Sanchez should have done?

[U] A. Well, , you know, I--

[U] Q. I mean was the fact that----

[U] A. I'm second guessing Wojdakowski right now. It's easy to look back and say you know he should have gone back and done a lot of the things that we talked about in terms of reassessing the mission; reassessing whether we had the right resources to do it; and going back and asking CENTCOM, to help him with that mission. He could have, as you also suggested, perhaps gone down then to CFLCC and the 377th and said, hey, we need battalion support up here to keep the operations at Abu Ghraib. You know we need to relieve the MPs at some of the duties that we could assign to somebody else and let them focus on this. We could do the same thing with Military Intelligence. But it's very easy to sit here in judgment retrospectively not looking at how the other priorities were stacked up on his desk. On--the failure is that, you know, he never got that ICRC Report. And he never got the other indicators. Maybe he did some of the CID investigations that were going on. But the whole overwhelming number of missions that were being thrown at that organization where today we have two Headquarters.

[U] Now and we have, if resourced it a 100%, they're far better resourced than they were back in the time that this was all going on. Everybody else had gone home too.

[U] Q. Right.

[U] A. Yeah, think about what Wojdakowski said, "Hey, Wallace went home. Here I'm still here."

[U] Q. Yes, Sir.

[U] A. You know most of the--the one, two, three's had all gone home. He's still there. So it was he and McKiernan are kind of the guys left and they split their functions between the borders that they established so that their--the friction that was kind of where these things kind crossed back and forth was not adding to the ability to get it all done either.

[U] MS (b)(6) (b)(7)(C) Yes, Sir. All right. Sir, I'm going to go ahead and move on to the interrogation policy.

[U] COL. (b)(6) (b)(7)(C) Sir, I think we're on your calendar until about noon.

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[U] GENERAL KERN: I can stay as long as you want.

[U] MS [REDACTED] Okay.

[U] COL. [REDACTED] All right, Sir. Thank you.

BY MS [REDACTED]

[U] Q. Sir, the finding in the report stated that, "interrogation technique memos did not adequately set forth the limits on interrogation techniques. Misinterpretation of CJTF-7 policy memos led to some of the abuses at Abu Ghraib, but did not contribute to the violent or sexual abuses." And then later on it states, "Policy memoranda promulgated by the Commander of CJTF-7 led indirectly to some of the non-violent non-sexual abuses." What I want to focus on, Sir, is the part about the memos did not adequately set forth the limits on interrogation techniques. I've read the letters several times. And they are long and pretty involved. And to someone who is not a MI person, it seems like that a lot of limitations and controls are included in those letters. And that's just my view. What is your view, Sir? I mean in what way did those letters fail to adequately set forth limits? Can you think of any specifics?

[U] A. Yeah, very simply. They should have said abide by the Geneva Convention above all other things period. When all else fails go back to the Geneva Conventions.

[U] Q. In the first letter it actually does address the Geneva Conventions specifically on a couple of the techniques. You know where it warns that some other nations view this technique may approach violating the Geneva Conventions, so it would have to be used with caution. Those same cautions were omitted from the second letter.

[U] A. Part of the problem is that there were so many. Here's my basic thesis. You're an interrogator.

[U] Q. Okay.

[U] A. Okay. You're a twenty-year old female. You're going to interrogate some 40-year old grizzly old Iraqi. What rules do you use? Well I went through MI School and they taught me all these rules. I went through a lot of training. But those were about Prisoners of War not about detainees. Now this guy who goes up here is not wearing a uniform. So how do I treat him? What's the rules? Are they the same or are they different? Pretty simply it, you know, it should have been for you the twenty-year old they're the same. The thing we taught you. Yeah. Don't deviate. Okay? But what happened was there are these letters

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that, whether it came out of Secretary of Defense's Office, out of Guantánamo, out of Afghanistan; they're sitting in all of these computers down there. They're all reading all of these different things and saying, well I wonder if this applies or--so while they're doing these different letters, which were change, the official letters, and being drafted, they were conducting interrogations. With no specific guidance other than all these drafts of things that were going. And then some of these same Soldiers had operated in Afghanistan. Some of them. A couple had actually been in both Guantánamo and Afghanistan. And so you've got these young kids who are under pressure. That other point that we went back on. To get answers. Who have these multiple sets of guidance and by the time it finally comes out, it's so long and they've already read all these drafts all along; and it's just very murky to them.

[U] And so you've got a young kid who writes up an interrogation report that says I want to do something that's in violation of the Geneva Convention. And it's approved. Now do they know any better? No. Because they didn't--they had no clear guidance. You know after looking at all of these drafts; after looking at all these discussions; after operating in two or three different theaters to how they were really supposed to behave. When the simple statement, the simpler things are the better in life particularly when you're under pressure, is abide by the Geneva Conventions and you will do fine.

[U] That--I mean you've read through them all. Does that strike you as just being self-evident that I should just follow the Geneva Convention, what I was taught in school? It didn't to me. What it added up to me was lots of confusion. The other part that added up to me on it is our interrogators are too low a grade. And so we're asking pretty junior people, Specialist, Sergeants, the most senior person is a Warrant Officer and then a Major in the staffing process whose sort of, his records kind of disappeared, from most of what we looked for. These people are making judgments that are at a national strategic level. That's unfair. You know it should be very simple and direct for a young Sergeant who's going to conduct an interrogation that this is how you do it. And we don't teach you one thing for a hundred and some hours at Fort Huachuca and then you send you into a theater and say well we were just kidding. I mean that's just, I don't know. An expectation. We have terrific young kids. But that's a little bit beyond I think what we would expect of the twenty to twenty-five year olds ability to handle so many different documents. So when--and I'm not even sure how many of them ever saw the final one that got down there. There was so many drafts in-between.

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[U] Q. And I guess I have a couple of questions based on that of what you just told us, Sir. You mentioned that there were several drafts that were in the possession of some of these Soldiers, but of course at that time period only two policy letters were actually signed by General Sanchez. The one in September and the one in October. And of course there was one later on in the spring, but specifically on those two. Whose responsibility was it in your view to make sure that those Soldiers were only operating with signed policy letters?

[U] A. In my view the way that--we established it should have been the person in charge of JDIC, Lieutenant Colonel Jordan. Now you could also say then that was the responsibility of the Senior MI Commander there who should have ensured across the entire Military Intelligence Operating that it was the right policy at the right place.

[U] Q. Yes, Sir. My second question is, MI folks will argue that they are in fact not limited by what is taught at Fort Huachuca and the specific techniques that are described in the FM. They like to refer to a paragraph that says something about interrogation techniques are only limited by the imagination of the interrogator with the caveat of course that interrogations have to comply with all applicable laws and regulations.

[U] A. Right.

[U] Q. That differs a little bit from what you said where because we're dealing with such junior folks, they ought to limit themselves to what they were taught at the school. And, --

[U] A. Well, I think what--when it says it's up to the imagination of the interrogator, it says--it also says don't violate the law.

[U] Q. Right, Sir.

[U] A. I mean that's a clear distinction of what they're taught.

[U] Q. Yes, Sir.

[U] A. In telling somebody to take all their clothes off and be naked while you're interrogating them or to put them into isolation with no--and deprive them of all their senses is also--both of those are violation of law.

[U] Q. Yes, Sir.

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[U] A. And they knew that. When you asked them after the fact. You say, "Did you really think about that?" "Well, yeah. I guess it was."

[U] Q. What techniques did they think they were using when they were stripping the detainees? Did that even fall into one of the categories?

[U] A. No. That is a--no, something that I think fell out of Special Operations Afghan CIA. It sort of migrates its way into the Soldiers.

[U] Q. Sir, it is our understanding that, that General Sanchez believed, he recognized that he had this mix of experiences from different countries. As well as a mix of training levels within his interrogators and that actually drove his decision to actually publish these policy letters and put out some guidance and set up some limitations. Was that a bad decision on his part in your view?

[U] A. No, I don't think it was a bad decision. It just it was too long in coming. Now that--because interrogations were taking place while all these drafts were being written and staffed. And what nobody ever knows, I mean how many times have you ever gone down and check on the fact that somebody never has the--I mean you do it all the time as an IG. You don't have the most current regulation. You don't have the most current policy. You're following something that is outdated. You know and unless you have a religious way of going back and checking that, you never really know what people are using. Hell, we all go back and pick out the last FM we got when we were in school. And that happened in this case too. One of which had a violation of the Geneva Convention in it.

[U] Q. And which one would that be, Sir?

[U] A. I don't even remember the date right off. I'd have to go back and look at it. It was--it's not the current one. It was one that was published I think in '87.

[U] Q. Which technique did it include that in your view violated the Geneva Conventions?

[U] A. I'd have to go back and look at to tell you the truth.

[U] Q. Okay.

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[U] A. But I know they--they purposely changed the FM because when the lawyers went back and looked at it, they said no, that's not right. And I just don't remember.

[U] Q. I know that Mutt and Jeff was one that was dropped from the original.

[U] A. Yeah.

[U] Q. And I don't know if that's the one that you're thinking about.

[U] A. Yeah, and I don't know if that's the only one or not.

[U] Q. I think there were a few.

[U] A. Okay. But I know I've used FMs out of world War II because they are simple and easy to read.

[U] Q. Yes, Sir. Sir, in your view did any of the interrogation techniques that were listed in either letter violate the Geneva Conventions?

[U] A. No, I don't think they did. The interpretation of them violated the Geneva Convention in some of the cases, and the two or three that bother me are --one is the dog misinterpretation completely. Dogs are to be used for security not to scare somebody.

[U] Q. Right.

[U] A. And that was taken completely out of context. And then the other one is the isolation. It is a technique which can be used. It's allowable, but you have to do it under the right conditions and that didn't happen. So it wasn't just the techniques that were there. It was the way they were implemented.

[U] Q. And whose responsibility was it, Sir, to ensure they were implemented within the Geneva Conventions?

[U] A. Again I would have to say at Abu Ghraib it should have been the JDIC leader, Commander, Director, however you want to--Lieutenant Colonel Jordan.

[U] Q. Yes, Sir. Sir, do you know whether any of the detainees that were abused by the MPs--

[U] A. Uh, huh.

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[U] Q. The horrible pictures that everyone has seen. Were any of those folks going to be interrogated? Do you know?

[U] A. There were, if I remember correctly, in General Fay's report there are one or two that were to be interrogated.

[U] Q. But the bulk were just regular criminals?

[U] A. Yeah. I'll just say my thesis going in was that there was direction given to stage this in front of the people you wanted to interrogate. To frighten them so that they thought if we don't cooperate this is what's going to happen to us. And that was not true. That thesis was proven false. So, how they chose those people, I believe is just a fact that the night shift essentially grabbed whom they wanted.

[U] Q. Were they bored?

[U] A. Historically, and there's all sorts of papers and studies that have been written about the people who are running detention facilities will take advantage of the people they're detaining. That occurs in prisons-civil prisons. It occurs almost in every case. So psychologically unless people are prepared to discipline that from not happening, you can expect that it will happen. And so that's the first--you kind of set people up when you're in charge and somebody else has no means to bite back.

[U] Secondly, , this is my personal view, this is an amoral group of people of four or five. And you've seen that in some of the trial reports that have come out since then.

[U] Q. Right.

[U] A. And so I believe their behavior was based on a lack of morality and a position of authority which allowed them to take advantage of their low moral standings and character. I will tell you, my wife thinks they were trying to make a pornographic movie. I mean you just look at the things they did. They're absurd.

[U] Q. Yes, Sir.

[U] A. And then the physical beatings that they were stomping on people that were already hurt and injured is just-- that's inhumane. I just can't fathom any American Soldier doing that to somebody else. You know? Unless that other person is threatening them with their life and he's got a knife at their

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throat. And the only way that they can do it is to beat them back.

[U] Q. Yes, Sir.

[U] A. But that clearly was not the case.

[U] Q. It's my understanding, Sir, from my review of reports, that actually there were only a handful of abuses that actually occurred during interrogation.

[U] A. That's correct. That we found.

[U] Q. Yes, Sir, mostly involving nudity or some degree thereof.

[U] A. There is the one case with the dogs.

[U] Q. And that was my question, Sir. So there was evidence that dogs were used during an interrogation?

[U] A. Yes.

[U] Q. Okay, and you----

[U] A. Clear evidence of the interrogators bringing dogs into the cell with the explicit purpose of scaring the----

[U] Q. But that did not occur in an interrogation booth, it occurred in a cell? Do you remember?

[U] A. That's correct.

[U] Q. Okay, Sir. All right.

[U] A. But it was, nevertheless it was a preparation for an interrogation, it was not--

[U] Q. Okay, Sir.

[U] A. It was very clear that that's what they were doing.

[U] Q. And they indicated their understanding was the use of dogs was authorized based on the policy letter?

[U] A. I'm not if it was their understanding or their saying that that was their understanding.

[U] Q. Yes, Sir.

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[U] A. The policy letter which said that dogs could be used was for security.

[U] Q. Right.

[U] A. It was not for interrogations.

[U] Q. Yes, Sir. Do you think any of these folks legitimately misunderstood that, or do you think they interpreted it that way on purpose?

[U] A. I can't read their minds. I don't know.

[U] Q. Okay, that's fine, Sir. All right. Sir, I'm going to go ahead and pause the tapes and pull them out because we're getting really close to them reaching a stopping point.

[U] A. Sure.

[U] MS (b)(6)-(b)(7)(C)-2 The time is 1200 and I am going to stop the tapes and switch them out.

[U] MS (b)(6)-(b)(7)(C)-2 The tape recorders are back on and the tape-recorded portion of this interview continues.

BY MS (b)(6)-(b)(7)(C)-2

[U] Q. All right, Sir, was it your understanding that Colonel Pappas believed that he had the authority to use dogs during an interrogation?

[U] A. No.

[U] Q. Okay. Sir, on the second letter, the interrogation policy stated that it specifically applied to security detainees as opposed to EPWs and Civilian Detainees that were listed in the first letter. Now, folks we have talked to have said that was a deliberate characterization because at that point they no longer had EPWs. Hostilities had ceased. Everyone we had in that prison could be categorized under one category and that was a 'Security Detainee'. In your view did that change result in any confusion? Did it cause any of these folks to believe that they had some folks that were of some other category and therefore this policy letter didn't apply? I'm just trying to pin down in what way did that particular change cause any confusion.

[U] A. Yeah. I think it was more of a legalistic determination in writing a letter that there was no such thing as

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an EPW in Iraq anymore. That anybody that was picked up was a detainee. We had gotten rid of the Iraqi Army. It didn't exist. So therefore it was very difficult to identify anybody. At the time that they wrote that final policy letter that you had no Prisoner of War. And so it didn't--I think the interpretation in preparing it was it didn't apply. That's the people who preparing the document. The people who were implementing it both the Military Police and Military Intelligence Soldiers, I don't believe that it was impressed on them that the person that they were--I mean that it--there is a distinction. We trained them exclusively on EPWs in our schools and now all of a sudden they have somebody that's shown up that said 'Detainee'. Well if we're going to justify the Geneva Convention who cares what we call them? It's the rules that apply not what you label the person that's sitting there. So I think it's a legal distinction that was made rather than by preparing the document rather than an interpretation of how people were to look at the person that they had there. And it's still a challenge in Afghanistan. They still call them PUCs.

[U] Q. P-U-Cs?

[U] A. Yeah.

[U] Q. Yes, Sir.

[U] A. And so we've got all these labels that are out there that are not doctrinal terms; that are not legal terms. They're a person that you are given to keep in this facility, detention facility, that is now labeled a 'detainee'. I don't think the Soldiers to them it really makes a significant difference. I think legally it does.

[U] Q. Do you think it caused any of them to think that some of these detainees did not fall under the protection of the Geneva Conventions?

[U] A. I think those that had experience in Afghanistan or Guantánamo started questioning that. So we kind of set up a level of misunderstanding about that, but when they go back and read it again, it's clear that yes the Geneva--you know you asked them the question did you understand that the Geneva Convention applied at Abu Ghraib and they said yes.

[U] Q. Yes, Sir, okay.

[U] A. So it caused confusion, but in the end they really did understand that regardless of what label or--in Abu Ghraib the Geneva Convention applied.

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[U] Q. All right, Sir. Sir, what role did General Fast have with respect to the interrogation policy letters? It's our understanding that she was actually absent. Was back in Germany getting some medical work done when the first policy letter came out; and quite frankly we're having difficulty identifying anyone on the C-2 staff that was involved in the development and staffing of those interrogation letters and we were wondering----

[U] COL. (b)(6)(2)(C) (b)(7)(C)(2): Short of the SJA.

[U] MS (b)(6)(2)(C) (b)(7)(C)(2): Right. Right. But in the C-2----

[U] GENERAL KERN: But not in the C-2, yeah.

[U] MS (b)(6)(2)(C) (b)(7)(C)(2) In the C-2, but not in the C-2 itself.

[U] COL. (b)(6)(2)(C) (b)(7)(C)(2) Correct.

[U] GENERAL KERN: Yeah.

[U] MS (b)(6)(2)(C) (b)(7)(C)(2) We know that there were 205th MI people involved in providing input.

[U] GENERAL KERN: Yeah.

BY MS (b)(6)(2)(C) (b)(7)(C)(2)

[U] Q. But we can't pin down the name in the C-2.

[U] A. That's consistent with what we found. A Captain who was down in the JDIC was the primary MI Brigade personnel involved in the staffing of it and at the CJTF it was the SJA Officer that it was primarily staffed, not in the C-2. And our finding was consistent. General Fast was out of the country when the drafts were being prepared and reviewed and then came back after they had in fact had been approved.

[U] Q. Yes, Sir, should she have had a role in the staffing of this interrogation policy either by doctrine or by just little military duty?

[U] A. In my view clearly yes.

[U] Q. Okay, Sir.

[U] A. If not she somebody in the C-2, of at least a Colonel's level should have been involved.

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[U] Q. It has been our view that it appears that the SJA actually took the lead on developing the interrogation policy. That they were the ones that, that rightly so, made the determination as to whether or not the techniques that were listed fell under the Geneva Conventions. And that the input that they got primarily from the MI folks was on what types of techniques to use. There doesn't seem to be any evidence that the MI folks were ever really involved in making a determination on Geneva Conventions applicability. Is that your view as well?

[U] A. Right. Yeah, that's consistent with what we saw.

[U] Q. Sir, was it a failure in your view on General Fast's part to not have been more involved in the development of the interrogation policy? Because we don't see where even after she came back and was present at the time of the October policy that she even for that matter read it before it was actually published.

[U] A. In retrospect I think the answer to that is yes, she should have. In reality I believe what happened was that there were a thousand things she was supposed to be doing. Building the JDIC and the process of how it was to operate and doing the fusion of the intelligence was a rather significant and huge task by itself. So when she reappeared and found that the policy had already been approved and she was getting results back from it, intelligence interrogation reports--her mission was to look at those intelligence reports and fuse them into usable intelligence by the Commander; and so you know, I think instinctively, said that's done. I mean why would I go back and redo something that's already giving me what I need to do and I've got six thousand other pieces of it. Dealing with the ISG, dealing with the CPA, dealing with the national and international issues. How do we get intelligence across those boundaries? How do we fuse all this? How do I take the tactical intelligence and fuse it with these interrogation reports? How do we cross-reference all these databases that are being produced? How do I cross-level with interrogations that are going on within Guantánamo? Is there any correlation between what we're hearing there and what we're seeing there? And so you know what she was asked to do as an Intel Staff Officer I think was overwhelming, time consuming, rather than going back to looking at something that had been approved. But I said retrospectively now that you see that there's some--well the confusion that was caused by it. You know, I--

[U] Q. Yes, Sir, now she might argue that even if she had read the interrogation policy memos it was still not her call to make a determination on whether or not the interrogation

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techniques were okay under the Geneva Conventions, and that in fact all of those techniques, most of them were found in the FMs. Some of them were not. But they were interrogation techniques that were being used elsewhere in the world with some success.

[U] A. Yeah.

[U] Q. So that it was unlikely that she would have had a problem with policy letters; and so in fact her failure or whatever you want to call it to participate in the staffing of those policy letters had no effect on what was ultimately----

[U] A. Well, I would agree with that. I mean whether something is legal or not is not her call. It would be the--you would go to the SJA and say--particularly if you had a SJA who happened to have taught that the law school.

[U] Q. Right.

[U] A. You would assume that he reviewed it and said it was okay. It was okay. And if I were--if I were in any position other than the SJA and somebody said--handed me a document and said is this legal? I would say take to the SJA. You know so I don't think that that statement is inappropriate at all for her to have said that.

[U] MS (b)(6)-2 & (b)(7)(C)-2 Sir, do you have questions about policy letters?

[U] COL. (b)(6)-2 & (b)(7)(C)-2 No, thank you.

[U] MS (b)(6)-2 & (b)(7)(C)-2 Okay.

[U] GENERAL KERN: Yeah, I would just footnote. I mean the biggest problem I have is the fact that we have so many different policy letters and that the interrogators are a group of Soldiers and contractors who came from lots of different organizations. And most of them are Reservist and they were pulled down out of these units and put into this one organization called a JDIC. When you have organizations like that, the simpler you can make life, the more clear you make things for them, the better. We did just the opposite. Just make it very difficult.

BY MS (b)(6)-2 & (b)(7)(C)-2

[U] Q. And, Sir, the policy letters were several pages long and it had annexes to it. Multiple safeguards were listed----

[U] A. Right.

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[U] Q. --that were in and of themselves fairly long paragraphs and little tiny print.

[U] A. You know it's sort of interesting what our-- what our policy and doctrine says is there should be one thing in the interrogation booth. The Geneva Convention needs to be posted.

[U] Q. Yes, Sir.

[U] A. Keep it simple.

[U] Q. Yes, Sir.

[U] A. Now how you interrogate somebody is your interpretation of how you're behaving. Now, if you respond to a tough approach take a tough approach. If you respond to the nice guy approach, hey you're their best friend. The Geneva Convention applies.

[U] Q. Yes, Sir. And concerning the number of policy letters, Sir, we've already talked, who should have ensured that only signed policy letters were in fact being implemented. But some have argued that the interrogation policy development was in fact an iterative process. That they published the first letter, sent it to CENTCOM, while simultaneously implementing it, got feedback from CENTCOM, the CENTCOM lawyers, that they believed was valid, and thus took that input and changed the letter which became the 12 October, 2003 letter; and were in fact making an effort to improve the policy letters. And that in itself was not a bad thing.

[U] A. It wasn't. It was just too late. It should have been done before we started the operation. Did we know we were going to conduct interrogations? Hell, yes. You know, why do you wait until you're months into an operation to write the policy letter? That's the problem because then you end up with all these Soldiers arriving, transfers of authority, changes of commanders; all those things that happened; and they don't have a final policy letter to use.

[U] Q. Sir, I'm going to play devil's advocate here. Some have argued the exact opposite. That there shouldn't even have been a need for a policy letter from the get-go.

[U] A. No. I could-- yeah, I could take that same view. You have a Geneva Convention. You have a doctrine. You have a training routine that you put people through. I would agree with that.

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[U] Q. Yes, Sir.

[U] A. But my--I guess my point is that if you're going to write a policy letter, you should do it before the operation so that you can train people on how to implement that policy letter not in stride.

[U] Q. But it doesn't appear that General Sanchez recognized he had those different backgrounds and different levels of expertise in his interrogators until, I want to say, the September timeframe.

[U] A. I don't know that I could put a date on it, but he clearly didn't when he came out of the Division Command and thrown into this Corps Command Headquarters, stood up these organizations, and the level of understanding of the capability of each individual I'd doubt that he had any idea for many months.

[U] Q. Right. Yes, Sir, so that wasn't necessarily a failure on his part perhaps?

[U] A. No.

[U] Q. Just--okay.

[U] A. I mean how many MOSs do you have in a CJTF?

[U] Q. Exactly.

[U] A. You got other Services that are showing up now or could have. Not--didn't have a lot of them showing up but you did have Navy people in there. You did have a couple of Air Force JSTARS Analyst.

[U] Q. JSTARS?

[U] A. Joint Surveillance Target Acquisition Aircraft that flies around.

[U] Q. The AWACS?

[U] A. Not AWACS. But it's a--

[U] Q. Oh, okay, it's different?

[U] A. Different, yeah, but they were the Air Force people who got put into that JDIC.

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[U] (b)(6)-2 & (b)(7)(C)-2 All right, Sir. Do you have anything along those lines, Sir, before I--

[U] (b)(6)-2 & (b)(7)(C)-2 Generally as it pertains to interrogation policies. Sir, you've kind of brought up the fact the ISG was there. There were OGAs running around and there were some other numbered Task Forces. I imagine, you recall, that did not work for CJTF-7 but worked for CENTCOM or other authorities.

[U] A. Right.

[U] Q. Sir, did you, find any indication in your investigation that some of these other organizations may have been operating on interrogation policies within Iraq, that was generally designed for outside of Iraq? Like GITMO or Afghanistan that tended to confuse the situation.

[U] A. Yeah. I'd say there is evidence to that effect, I did not find any policies that said that and I did not get into any of theirs, because they wouldn't let us for one. I don't have any of their documents that they were using. So I don't know precisely whether they were using Afghan or Guantánamo policy letters in Iraq. It's clear, you know, from the evidence the way they were behaving that they were using something that was not within accordance of the Geneva Convention.

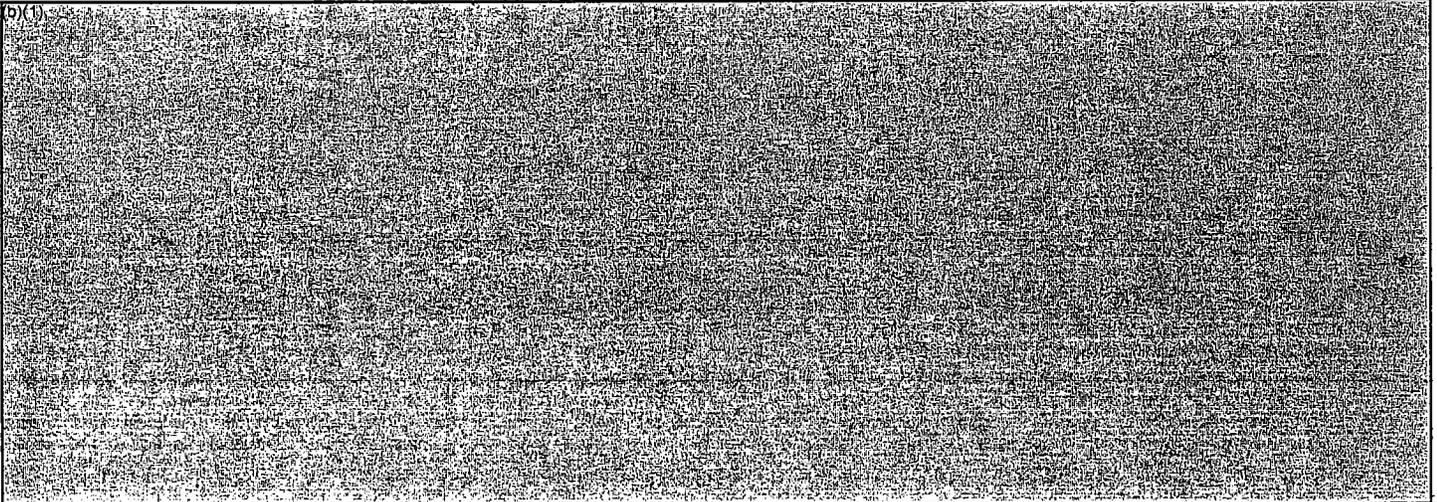
BY (b)(6)-2 & (b)(7)(C)-2

[U] Q. And what specific evidence did you run across, Sir, that would cause you to come to that conclusion?

[U] A. Two or three pieces of it. The first that they were not registering detainees.

[U] Q. The ISG was not?

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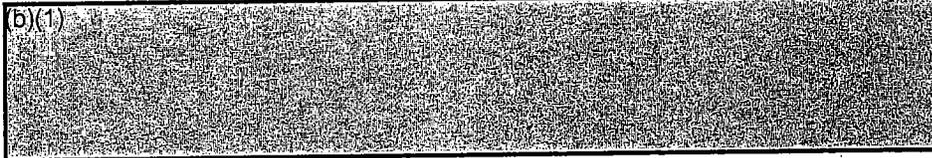
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[U] Q. The Saudis did?

[U] A. No, no.

(b)(1)

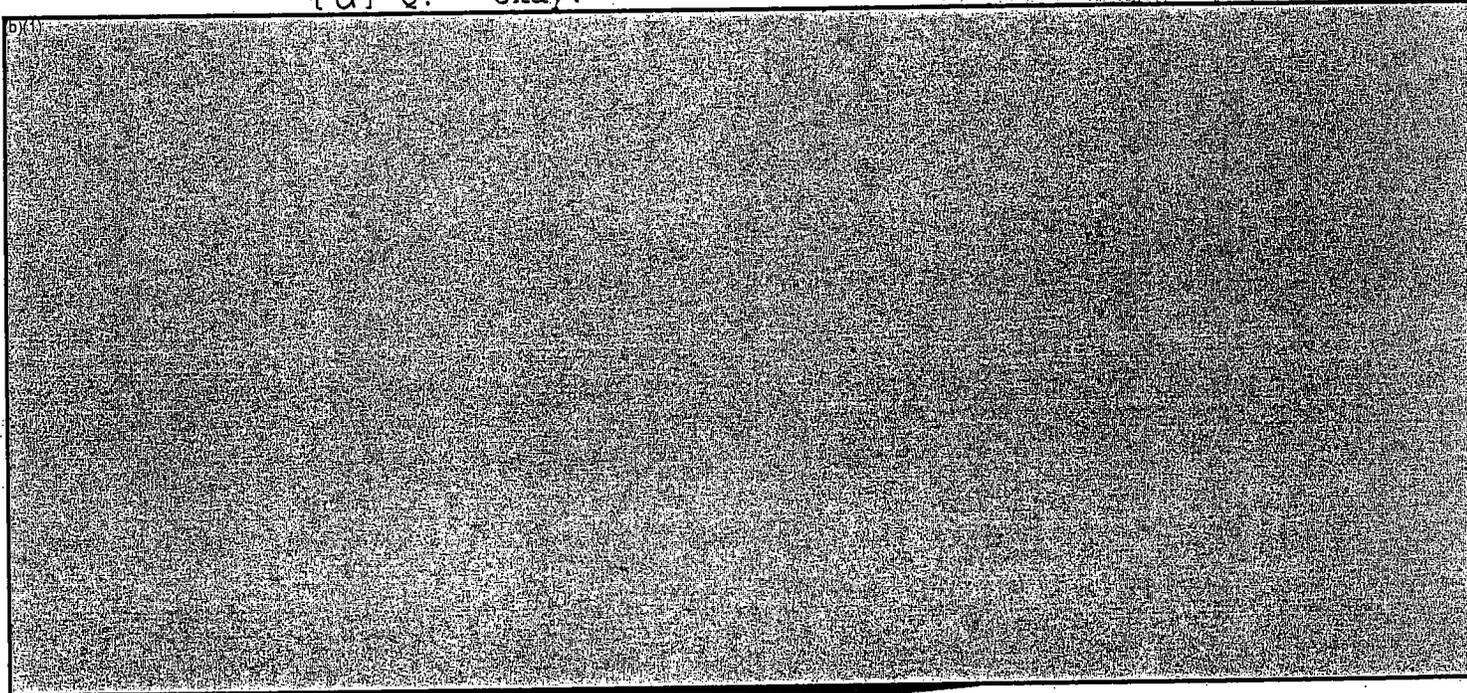


[U] Q. Right. Okay.

[U] A. See we did not know that they were Saudis.

[U] Q. Okay.

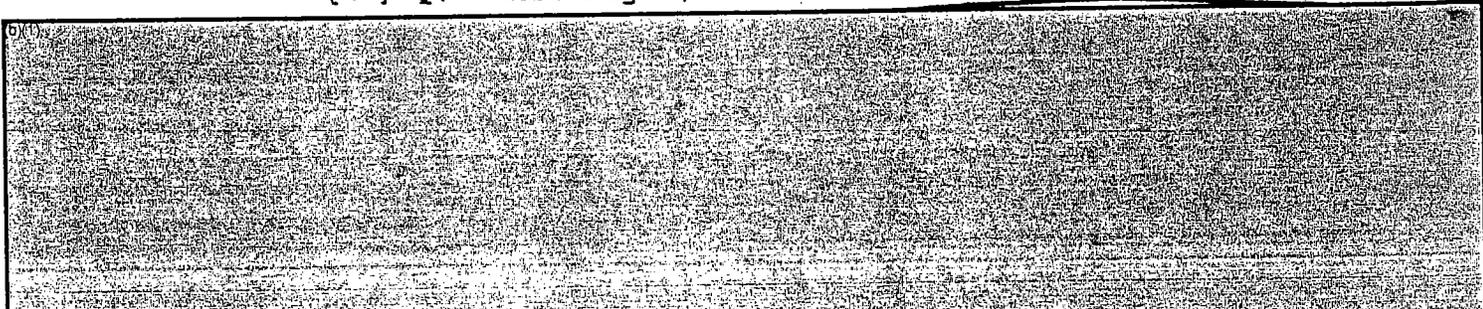
(b)(1)



[U] And the third case is the one which has been brought to court. You know where the SEALS brought in a member from the CIA detention who finally died in the facility. If they'd done it right the first thing they would have brought him in for medical attention. Register him and then taken him to a cell. That didn't happen.

[U] Q. All right, Sir.

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[REDACTED]

[U] Q. How about [REDACTED] Sir? Of course it has multiple names, but did you come across any evidence that they were involved with abusing detainees either at the point of capture or during interrogation?

[U] A. I could not tell you.

[U] Q. Okay.

[U] A. I mean there are so many different confusing names between ISG, [REDACTED] CIA, SEALS, Special OPS Units, et cetera. That it's hard to say when somebody showed up or did something that I can identify precisely what organization they came. And there are no records of it. And so it'd be strictly a verbal report that we would have for you.

[U] [REDACTED] Okay. Do you have any more questions along that line, Sir?

[U] COL. [REDACTED] No.

[U] [REDACTED] Okay.

[U] GENERAL KERN: , I think the frustrating part for all of us is that, and I will just tell you just so that you understand. Senator Reed when I was getting ready to testify said, "Did you talk to Ambassador Bremer?" I said, "No." And he said, "Why not?" I said, "Well I didn't have any reason to. No one said that he told us to do something that was illegal or immoral." And he said, "Well who does the Station Chief work for?" I said, "Bremer." And he said, "Who does Fast work for?" "Well she works for Sanchez and for Bremer." "Now, how do you know that if Fay was told no, we're not going to cooperate with you that that didn't come from Bremer?" I said, "Well, I don't." I asked Barbara Fast that afterwards. "I had never even--I did not take part in..." I said, "You're being accused of cooperating with Ambassador Bremer and holding back information." She was absolutely taken back. You know her statement to me. Not a Sworn Statement. It just was, "I had absolutely no discussion like that with him." But that accusation is out there.

[U] [REDACTED] Okay.

[U] GENERAL KERN: I find no evidence that there is any truth to that, but we do clearly have that; and there is a lack of evidence of what the CIA did.

Because they would not provide us any documents. And a lot of the documents I think you've seen were destroyed before we could get them. They were actually in the prison. So there's a lot of things that are taken by verbal account not by any document that we could prove to you.

[U] MS (b)(6)-2 & (b)(7)(C)-2 Okay, Sir. Any more, anything else on that one?

[U] COL. (b)(6)-2 & (b)(7)(C)-2 No.

[U] MS (b)(6)-2 & (b)(7)(C)-2 Okay.

[U] GENERAL KERN: Let me just give you a footnote on this too. I was last week up at Harvard and met with all the Fellows that we have there. Different Services and I don't know if you've talked to this one. One of them was the SGS for Sanchez.

[U] MS (b)(6)-2 & (b)(7)(C)-2 The SGS? Who was that, Sir?

[U] GENERAL KERN: I'll have to go back and find his name now.

[U] MS (b)(6)-2 & (b)(7)(C)-2 Okay.

[U] GENERAL KERN: You're asking one thing I have a huge weakness is I don't remember anybody's name.

[U] MS (b)(6)-2 & (b)(7)(C)-2 Okay, Sir.

[U] GENERAL KERN: My Aide was with me, so he could probably--we can get you the list of people to figure out who it was.

[U] MS (b)(6)-2 & (b)(7)(C)-2 Okay.

[U] GENERAL KERN: I did not know him personally. They asked me two questions. And I briefed them on Abu Ghraib because--so that they'd at least have some background. As Fellows they were representing the--there are two questions to me from the other Services. Why haven't we done anything yet. Why is the only thing that we see is happening is to Privates and Sergeants? So there's a frustration out there about the amount of time its taken to proceed with anybody above the rank of MP Sergeant. And the SGS came up to me and said, and it just probably went on for five minutes, about how much General Sanchez had tried to do to overcome any of these problems that were out there. Polices he had written. Directions he had given. Et cetera. He--he was, without my even asking him and all I gave was a few charts of

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here's the facts of what we found. The same thing I presented to the press and to the Senate. He was very, very strong on what he thought General Sanchez had tried to get done. And that was just his background for you.

[U] [REDACTED] Right. Okay, Sir. We'll check with your Aide afterwards and get his name.

[U] GENERAL KERN: Yeah.

[U] [REDACTED] All right, Sir, we're going to ask you for your legal opinion now. On several things.

[U] GENERAL KERN: Okay.

BY [REDACTED]

[U] Q. I just want to real quickly review what Article 92 of the UCMJ says regarding dereliction of duty, and that is dereliction in the performance of one's duties consisted of three elements: First, a person had certain duties. Secondly, that that person knew or reasonably should have known of those duties; and three, was derelict in the performance of those duties through willfulness, negligence, or culpable inefficiency. So three elements of proof for Article 92 of the UCMJ, Dereliction of Duty. I know you're not a lawyer, Sir, but given those three elements, and given that the report found that General Sanchez and General Wojdakowski failed to ensure proper staff oversight of detention and interrogation operations, and given the complex and violent environment in which CJTF-7 was operating in an under resourced manner as the report pointed out, and I think most people know and understand, would you, in your opinion, say that General Sanchez was derelict in the performance of his duties as it pertain to----

[U] A. No, I would not.

[U] Q. And can you elaborate on why?

[U] A. Yeah, I think that you could find some proof that the first two elements may have been supportable but not the third.

[U] Q. Yes, Sir.

[U] A. There was clearly in my view absolutely no willfulness, negligence, or inefficiency on his part to commit dereliction of duty violation.

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[U] Q. All right, Sir, the same question for General Wojdakowski.

[U] A. And I would say the same thing.

[U] Q. Yes, Sir. He of course had the more specific direct oversight of those people----

[U] A. He had the more specific oversight so there is more evidence of the first elements of being supportable. But he was so over tasked by the number of things that he had to do, that I saw no evidence of anything either--clearly not willful. You know, I don't know how much more efficiency you could have squeezed out of that turnip.

[U] Q. Right. All right, Sir, and then the same question for Major General Fast?

[U] A. No. I think General Fast, one, in part because of her absence during a critical period of this, and two by her tasking to build an intelligence picture to all those elements that we discussed earlier; never really saw that her mission was oversight of the interrogations. Establish of the JDIC was her mission and she had done that. Establish of what happened with the information that came out of it, but not the conduct of the interrogations. So I think, you would have in my view, she accomplished the first two very admirably of establishing the right processes and of doing the intelligence fusion, and I don't see that conduct was something that she felt nor would--did anyone else believe was in her bailiwick. The conduct of that went back to the Commander. And that's the problem I felt the whole Military Intelligence organization where you--when you don't assign a task to a Commander you end up with staff in-between.

[U] Q. Right. And so even though there was no formal assignment, it does appear that Colonel Pappas at least attempted to wrap his arms around it and accept responsibility, but that responsibility was never formalized by an order as you've gone through.

[U] A. That's right.

[U] Q. Yes, Sir.

[U] A. The order encompassed all of Iraq not specific to Abu Ghraib.

[U] Q. Yes, Sir, and of course it's a little murky with General Fast because of the doctrinal responsibilities that

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she had as the C-2. But in your view did not rise to dereliction?

[U] A. In my view it was not dereliction. --

[U] Q. What could she have done that she didn't do?

[U] A. I guess what she could have potentially have done is told the Commander to throw the policy letter he had written and go back to the basic doctrine and we'd all be in much better shape.

[U] Q. And how about with respect to the JDIC, Sir?

[U] A. I think--and--now this depends upon and I cannot give you an assessment other than the fact that we know she spent half her time supporting Bremer and the ISG efforts and all of that. And in terms of the fusion piece. Now she did visit the prison. The only other thing that she could have done is okay, I've traded this organization called the JIDC and I've given it some taskings, to go down and do an AAR of how it was operated. But I would have expected that Jordan would have done it and reported to her on it. So perhaps the part that she failed to do was to require Jordan to come back and provide her that assessment.

[U] Q. And of course she viewed Jordan as working for Colonel Pappas?

[U] A. Right.

[U] Q. Okay.

[U] A. And Jordan swears that he didn't work for anybody.

[U] Q. Yes, Sir. And finally, Sir, even though we have not talked about him a lot, was Major General Tom Miller, the C-3 derelict in his duty in anyway?

[U] A. No.

[U] Q. Now we talked about maybe he should have been more involved in terms of operations and interrogation operations being one of those operations that he should have been responsible for and perhaps should have been--done more in terms of the integration of interrogation into the operations. You had addressed that earlier.

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[U] A. And I don't think he's derelict in that. I think it's--and part of the whole problem I would argue is that a CJTF is a Joint Organization.

[U] Q. Yes, Sir.

[U] A. Albeit we're talking about our Army. So where is the J? Where is the doctrine and the training for how this organization is going to--and the only Joint person we had there was the Marine Chief of Staff who was working for Bremer.

[U] Q. Right.

[U] A. And we had an Australian Lawyer and a couple of other people who were parts of the staff. But we really lack a training organizational process. A BCTP-like effort for Combined Joint Task Forces that are created out of whole cloth when you're in the middle of an operation. You know we always write an order. Send people off. Put them through the training. Do the AARs, retraining them where they fail; and keep doing it. None of that happened. So when you go down and you say were these people derelict? They were doing, I believe, the very best they could do given a myriad of missions which over tasked them to begin with. So they were trying to sweat through the priorities of what was important. And that's where the system failed, I believe rather than dereliction of any individual to provide that. I mean were those folks sitting there just kind of twiddling their thumbs and going out to the bar at night drinking? Hell no. They were working seven days a week, eighteen, nineteen, twenty hour days. Jumping between two Headquarters. Between the CPA and the CJTF trying to pull all those pieces together. And I think we need to remember that our report is focused on specific narrow areas. that had lots of complicity of where it broke down. But to put it back at a senior staff level who had these other things to do and label it dereliction I believe was wrong.

[U] Q. Yes, Sir.

[U] A. Were they perfect? No. Did they miss something? Yeah. Were they derelict? No.

[U] Q. All right, Sir.

[U] A. That's my opinion.

[U] XXXXXXXXXX Okay, Sir. Sir, do you have any other questions?

[U] COL. XXXXXXXXXX Sir, I do. And again this is where we're seeking some senior leader perspective. Realizing that

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you're, number one, the General, two you've investigated the situation; three you've testified to Members of Congress. Obviously, these reports will become part of the Army Record, and they're going to have a very long life. They will be requested for official purposes and read by any number of people. Potentially even, you know, Members of Congress I would expect. So, there's a lot of concern about holding senior leaders accountable or responsible in these matters. Obviously we have to make a finding based on the facts as far as allegations go.

[U] A. Right.

[U] Q. But outside of that, how do you interpret or describe holding people accountable? How would you describe that process or what that charter is for the kind of folks we've talked about today? Understanding, how the Army is going to be looked at, how these individuals will be looked at of for what they did; what they may have failed to do. Potentially through no fault of their own. What is holding them accountable mean to you?

[U] A. I think it goes back to my original statement that when we accept command, we accept responsibility for all the people that are in that command. And I use the word 'responsibility' as opposed to 'accountability'. You hold everybody inside your command accountable for their actions. In General Sanchez's case, I believe he accepted the responsibility for what happened, and he directed investigations to find the accountable person where it failed.

[U] When it became a question that perhaps he might be involved, he asked to be recused from it and asked for another Appointing Authority. So I believe his integrity in trying to define accountability is very clear. And in doing that and saying that okay maybe I had some responsibility. Maybe I had some accountability as well. We found and I personally believe that he holds himself personally responsible and has said that publicly for what happened. And had he been given that Red Cross report and the staff provided him some of the investigative CID actions at the tactical sites and put all that together; had he had an organization, a Four Organization.. A staff that was practiced and functioning together that would come to his attention. But it didn't until after the atrocities, abuses, were reported. So I believe he took responsibility to fix accountability and did the right things. And he personally from an accountability standpoint did the right things both in what he tried to do previous to that and what he was doing after the fact once he found out that something in fact had gone awry.

[U] I believe General Wojdakowski, has more direct responsibility over those Brigades. And in retrospect,

should have taken those two Brigade Commanders in and sat them down and defined more clearly and changed the command relationship if necessary. I also believe he was over tasked in the number of Brigades he was asked to supervise and the kinds of things that he was asked beyond just command relationships to solve problems on. So I don't believe that he was derelict and was and held himself accountable for what did happen. And just didn't see this other piece of it developing; and again he didn't get the Red Cross report until after the fact. Which to me keeps coming back as one of those key points.

[U] If I were to fix the whole problem to begin with, and one I believe doctrinally and organizationally we need to fix the Military Intelligence community so that there is clear accountability and responsibility and a line of authority. That is the case in the Military Police Units. Not in the case of the Military Intelligence Units.

[U] The second thing that I believe for accountability when you're conducting detention operations and you have mixed organizations. Military Police, Military Intelligence, OGAs, you need to clearly define someone in charge of all aspect of it. Now that has been done retrospectively. And it probably ought to be in a multi-Corps type operation. It ought to be a General Officer not a Staff Officer and not a Colonel who has other General Officers who have pieces of the organization. You need to put a senior General Officer in charge. And that will fix the accountability and responsibility chain. So that things that became unclear are no longer a question.

[U] And third I believe that detention operations historically have created problems. We saw it Viet Nam. We saw it here. We see it in our own prisons here in the United States. Penitentiaries and state prisons. And so there ought to be warning flags and independent assessments as long as we have detention operations going on. That we have an independent method for commanders to get report to go outside of that chain of command. Somebody who is an IG, an ombudsman, however you want to describe that function and it will be joint function so it may not fit precisely into Army terms. But the Commander needs that feedback directly or we will see these kinds of events happen again I believe.

[U] And finally I personally believe that the Geneva Convention ought to be held almost sacrosanct in how we conduct operations. Both because it represents the values that "we" expect of our Soldiers but it also represents how we would like our Soldiers be treated or anybody else. It might be contractors. It might be Department of the Army, Department of Defense Civilians, by other countries if they are held as

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detainees. And so I think we need to ensure all those pieces occur in order to ensure that we have accountability and responsibility tied together. You can't separate them and that's what happened here, we separated them.

[U] [REDACTED] All right, Sir.

[U] COL. [REDACTED] All right, Sir. Are you wrapped up with your formal questions for everyone?

[U] [REDACTED] Yes, that does wrap up my formal questions, Sir. Is there anything else you would like to add or anything that we failed to ask you that you would like to bring out concerning what we've discussed?

[U] GENERAL KERN: We've implied it a couple of times, but when you do transitions and you do--and we have more TOAs that are coming up, in operations as I look at it. I think that's one, we ought to ensure that we don't change all of the commanders at the same time.

[U] [REDACTED] Right.

[U] GENERAL KERN: Which is one of the contributing factors to this. And two, we ought to have some checks after transitions occurred to ensure that directives and policies which have been implemented prior to it continue the way we want them to occur after the transition. Now who should do that? I said, and clearly you and I are sensitive to detention operations. There are probably other operations that ought to have some oversight as well, but that's one that ought to make sure that when you go through a transfer of authority and there's transitions of commanders, that we don't lose very focused discipline over how those operations are conducted.

[U] [REDACTED] Yes, Sir.

[U] GENERAL KERN: Too much can go wrong.

[U] [REDACTED] Yes, Sir. Okay. Is there anyone else you think we should talk to?

[U] GENERAL KERN: But I would suggest that SGS who worked for-- and we'll find his name out there. For General Sanchez, because he, as I said, he provided some rather spontaneous insights to me. And the part that is troubling me right now is I don't know what discussions took place in the preparation of the Phase IV Plan. In terms of how we should expect insurgency and detainees, my indications are that the Brits thought there was--that we were naïve. Now--

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[U] [REDACTED] So who would you recommend, Sir? Folks at CENTCOM?

[U] GENERAL KERN: CENTCOM.

[U] [REDACTED] Okay.

[U] GENERAL KERN: Now the problem is we're now going back three years. CENTCOM was a Joint Staff. I mean that's when that plan was written.

[U] [REDACTED] Yes, Sir.

[U] GENERAL KERN: So the people who are there now aren't the same people.

[U] [REDACTED] All right, Sir.

[U] GENERAL KERN: And I guess you ought to bang the CIA IG to get on with.

[U] [REDACTED] Yes, Sir.

[U] GENERAL KERN: The DoD IG in your case to go back up.

[U] [REDACTED] All right, Sir.

[U] GENERAL KERN: To get that part done. I talked with the former Military Assistant to Secretary Rumsfeld, now SOUTHCOM Commander, and he thought that unless Rumsfeld energized the CIA we'd probably--this would just drag on.

[U] [REDACTED] All right, Sir.

[U] GENERAL KERN: So John Craddock who understands them pretty well knows that--you--and they need some urging to get this thing moving.

[U] [REDACTED] Sir, I'm sorry, what does he command now?

[U] GENERAL KERN: SOUTHCOM.

[U] [REDACTED] SOUTHCOM. Okay. I'm sorry. Okay.

[U] GENERAL KERN: And I guess the other point I would make is not to go talk to more people but there are a lot of people out there who are waiting for results.

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[U] [REDACTED] Right.

[U] GENERAL KERN: Much more than you know the MP Sergeants who are being prosecuted right now.

[U] [REDACTED] Right. Yes, Sir. All right. Unless you have anything else to add then, Sir, I'll go ahead and go into the formal read-out.

[U] GENERAL KERN: Okay.

[U] [REDACTED] All right, Sir. We are required to protect the confidentiality of IG inquires, and the rights, privacy, and reputations of all people involved in them. We ask people not to discuss or reveal matters under inquiry. Accordingly, we ask that you not discuss this matter with anyone, except an attorney if you choose to consult one, without permission of the Investigating Officers.

[U] Your testimony is part of an official Inspector General Record. Earlier, I advised you that while access is normally restricted to persons who clearly need the information to perform their official duties your testimony may be released outside official channels. Individual members of the public who do not have an official need to know, may request a copy of the record to include your testimony under the Freedom of Information Act. If there is such a request, do you consent to the release of your testimony outside official channels?

[U] GENERAL KERN: I think the answer is yes. But I guess the question is, I--how about all the people whom we name in this? Do they get to see it before somebody else does? That's always troubled me.

[U] [REDACTED] Not necessarily, Sir.

[U] GENERAL KERN: So if Jim Smith asked for a copy of my testimony he gets to read it and Sanchez and Wojdakowski and Fast and Pappas and Jordan don't?

[U] [REDACTED] May not, necessarily no.

[U] COL. [REDACTED] Your testimony, Sir, is normally redacted before it's sent out. If you put--if you say FOIA no that is the highest restriction and it generally will not be shared. If you say FOIA yes, then it can be shared for unofficial purposes and there will be some redaction to protect the confidentiality.

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[U] GENERAL KERN: I have mixed feeling on this one. Do you have any----

[U] COL. [REDACTED] No, Sir. We--we make no judgment on it. It is absolutely your decision. And I would do whatever just feels right for you, Sir.

[U] GENERAL KERN: I'll say yes.

[U] [REDACTED] All right, Sir.

[U] GENERAL KERN: Because I think as you suggested earlier we're going to have to study and use this in the future to--

[U] COL. [REDACTED] One question we didn't ask, Sir, is there anything we discussed today that you think was classified?

[U] GENERAL KERN: I'd go back and look at the discussion around the CIA. General Fay and I have had this discussion a couple of times, and he believes that what we've got is not classified. The CIA has challenged that.

[U] COL. [REDACTED] All right, Sir.

[U] [REDACTED] All right, Sir.

[U] GENERAL KERN: Now, I don't know if they've challenged it just because they don't want it discussed or not.

[U] [REDACTED] Yes, Sir. Okay, do you have any questions, Sir?

[U] GENERAL KERN: No.

[U] [REDACTED] All right.

[U] GENERAL KERN: I appreciate what you're doing. I know this is a tough one.

[U] [REDACTED] Yes, Sir. The time is 1245 and this interview is concluded.

[Testimony of GENERAL PAUL J. KERN
was recorded by means of magnetic tape, and transcribed and
certified by [REDACTED] Certified Closed
Microphone Court Reporter, United States Army Inspector
General Agency, Presidential Towers, Crystal City,
Virginia.]

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Testimony of **LIEUTENANT GENERAL ANTHONY R. JONES**
Was taken on 14 October, 2004 at Fort Monroe, Virginia,
Between the hours of 1600 and 1745
By Ms [b)(6)-2 & (b)(7)(C)-2] and Colonel [b)(6)-2 & (b)(7)(C)-2]
Department of the Army Inspector General Agency, Crystal City,
Virginia,

[U] MS [b)(6)-2 & (b)(7)(C)-2] The time is 1600. This tape-recorded
interview is being conducted on 14 September, 2004----

[U] COL [b)(6)-2 & (b)(7)(C)-2] October.

[U] MS [b)(6)-2 & (b)(7)(C)-2] What did I say? September. 14 October, 2004
at Fort Monroe, Virginia.

[U] Persons present are the witness Lieutenant General Jones
and the Inquiry Officers Colonel [b)(6)-2 & (b)(7)(C)-2] and Ms [b)(6)-2 & (b)(7)(C)-2]

[U] This inquiry is directed by the Inspector General of the Army
concerning allegations against senior officials.

[U] An Inspector General is an impartial fact-finder for the
Directing Authority. Testimony taken by an IG and reports based upon that
testimony may be used for official purposes. Access is normally restricted
to persons who clearly need the information to perform their official duties.
In some cases, disclosure to other persons may be required by law or
regulation or may directed by proper authority.

[U] Upon completion of this interview, I will ask you whether you
consent to the release of your testimony if requested by members of the
public pursuant to the Freedom of Information Act. Since I will ask you to
provide your Social Security Number to help identify you as the person
testifying I've previously provided you with an explanation of the Privacy
Act.

[U] Do you understand it, Sir?

[U] LTG JONES: I do.

[U] MS [b)(6)-2 & (b)(7)(C)-2] You are not suspected of any criminal offense
and are not the subject of any unfavorable information, Before we
continue I want to remind you of the importance of presenting truthful
testimony. It is a violation of Federal Law to knowingly make a false
statement under oath.

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[U] The first finding is: There is sufficient evidence to reasonably believe that the personnel on the CJTF-7 staff, principally in the OSJA and CJ2X, had knowledge of potential abuses and misconduct in violation of the Geneva Convention at Abu Ghraib. This knowledge was not presented to the CJTF-7 leadership.

[U] Sir, do you recall who specifically in the Office of the Staff Judge Advocate and in the CJ2X had this knowledge of potential abuses? Do you recall them by name?

[U] A. First of all in the SJA, Colonel Warren and his people, due to the fact that the investigations and the reports- ICRC that they saw, had sufficient evidence to determine that there were— abuses going on.

[U] Q. Uh, huh.

[U] A. In Colonel Warren's statement I think he concludes one of the things that he failed to do was to inform the Commander. The C2X people were people who habitually went to Abu Ghraib. I concluded by association and the numerous trips they did to working with the interrogators, that there were abuses on-going. They should have gained knowledge of them and reported accordingly. I didn't get further down into that, but I concluded that after reading the numerous witness statements and the interface that they had with the prison systems.

[U] Q. Okay, Sir. Did you have any indication that General Fast as the CJ2 was one of the folks that was aware of these potential abuses?

[U] A. No, I didn't. I had indications that when she was aware, then she reported to Sanchez. Again I found that— in her position and what she did, based on the environment she was in, she was so tied up during that period of when she came in the country through January with establishing the intelligence operations and trying to pull the Coalition and the Agencies-interagency-together, that she didn't focus on interior—on the interrogations.

[U] Q. Uh, huh.

[U] A. I know some people find that hard to believe, but she spent more than 50% of her time supporting CPA.

[U] Q. Yes, Sir.

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[U] A. And, and she did yeoman work in trying to get— the intelligence and the priority of the intelligence requirements out and make it seamless from tactical to strategic. Establish the communications, with little or no resources.

[U] Q. Right.

[U] A. And, and I think that's somewhat true of most of the staff. I think their focus was not down—I think it was towards the CPA and fighting the counter insurgency.

[U] Q. Yes, Sir.

[U] A. That's basically, what I found.

[U] Q. Sir, you mentioned that when General Fast was apprised of abuses that she reported it immediately. Which circumstances were those?

[U] A. One of the first ones I saw was the 4 November case where the—it was also classified as 'Ghost Detainee' where they—the detainee was brought to Abu Ghraib by OG8 personnel, early morning hours. Subsequently died there at Abu Ghraib. That was reported to her by Pappas by phone. She reported to Sanchez. Sanchez directed her to contact the Chief of Station and to ensure an investigation is being done, and that's what she did. The CID—and not only the Agency then started an investigation, but also did—the CID because of their death.

[U] Q. Is there any other instances, Sir, that you're aware of?

[U] A. There was another case I believe it— at Cropper.

[U] Q. Uh, huh.

[U] A. I don't know the specific details reported. And in that case, she also reported it and that was passed up to CENTCOM because the Iraqi Survey Group did not come under the CJFT-7. So that was reported back up to CENTCOM to investigate and was subsequently investigated.

[U] Q. Okay.

[U] A. That's two specific I know of in that timeframe.

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[U] Q. Yes, Sir. Okay. Okay, you cleared up the question that I had. And specifically the knowledge of potential abuse and misconduct that they had, you mentioned the ICRC report and the allegations that were in that report of the nudity and the women's underwear and that kind of thing. Was there other misconduct that they were aware of that you believed that they had?

[U] A. If— when you look at the magnitude of incidents in these reports—have you see the list of CID investigations?

[U] Q. Yes, Sir, all of them.

[U] A. If you go back and look at that, and the compilation of all those incidents at Bucca, Cropper, Abu Ghraib, point of the spear, the relative magnitude of those would tell a person that probably we've got more than— more than a disciplined Army should have.

[U] Q. Uh, huh.

[U] A. And that was my basis of saying there were sufficient indications of warning due to the magnitude. The one instance where the—you know there is a Ghost Detainee thing where they finally found the three Saudis in Abu Ghraib. Well that's not normal. And, so it tells you that, it-it begs the question who's paying attention. For that number of abuses and the number of investigations on-going. You know there is also other deaths that happened. And how they were reported. Got to come up through somewhat the JAG channels. And I can't believe that that was accepted as a norm.

[U] Q. Uh, huh.

[U] A. And so to me I—I know there has to be something that led to the Sanchez memos of October and December about the treatment of civilians with dignity and respect. I know there was a lot of focus on the loss of US Soldiers and who was killing them and who—and what the support base was and so forth. And that's kind of troublesome. Now you also have to put that into context. There was a lot of pressure at the time to find Saddam Hussein. So, the two sons were killed in July up in—up north. But then up to about six weeks before Saddam Hussein was captured plus the advent of Ramadan coming in there which expected increased attacks on US Forces and so forth, kind of focused their attention on that and then immediately after the capture of Saddam Hussein, then there was a lot of work done to take the information they found and actually resulted taking down 50% of his support base. So that's where their focus was at the same time all of this was going on at

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Abu Ghraib, October-November. So, but having said that, I think that the magnitude and the conditions at Abu Ghraib starting to improve later in the fall. And if that was to be the central location which all prisoners were filtered through, it begs a lot of the questions, are we doing it right.

[U] Q. Yes, Sir.

[U] A. And that's where was very little leadership there and direction. But I think there's people and I think in those two particular offices of the staff— maybe not at the senior staff level, but the people within those staffs had to see the reports. They may not have had the experience or maybe by the fact like in the SJA you had the UK guy, Australian guy, and they have a different perspective than a US person. But that led me to believe after reading all the statements, that— there was probably information there that they knew. Either accepted it as being the norm or they actually knew that something was gonna happen and they'd discipline the commander.

[U] Q. Yes, Sir, was General Sanchez aware of the CID cases and—

[U] A. I don't know. I know he was in certain cases. You know of the deaths to ensure that they were being investigated. And then I—and two, I don't know if in case—he was reviewing—a number of cases outstanding and so forth that based on the number of deaths that were in custody.

[U] Q. Right.

[U] A. Because there were several.

[U] Q. Yeah. Yes, Sir, okay. And, Sir, you indicated in the finding that this knowledge was not presented to the CJTF-7 leadership. What evidence caused you to come to that conclusion?

[U] A. Mostly Colonel Warren's statement. He said he didn't tell the Commander.

[U] Q. Okay, you're in particular referring to Colonel Warren's statement. Okay.

[U] A. That and the fact that I interviewed Fast she didn't know about it.

[U] Q. Okay, Sir.

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[U] COL. (b)(6)-2, (b)(7)(C)-2 Garner, Sir?

[U] A. Garner. Was it?

[U] MS (b)(6)-2, (b)(7)(C)-2 I think so.

[U] A. So when Garner got—things weren't moving, weren't going right so they sent Bremer up there and— they created the CJTF-7. Garner you know he got in there and he said I don't have the people. I don't have telephones. I don't have contact with anybody. I got nobody to work for me. And—there's nothing here. So Bremer then gets appointed and gets sent there and some of the issues was let's make him successful because we're gonna turn this back over. Bremer came in with a direction to, do certain things. And so, now Sanchez will tell you he didn't work for Bremer. And if there was any conflict of what he was trying to do, of course then he raised it to CENTCOM to Abizaid. And said you need to—this is against what we need to do, and they'd work it out. Similarly with the inter-agency folks that were there. From G8. One team was pulled together to get things going. So there are a lot of things that had to be established because there were no— Directives, MOUs, how its all gonna work together. So they had to—they had to build from scratch. So, they had to set the foundation. Build an organization which none of them had ever been-a CJTF-7- before. They had fought the tactical fight, now they're focus is at the strategic level. And that blurring in an insurgency between tactical and strategic— was very tough. And, and a lot of them could not see the differences. And some of the things that may appeared to be tactical actually were strategic.

[U] And, they were faced with that day in and day out. Several—you know it took the Chief of Staff who would have had an oversight and directed responsibilities we know of in an Army or a Corps or whatever, kind of moved—moved over to support directly and they moved what was the Corps TAC and that element from the C2, C3, over to support the CPA. They split another piece over here with the DCG to fight the war. And then you see—okay, Sanchez and his guys, what does he got? He's also got a preliminary staff here to try to work all these policy and all these other issues. So they're—they're—because of resourcing and the way they were set up and the missions that they were given, they torn in three different direction. And oh by the way, you know, all the Division guys and Separate Brigades went —morphed from twelve to eighteen separate Brigades. All these people are waiting for guidance, direction, and so forth. So it was really a— a challenge. And so, the primary guys across —across the subordinate staff starting to focusing up here and by default the lower level guys and—had to work all these other things. That's why I say the lower level C2x, which was created by the

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way, there's just a couple of those folks left, came from the V Corps things that had to built up. The residual SJA guys kind of running the show because the leadership is pretty occupied fighting the war, supporting the CPA, trying to figure out—try to get the Coalition guys to come on to establish a customs capability. You know border protection. Border Police. Training the Iraqi Army. Trying to, partner with the Iraqis that were left to work an intelligence system. Trying to figure out how to morph this so that eventually they can appoint a interim— Prime Minister or whatever to Iraq. And so that's what ate them up. And so what limited time they were able to get out and see what was happening they couldn't see it because, it wasn't there at the time. Okay. Jones is coming down to visit not a problem. So he was up there with them. You know you go back to decisions made Abu Ghraib, which sit right on the seam between two units. So who's in charge of physical security? It's not the 3rd ACR on this side or the 82nd on this side. You know, because it's a seam right there and seams in military doctrine means we have no—we don't own that piece of dirt. We have what's outside it, but I only come around 50% of my side and fifty—and that's why— initially and then also in that period they put in it a sector which you know Abu Ghraib has a history. That's where Saddam Hussein tortured and killed all the people. No control outside. No engagement with the community through Civil Affairs or other people. Nobody focused outside the wire because I'm inside the wire. This is my piece of dirt. So it was not set up for success in the selection either. Which we also looked at..

[U] So those are some of the things when— you know when Casey went in, we saw early on and he started fixing when he went in. When Abizaid went in, he said, you know, it's another thing. You gave the CJTF-7— not only JTF responsibilities but also ASCC, Army Service Component Command and ARFOR responsibilities. And it's one person and he's a Three Star. By the way, he is a brand new Three Star. He didn't complete two years in command as a Division Commander. So, it said in my report he went from commanding about a fifteen thousand person Division to a Coalition of a hundred and eighty thousand people. With all the different countries, to pull that together. It overwhelmed him. Overwhelmed the staff.

BY (b)(6)-2 &
(b)(7)(C)-2

[U] Q. Sir, you've fairly thoroughly laid out the context in the environment they were operating in. Given that, but at the same time giving folks duties based on their position or their rank or whatever, did General Fast's action or inaction regarding these interrogation policy memos in your view rise to the level of negligence or inefficiency?

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BY (b)(6)-(2) (b)(7)(C)-2

[U] Q. Yes, Sir. Sir, going on to the next finding. Lieutenant General Sanchez and Major General Wojdakowski failed to ensure proper staff oversight of detention and interrogation operations. Sir, can you tell us what specifically you feel that they failed to do to provide proper staff oversight? And if you would like you can take them one at a time.

[U] A. As I said in there, in hindsight what I would have done because when you lose your Chief of Staff and now— you've got the C1 responsible for people and ensuring they've got backfills, MP shortages and other things. The C2 is setting the intelligence requirement collection priorities. You've got the C3 overall in charge of detention operations with some execution responsibilities with the Provost Marshal. You've got the C4, responsible for the support—logistics and so forth. You've got the DCG establishing priorities not only for the detention facilities but for different base camps and getting the LOGCAP in and construction and so forth as working with the C4. And so, there's the separate Brigades under the—when Wojdakowski come up.

[U] You know they could talk to him but then there's no Chief of Staff running around. So then, they have to go to individual staff sections and talk different issues. Not one person to come to. So in hindsight my perspective was—Sanchez should have made one person in charge of detention and interrogation facilities—operations for the Go To Person directly working for him. Because you had Bucca, you had Abu Ghraib, you had Cropper, you had the MEK facility, you had the holding areas of divisions. You've got a number of these things going on. Different oversight levels. Which the staff responsibilities then were separated and no Chief of Staff to help direct that. And you've got Wojdakowski over here prioritizing. And initially Abu Ghraib was a temporary facility. So he gave it very little priority. And quite frankly in the summer everybody was living in pretty shoddy conditions. But seeing it as a temporary he was not going to invest long term in LOGCAP and other things. Then Sanchez visited and he said I'm not gonna have my Soldiers living like that. Let's get some thing in there to fix it.

[U] There were some equipment issues with different MP units coming in, in terms of normally different types of MP units have crew served weapons and so forth and different things. These guys moved about. Some of them had their equipment linking up with them, so they needed more mobility and crew served weapons to set up. So some of those things had to be fixed. And so—but it—it did not fall upon somebody, one person, to oversee those things and get things moving. It

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fell upon different—from my opinion different elements of the staff to do different things, so it did not become, without the Chief of Staff, a synchronized effort, to fix things. A lot of it was defaulted to subordinate commanders, Karpinski and Pappas, because they were Commanders; and Karpinski had the detention operation. Pappas had the interrogation/intelligence collection mission through out the theater. So, they by default, that become decentralized. Okay? And as they got visibility obviously the hindsight says I probably would have done it different and with the one person of compatible rank based on the magnitude of the effort I think I said, the direct—the Pappas's and the Karpinski's and so forth of the world to get things right. And it—otherwise it just got sporadic attention because of their focus other ways.

[U] So I found that looking back once they made a decision to make a strategic collection point of that magnitude, they should have put one person as the Go-to Person in charge.

[U] Q. Uh, huh.

[U] A. We kind of got at that for Abu Ghraib when he appointed Pappas for the—actually appointed him for Force Protection kind of reasons and the MPs still had the inside the wire security of the prisoners. The Intelligence guys still had the interrogation piece but he was looking then at the base camp security.

[U] Q. Uh, huh.

[U] A. Probably the genesis of that issue was putting it on the seam of two units.

[U] Q. How about General Wojdakowski, Sir, and which staff did he fail to provide proper oversight for and what should he have done?

[U] A. See, I think he was partisan to that because without the Chief of Staff the DCG has gotta do some things. Again in hindsight what I would have done, you had two new Brigade Commanders. They both swapped out the end of June, the first part of July. He made some—first of all he never really accepted the command relationship of the 800th that TACON, TACON relationship. But in fact, it did not matter as much is because those people worked for him. They're separate Brigades although it went from twelve to eighteen. That formed a subset of separate Brigades worked for the DCG. So, what he had was two new commanders who were not experienced in the theater. Of which, he could not have known their level of experience. One came out of the War

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College and one came out of the RC ranks. They probably demanded more oversight and direction.

[U] Q. Uh, huh.

[U] A. Than they were given. Now on his behalf he was again trying to get the LOGCAP set up. All the logistics, which fell so far behind the rapid advance to Baghdad, the immature lines of communications and securing those lines of communications and establishing the contracts to get the supplies moved forward. Our equipment having just gone through the war needed a lot of attention, getting the parts in. So he was, you know he—he let those Commanders execute their mission in a decentralized way. Whereas I think in retrospect, he probably should have brought those two and gave them guidance that is more specific because he was in their direct chain of command.

[U] So when I look at those perimeters of responsibility for execution of the mission direct or indirect, the clear and consistent guidance and resourcing to do their mission, I found that in retrospect those two units needed more attention.

[U] Q. Yes, Sir.

[U] A. And you had other MP Brigades and other people—because I don't think that the two commanders as they showed up at the same spot at the same time neither had the experience or leadership to execute the mission.

[U] Q. And should General Wojdakowski have recognized that given the circumstances?

[U] A. I think he should have.

[U] Q. And—

[U] A. I mean if you think about it, he had just fought the war, gone through the prep, the training, now I've got two new Commanders. Didn't go through go the fight with me. I've got a lot of things on my table. But—they were probably—one probably didn't accept any guidance or leadership. The other was probably hungry for it.

[U] Q. Uh, huh.

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[U] A. And how he recognized that, I'd have to put myself in his head to try to figure it out, but it appeared to me that those were issues.

[U] Q. Yes, Sir.

[U] A. He had two new Commanders in theater.

[U] Q. And the one that didn't want guidance was General Karpinski and the one that was hungry was Colonel Pappas.

[U] A. Karpinski— from my experience and opinion is one who wanted the position of command but did not want to go accept the responsibilities that go with it.

[U] Q. Uh, huh.

[U] A. And you'll see very many times in her statements and I don't know if you've read those or not.

[U] Q. I have, Sir.

[U] A. You find her sometimes back in Kuwait. She left some of her staff back there. She had to be told to move her staff into Iraq. Different times she had to be told to go check on like the MEK facility up at—you know you had those Iranian freedom fighters and so forth. And that gives you—and then Sanchez had a confrontation with her about stepping up and taking charge. You're in charge. You've got this mission. How can you let the Soldiers be like this? And so there were indications there that she was weak.

[U] Q. Okay.

[U] A. And it was obvious that Phillabaum was weak and she didn't do anything about that. But she—you know she sent him back for two week R&R in October. Brought a Colonel—

[U] Q. 

[U] A.  in from Cropper who's obviously fat, dumb, and happy up there because he's got a mixture of detainees at the MP Battalion. So it's pretty easy for him. He comes in and just sets up shop for a couple of week and then brings Phillabaum back.

[U] Q. Uh, huh.

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[U] A. Probably not the right thing to do.

[U] Q. Sir—oh, go ahead.

[U] A. In Pappas' case, his experience led to the lack of making a decision to making somebody in charge at Abu Ghraib. You know he had other Battalion Commanders and so he could have moved in there and set up a clear chain of command to execute that mission.

[U] Q. Uh, huh.

[U] A. Especially as it grew to the number of people there. Overwhelming the intelligence.

[U] Q. Sir, was General Wojdakowski's failure to recognize this need for perhaps additional oversight, in your view, did that rise to the level of negligence or culpable inefficiency?

[U] A. I think it was a shortcoming on his part. I don't think it was negligence.

[U] Q. Uh, huh.

[U] A. Primarily because of the magnitude that he was faced with. Overall faced with.

[U] Q. Okay.

[U] A. Your span of control if you had 12 Brigades or 18 Brigades that you had just moved up to, plus he was now running another set of the staff to fight the war. So, again it became another issue with him of the responsibility and no time to do it.

[U] Q. Yes, Sir, did you run across any evidence that a request was ever sent up for another Flag Officer to come in and serve as the Chief of Staff?

[U] A. Okay, well another Flag Officer came in. Oh, you mean—for the JMD you had a Two Star Marine Chief of Staff.

[U] Q. Uh, huh.

[U] A. That was—he came in, in August.

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[U] A. I think Fay saw that down at Pappas' level and below. The pressure was in my opinion, and as General Kern and I look at it, was not abnormal. But as it morphed down to the lower levels, the interpretation of what the commander's intent was of what is it you need to do in establishing a battle rhythm and the standardized procedures was not there. So it had become as you went from CJTF-7 staff to the 205th Brigade staff down to a multitude of interpreters they were getting a magnitude of I need to know this, this, this and this, and nobody is stepping up for them in saying—and Jordan certainly didn't. Stepping up and say this is what—these are our priorities. You find that in any professional line of command but when you got to Abu Ghraib there was nobody there.

[U] Q. Okay, Sir.

[U] A. And that's where the pressure point manifests itself the most.

[U] Q. Is the emphasis that General Sanchez placed on the intelligence community, did you feel that was appropriate given the circumstances?

[U] A. I did.

[U] Q. Okay.

[U] A. And it—because it goes back to — his mission was to build and support operations. He's in a war. Gone now from managing a division to a coalition of a hundred and eighty thousand. Trying to find out who are these people? What is their support base? Who are their leaders? You know where are they going to come at me next? What's their tactics and so forth and as those changed daily he was getting Soldiers killed. He put a lot of emphasis on intelligence. And rightfully so because in an insurgency intelligence becomes probably more important than operations. And, you know that's why I say Fast stepped up after assessments and said well we have our hands full. We've got have these things here and she requested back to CENTCOM to get communications since they didn't have—to get, fusion capability to appease the intelligence effort. To establish a joint interagency task force to start to pull that together and get the equipment so they could reach back to the—what do you call it? The Intelligence Exploitation Center when they had something said what are you getting back there and send me—who is this guy? What you see is happening from all the sources as they tried to fuse the intelligence. So there were a lot of other things going at the same time.

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[U] A. The problem with—and you heard this a while ago. The problem with the procedures with dealing with ICRC which Abazaïd also said in his testimony in May, the system is screwed up. We have no system for dealing with the ICRC in this environment as we went into it.

[U] Q. Uh, huh.

[U] A. So there was—I understand what was said as far as—a lawyer escorts the ICRC people. But our doctrine heretofore doesn't deal with a strategic detention facility.

[U] Q. Right.

[U] A. We talk about in the linear doctrine, the holding areas as you know, battalion, brigade, division and evacuation back. And so when we created a centralized detention facility, in Guantánamo and now in—Abu Ghraib we did not—address access by ICRC. We know it happens and so forth. But there is no given staff responsibility to interface with them. If you—up in Baghdad if you talk to the people, the International Red Cross person, the relationship with the CJTF-7 staff was all good and worked with them and so forth. But when you got to the lower people running around the country they work and—down to give that to the brigade level. Sometimes it didn't come up. That was later fixed. At the time as you established a facility, they didn't give specific responsibility to interface at the lower levels. Okay? And it was probably not handled well.

[U] Q. Uh, huh.

[U] A. And some of that is the culture of—even in the international community, we saw it in the Balkans, I appreciate what you're telling me but this is what my rules say and so forth.

[U] Q. Uh, huh.

[U] A. Or whatever and then the access piece is not always clear. So we probably as a Nation need to address that better and I think that's already being worked with the Secretary of Defense establishment, the Assistant Secretary for— what is it? Policy and so forth of which now deals directly with the International Red Cross and going towards setting how we as a Nation would deal with the International Red Cross.

[U] Q. Yes, Sir.

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[U] A. But that led us to also say though, that—as you get—if you use that as another indication of warning that should trigger something with somebody on the staff. Gets out and takes a look and advises the Commander. Because where there is some smoke there may be some flames there and we didn't see the Inspector General doing anything. Going out there and checking on that. It was left to the legal review. And the comments back down, they went down and said what do you guys say, ah, it's not true. You know? Well, okay. But some of it probably was.

[U] Q. Do you recall who the IG was then, Sir?

[U] A. No, I don't.

[U] Q. That's fine. Did you have any indication that General Fast or General Wojdakowski were aware of the ICRC reports?

[U] A. Fast first saw it in December of 2003 or got—became knowledgeable of it about the same time Sanchez did.

[U] Q. Okay.

[U] A. I don't know if Wojdakowski did.

[U] Q. Okay. But you—

[U] A. But I think it was passed back down to Karpinski to sign and respond to.

[U] Q. So General Sanchez was made aware of the ICRC reports. Was that before or after the pictures came forth?

[U] A. It was right before.

[U] Q. And what was his reaction?

[U] A. He didn't have a big reaction because you'll remember that Warren had advised him it wasn't true. It was not substantiated. Based on what his guys had told him, this couldn't be true. So based on that advice, and at the same time they had just captured Saddam Hussein so they were spinning in a different direction. So he said okay I got it.

[U] Q. Okay, Sir. Was his failure to take action, did that rise to the level of negligence or culpable inefficiency?

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[U] A. I don't think so because so because that was—he had trust and confidence in those guys who advised him and they said it couldn't be true. Or it was not significant in terms of what they— was claimed. And so he moved on to other things.

[U] Q. Yes, Sir. Okay. All right, the report talked at length about the operational environment contributing to the problem, between the V Corps transition to CJTF-7 without being fully resourced; the support to the CPA exceeded the going-in operational plans. And of course the operational plans themselves envisioned a SASO, support and permissive environment. Given that, how does this relate to the actions that were taken by senior leaders in the theater at this time? It kind goes back to this negligence and culpable inefficiency standard that I keep harping on.

[U] A. Yeah.

[U] Q. But in particular how does that relate to the actions of General Sanchez and General Wojdakowski and General Fast?

[U] A. They were still operating off the base plan.

[U] Q. Uh, huh.

[U] A. The base plan obviously was given to them by CENTCOM as a subordinate element. So—I think the—not as much with Sanchez and his team trying to execute the mission given to them—when the CENTCOM Staff and CFLCCC went away, there was no reevaluation of the campaign plan. Or the assumptions went into it. I think that's fault more of CENTCOM than it is Sanchez. Now he—what they did, was they used FRAGOs to adjust and so they did take—obviously, this is not a true change made, they rewrote—mission orders using—still using the sequence of fragmentation orders, which was kind of normal because they still had the CJTF-7 staff there. So—and quite frankly they didn't have time or the resources to sit down and rewrite the campaign plan. So they did the best they could with what they had to work with.

[U] Q. Uh, huh.

[U] A. Subsequent to that now that you've got a Four Star in there and separated—the kind of Title 10 ASCC responsibilities from the warfighting responsibilities, because you've got MEFs now executing the war fight in the subordinate units and direct oversight and now you've taken the burden of doing that away from them and giving that to Casey and working with the Coalition in doing that. So that was probably the

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right thing to do. So that changed. Abizaid recognized quite quickly you know. He stopped—last summer he stopped losing people because now you gotta redeploy all these people. We've got a fight on our hands. So it was recognized and he started taking some action. He said I need a Four Star in there. I need two Headquarters. I need somebody in charge of detention and interrogation operations and so fixes then become pretty clear. He saw some of the same things we saw as we started looking at it. And he implemented them. So that's good. And I think you see the results today and the progress than they were from Abu Ghraib to—the division of responsibilities. And the level of responsibilities again a Four Star with experience.

[U] Ms. (b)(6)-2 & (b)(7)(C)-2 Sir, did you want to ask any overarching questions before we—we're sort running out of time.

[U] COL (b)(6)-2 & (b)(7)(C)-2 I have a few, Sir.

BY COL (b)(6)-2 & (b)(7)(C)-2

[U] Q. Could you give us a sense of CFLCCC's involvement down in Kuwait? I mean we have—we have Karpinski's brigade which is TACON to CJTF-7 but owned by the—I believe the 377th TSC in Kuwait at that time under ARCENT General Taguba and General McKiernan. I understand the—the confusion, or not the confusion, but the support difficulties, the TACON relationship established. That's pretty clear in the report. Are there any specific responsibilities that the Commander of the 377th had as General Karpinski's direct boss or CFLCCC that contributed to some of these failures?

[U] A Yeah. If you read the order, and I don't know if you have or not. The relationship—well when you established CJTF-7 CFLCC disbanded. So CFLCC the Combined Forces Land Component Commander went away. Okay? But CJTF-7 becomes the supported Commander in the Iraqi Theater of Operations. That also was true for ISG which I didn't recognize. There was the Theater Support Command and the relationship as the plan was, the detention facilities were never planned to be the magnitude they were and so they retained that TACON responsibility—because eventually there would be a term employment to hand back over to the Iraqis. And so okay I'm done with that. Envisioned to be no more than about six hundred people-detainees—after the end of hostilities. And that Brigadier General Hill also said that in the May timeframe. Other than the MEK guys up to about three thousand in one compound. And so it was never envisioned to that magnitude. So what they wanted to do was retain—the 800th intact so that when it went theater they wouldn't take their assets and move them here to Kuwait, which they

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could if they're being intrusive if they're TACON. So they kind of re-held that TACON relationship based on the previous plan. And for a lot of the other forces, the SOF forces the TACON relationship, keep the Commander informed, execute your mission, worked out okay. But with this Commander who reluctantly moved her staff up there, still saw—envisioned that—responsibility for the detention facilities but still working for the 377th, so she used that kind of both ways. In turn she says, CJTF-7 you gotta support me. I need this, this, and this and so forth. But in reality her support base by a TACON relationship is the 377th. Because the logistics support of units that are TACON still rely upon the parent unit. That didn't happen. And then the 377th changed out commanders and so forth. They didn't see any role in supporting the 800th. They—that's a CJ—that's in theater. So that's where the confusion and it really convoluted relationships that came into being.

[U] And I asked Sanchez about that. I said, you know you had so much problems here, why didn't you go back up for change in relationships? He said, well I didn't see it to be a need because I've a General Officer, they've got a mission to do. I expect her to do it. And—I didn't have any other problems with other people who were TACON to me. But in this case Karpinski played both sides against the middle. You know, ran around the country. Whatever she wanted to do. Because I think that's why she kept going back to Kuwait, to keep that relationship going. And then it really manifests itself at the end with who does my efficiency report.

[U] Q. Would it be fair to characterize General Sanchez's perception of this problem with General Karpinski then as a leadership problem with his Commander versus a Command relationship with the TACON versus OPCON?

[U] A. I think so. Accepting ownership of the mission and doing the things she has to do to execute that mission. I don't think she ever accepted ownership.

[U] Q. One of the reports we read basically stated that there were failures on the part of CFLCC—in planning for insurgency. From the information you've given us today they were clearly out of that picture in about the June 2003 timeframe.

[U] A. They diverted back to Doha for the responsibility for Kuwait and Saudi Arabia and/or of the RSO.

[U] Q. So in that instance they had no planning responsibility for anything going on in Iraq post about the June 2003 timeframe?

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[U] A. It was something like 14 June I think. You gotta remember the relationships between those two staffs soured a little bit. Because V Corps guys, seemed they were left holding the bag. No resources. No—now—now I'm the CJTF-7 and nobody is giving me the resources. In the meantime some of those guys who were at Doha left. You know? If you look about the CFLCC staff they were pretty well equipped. You had J.D. Thurman there. You had a lot of good horses to help McKiernan be the CFLCC Commander over Wallace and/or the MEF, the Marine guys. And so they were staffed accordingly to do that. When they diverted and went back to Doha a lot of those people left. At the same time the guys in Qatar said our mission is kind of done now. We're into a stability and support operation. We're out of here. All those Air Force guys and other people. So—the appearance was the only people you had left was Abizaid and McKiernan and Sanchez and his staff. Everybody else could come new.

[U] COL [REDACTED] [REDACTED] do you have any other questions?

[U] MS [REDACTED] Just one last quick question, Sir, and it has to do with Major General Geoffrey Miller's visit.

BY MS [REDACTED]

[U] Q. In the September timeframe.

[U] A. Yes.

[U] Q. When he came over and the finding in the report was that his visit, his team, did not introduce any harsh techniques into the theater.

[U] A. Uh, huh.

[U] Q. But that some of his team members—inadvertently validated some techniques that may be in violation of the Geneva Convention. Specifically use of nudity, and the presence of dogs. Did you see any failure on Major General Geoff Miller's part to ensure that that inadvertent validation of interrogation techniques, that that not happen? Did he have any role?

[U] A. No. In fact I think it was done only—it wasn't—and I think Fay's report found somebody from the GTMO team was not reporting.

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[U] COL. (b)(7)(C) Thank you for that.

[U] LTC JONES: Trying to remember it all but more I tried to forget.

[] COL. (b)(7)(C) Sir, you described a complex, violent and horrid environment where CJTF-7 Soldiers, units, and leaders prosecuted a counter-insurgency operation and performed above all expectations. As part of that your investigation laid out numerous facts and made findings pertaining to activities regarding alleged detainee abuse. Sir, in your opinion as a senior leader, did the actions of any senior leader we discussed today or others you may know of, in your investigation, constitute a failure to take appropriate action, a dereliction of duty, or potentially criminal misconduct?

[U] A. Not above the Brigade. With the exception of--I'm--I was looking at the Chain of Command, focus. Now if some of the staff in terms--okay, and I looked at and elaborated what Barb Fast and Sanchez--but this is an intelligence issue. In my opinion, although great officers I think there was--Colonel Warren--probably was negligent in terms of keeping the Commander informed based on what I saw and the counsel he provided. A tough thing to say based on what they were doing, what they were trying to do, but I think he--his Staff gave him bad advice and I think he accepted it, and his level of experience having been in-country, and his knowledge of the Geneva Convention and things could have led him down a different road.

[U] [I think there's bad decisions and bad acceptance of the missions and how they executed the mission by both Pappas and Karpinski. But I feel that the senior leadership that was the chain of command albeit responsible as we see in the Army for things that happen and do not happen, in terms of what they're responsible for in hindsight they could have done some other things, but I think they did tremendous work based on what they were tasked to do.

[U] COL. (b)(7)(C) Thank you, Sir.

BY M (b)(7)(C)

[U] Q. All right, Sir, do you have anything else you wish to add?

[U] A. I think the comment we just talked about having visited there and been in Afghanistan, I think we owe a debt and gratitude to a lot

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of Soldiers who are doing the right thing. Even in Abu Ghraib there were NCOs on the dayshift who were doing the right thing. There were Soldiers within the 320th MP Battalion—they all worked right there in Ward 1a, 2a, and 1b and 2b. There were others there that were doing great work. Trying to do what was right. I think the incidents of misconduct should be taken as that and let justice do its right course for those people that revealed that they have done clearly criminal acts in what they did. I think our Army has learned about this. I think we'll move forward. We've already implemented a lot of changes that will make things better. But I think we as a Nation have got to wrestle with some of the issues out of this. It's not solely Army. It's how we get into theater and a culture such as this and how we learn from it, and, how we grow leaders to adapt to it. And, we have to look at our leaderships in all components in what we prepare them to do as they get into an environment like this. But, you know I think our values are still sacred. I think our focus on leadership and getting competent and confident leaders is still critical. Presence of leaders at critical points and times is still important and I think that marked discipline is doing what's right when nobody is there. And that clearly didn't happen at Abu Ghraib.

[U] I think there was some—decisions in hindsight which could have been done better. But when you put it in perspective-- and the counsel that the leadership is receiving, I think they had to make some tough calls and they made the tough calls and that's the way it is. And we move on. The two things that bothered me the most, we didn't set this unit and these leaders up for success and we're part to blame. Because we dealt them a situation of which their level of experience-- their level of resourcing was inadequate for us as a Nation to put them in harm's way. And not give them appropriate resources that they needed. And that's a travesty. And so the fall out of all that is people are trying to point fingers. What people did or didn't do is we have to look at ourselves because we're part of this also. We as a Army. We as a Nation, a joint community, didn't step up and help them when we should have and that's terrible.

[U] (b)(6)-2 & (b)(7)(C)-2 Yes, Sir.

[U] LTG JONES: And we can't forget the impact that this has had on Soldiers, families, not only the General Officers that are still left out there hanging to dry, but look at all the other folks of different echelons. Those kids I talked about in the 320th-- some of the others in the 519th-- the 800th MP Brigade-- they talked about taking the flag down because we kind of stood in the Brigade because it's got a rich history and people have served in that, so this has impacted a lot of people and the unit-- I think the coin now in Abu Ghraib and those who are serving there have something that said, something about recovering their honor.

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[U] MS ^{(b)(7)(C)}: I'll go ahead and start the read-out then.

[U] LTC JONES: Okay.

[U] MS ^{(b)(7)(C)} We are required to protect the confidentiality of IG inquiries and the rights, privacy, and reputations of all people involved in them. We ask people not to discuss or reveal matters under inquiry. Accordingly, we ask that you not discuss this matter with anyone except your attorney, if you choose to consult one, without permission of the Investigating Officers.

[U] Your testimony is part of an official Inspector General record. Earlier, I advised you that while access is normally restricted to persons who clearly need the information to perform their official duties, your testimony may be released outside official channels. Individual members of the public who do not have an official need to know may request a copy of this record, to include your testimony under the Freedom of Information Act. If there is such a request, do you consent to the release of your testimony outside official channels?

[U] LTG JONES: Testimony yes. Social Security Number and my address no.

[U] MS ^{(b)(7)(C)} that is normally redacted, Sir.

[U] LTG JONES: Because that's--we get more credit cards coming in that we want now.

[U] MS ^{(b)(7)(C)} Right. Okay, Sir. Do you have any questions?

[U] LTG JONES: No, I hope I've answered your--what you needed.

[U] MS ^{(b)(7)(C)} es, Sir.

[U] LTG JONES: And you know if you need me--to see me again just holler.

[U] MS ^{(b)(7)(C)} All right, Sir, will do.

[U] LTG JONES: I'll be glad to do it. I've lived this now for three or four months and--, I think we did a reputable job in trying to get--based on the time that we had to try to figure out--, ascertain the--the facts and now we just gotta move on.

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[U] MS^{(b)(7)(C)} Yes, Sir. All right, Sir, the time is 1745 and the tape-recorded portion of this interview is concluded.

Testimony of **LIEUTENANT GENERAL ANTHONY R. JONES**
Was transcribed and certified by ^{(b)(7)(C)}
Certified Court Reporter, Department of the Army Inspector
General Agency, Washington, D.C.

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Testimony of **MAJOR GENERAL GEORGE R. FAY**

Was taken on 13 September, 2004 at the Pentagon, Washington, DC between the hours of 1310 and 1415

By MS (b)(6)-2 & (b)(7)(C)-2 and Lieutenant Colonel (b)(6)-2 & (b)(7)(C)-2
Department of the Army Inspector General Agency, Crystal City, Virginia,

[U] MS (b)(6)-2 & (b)(7)(C)-2: The time is 1310. This inquiry is directed by The Inspector General of the Army.

[U] An Inspector General is an impartial fact-finder for the Directing Authority. Testimony taken by an IG and reports based upon that testimony may be used for official purposes. Access is normally restricted to persons who clearly need the information to perform their official duties. In some cases, disclosure to other persons may be required by law or regulation or may directed by proper authority.

[U] Upon completion of this interview, I will ask you whether you consent to the release of your testimony if requested by members of the public pursuant to FOIA. Since I'll ask you to provided your Social Security Number to help identify you as the persons testifying I've previously provided you with an explanation of the Privacy Act.

[U] Did you understand it, Sir?

[U] MG FAY: Yes, I did,

[U] MS (b)(6)-2 & (b)(7)(C)-2: You are not suspected of any criminal offense and are not the subject of any unfavorable information, Before we continue I want to remind you of the importance of presenting truthful testimony. It is a violation of Federal Law to knowingly make a false statement under oath.

[U] MS (b)(6)-2 & (b)(7)(C)-2: Do you have any questions before we begin, Sir?

[U] MG FAY: I do not.

[U] MS (b)(6)-2 & (b)(7)(C)-2: Sir, please raise your right hand so I may administer the oath.

[U] [Major General George R. Fay was sworn and testified under oath as follows:]

BY MS (b)(6)-2&(b)(7)(C)-2

[U] Q. Sir, you may lower your hand. For the record, please your name?

[U] A. George R. Fay.

[U] Q. Your rank and component?

[U] A. Major General, united States Army Reserve.

[U] Q. Your current position and organization?

[U] A. I'm the Assistant Deputy Chief of Staff, G2, , Army Staff.

[U] Q. Your Social Security Number, and Sir, this is voluntary.

[U] A. (b)(6)-2&(b)(7)(C)-2

[U] Q. And an address either home or office keeping in mind that the return address on any correspondence from this office will indicate that it is from the Department of the Army Inspector General.

[U] A. Okay, (b)(6)-2&(b)(7)(C)-2

[U] Q. All right, Sir, and a phone number?

[U] A. (b)(6)-2&(b)(7)(C)-2

[U] Q. Yes, Sir. And a phone number either home or office?

[U] A. Office phone number is Area Code (b)(6)-2&(b)(7)(C)-2

[U] Q. All right, Sir, thank you. All right, we'll go ahead and get into the questions now. As I indicated to you before, the questions that we have for you today pertain to the findings and conclusions and evidence that were cited in what I will refer to as the Fay Report. It is also called the Kern Report depending on who you ask. So these questions will focus on those particular findings.

[U] A. Since you're asking me I'll call it the Fay Report.

[U] Q. Yes, Sir, it sounds good to me.

[U] A. Okay.

[U] Q. Okay. Sir, one of the findings that you made in the report was that there was a lack of clear command and control of detainee operations at the CJTF-7 level. And by the way, Sir, I have brought the report with me so that if at any report we need to refer to it we can.

Sir, in your view who in CJTF-7 at that time was responsible overall for detainee operations prior to the assignment of Major General Geoff Miller?

[U] A. That was the problem.

[U] Q. Yes, Sir.

[U] A. Is that there was a real confusion as to who was in charge of detainee operation and that was our finding is that there was no clearly one person in charge. It was a shared responsibility amongst a number of staff elements and staff persons and commanders. And because it was so shared because everybody owned it nobody owned it.

[U] Q. Can you cite some of the folks that had a shared responsibility?

[U] A. Yes, well obviously first starting with the overall responsibility being, , Lieutenant General Sanchez as the CJTF-7 Commander, but below him there was the—, Deputy Commander who was—, Major General Wojdakowski, , and he had some responsibilities because he had both the 800th MP Brigade Commander and the Army Military Intelligence Brigade the 203rd?

[U] Q. Fifth.

[U] A. The 205th MI Brigade Commander both reporting to him. , but quite frankly Major General Wojdakowski was mostly involved with the logistics questions and running the huge numbers of logistics issues that concerned CJTF-7 at that time. And although he was somewhat involved with the detainee operations, I wouldn't say that he was focused on that. At least not based on my investigation.

[U] Q. Yes, Sir.

[U] A. And he was—and from that aspect he was even more involved with the MP Detention portions than he was the interrogation

portion. I think when it came to the interrogation area he just relied very heavily on Colonel Pappas as the Commander of the 205th MI Brigade.

[U] Q. Who he rated as well?

[U] A. Who he rated as well. He did not rate General Karpinski who was the Commander of the 800th MP Brigade. Although she thought that he was going to be rating her. But anyway, that—and I cover all that in the report.

[U] Q. Right.

[U] A. It's very—it was very confusing.

[U] Q. Yes, Sir.

[U] A. Additionally you had the Provost Marshal of CJTF-7 who had some responsibilities, but where they began and where they ended no one was quite sure. You had the CJTF-7 C-2 Staff, that would have been Colonel [REDACTED] in the beginning and then it shifted to Major—well first it was Brigadier General and then Major General Fast, after Colonel [REDACTED]. So—and they had some responsibility relative to the interrogation operations and also the release boards, and then you had the Staff Judge Advocate that was providing legal advice and assistance not only to General Sanchez but each of those staff elements that I mentioned.

[U] So they were all involved. And the reality was because there were so many people involved it wasn't clear. It wasn't a focused issue, until General Miller was named and he did bring it under focus.

[U] How about Major General Tom Miller, Sir, the C-3, did he have a role that you saw?

[U] Well actually, when I was doing my investigation that General Fast informed me that at one point in time General Sanchez at a meeting became so frustrated with the whole detention operations issues, interrogations included with that, that he said, "Who here is responsible for this?" referring to his whole staff. And he then—General Sanchez—turned to General Tom Miller and said, "You're the three. You're responsible." Now, General Fast had first believed at that meeting that occurred in October. General Miller when I interviewed him said, no, no, that did occur but it occurred much latter and in a time period that he thought, as I recall, was some time around February of 2004 when that meeting occurred.

[U] Subsequently General Fast and General Miller talked on the subject and both concurred that the original discussion by General Fast was inaccurate.

That in fact it did occur but it didn't happen until the January-February timeframe rather than the earlier timeframe.

[U] In your view, Sir, should a single person have been overall in charge at that time? Was that something doctrinally that they should have done?

[U] It is not doctrine and of course that's another one of the issues that we had identified. That the doctrine is silent as to who has responsibilities with regard to detainee operations. My opinion is that we should doctrinally address that issue and it is a shortcoming. And to this day we do not have a doctrinal answer. In other words, when General Miller leaves, you know, when he rotates out of Iraq, what's what the next solution? Show me a doctrine where his position exists. It does not exist in doctrine.

[U] All right, Sir. So in your view, Sir, did the method by which CJTF-7 control detainee operations prior to Geoff Miller's arrival violate any Army standard or doctrine? Perhaps not since there was no doctrine?

[U] There wasn't. There was no violation of Army doctrine in that regard I am aware of.

[U] Then given that there was no doctrine, apparently not any Army standard regarding detainee operations in the CJTF environment, what do you think General Sanchez should have done? Should he have recognized that he had a shortfall there? What are your thoughts on that, Sir?

[U] Yeah, I believe that there should have been an earlier recognition of the problems that existed. That the issues that came up at Abu Ghraib had some predecessors to it. This was not the first time that issues relative to detainee operations had arisen at the CJTF-7 level. It was known that these were issues. There were in my opinion enough issues early on. Earlier on during this process it was identified that it should have been recognized earlier and should have received more focused attention earlier than it did. It's easy now to second-guess and I'm not—I understand all of the pressures and the war fighting issues that he was facing, which is why I think we were very careful not to be—at least we tried not to be—too criticizing in our opinions because you've got to go back to the fact that the CJTF-7 operation was, in my opinion, a pick-up team. We put that together. 'We' the United States put that together in a very short time period and it was never fully staffed and never fully organized and we eventually recognized the shortfalls of doing it that way, which now why we now have a Four Star Command there.

[U] Q. Right.

[U] A. With the Operational Three Star Command under that. This is only one of the reasons why we did this, but to place all the burden on General Sanchez I do not believe it is fair. I believe that it goes higher than General Sanchez. That 'we' as a country under resourced and under appreciated what we were going to be facing when we arrived in Iraq. And we were optimistic, in our opinion of the amount of resistance we were going to face. And when it turned into an insurgency we didn't react fast enough but even if we had reacted with lightning speed it still would have been too late. Which you know we should have been more pessimistic in our initial analysis of what Phase IV of the operation was going to present to us.

[U] Q. So let me ask you the tough question here, Sir, and you've sort of laid it out already but was General Sanchez's or for that matter General Wojdakowski failure to initially recognize that there was a lack of clear command and control in detainee operations at the CJTF-7 level. Was his failure to recognize this in your view in anyway improper or negligent?

[U] A. No.

[U] Q. —obviously in these circumstances?

[U] A. No, I think that it wasn't improper. It wasn't negligent. It was a fact that occurred. But given the view of the entire situation, the fact that this was an under resourced operation that it changed very quickly from a combat operation to an insurgency and they were left with a force that was not put together to fight an insurgency. They were reacting to the situation as they saw it. I don't believe it's negligence.

[U] Q. Okay, Sir, going back to General Miller, Tom Miller.

[U] A. Yes.

[U] Q. As when he raised his hand at some point saying that he was in charge. Do you recall during your look whether General Karpinski received any guidance concerning detention operations from General Miller?

[U] A. I don't ever remember—I interviewed General Karpinski for seven and a half hours. She never to my recollection mentioned General Tom Miller.

[U] Q. Right.

[U] A. Mentioned frequently General Geoff Miller.

[U] Q. Right.

[U] A. And his visits but never mentioned Tom Miller.

[U] Q. Right.

[U] A. So if there was an interaction there, it wasn't very significant.

[U] Q. Okay.

[U] A. Most of her interactions were with General Wojdakowski. And she did tell me about a lot of her interactions and General Wojdakowski told me about a lot of interactions with General Karpinski.

[U] Q. Right. Okay, Sir. And then Colonel [REDACTED] I believe was the PMO at the time. Any indication that she received much guidance from him?

[U] A. No.

[U] Q. Or the same thing?

[U] A. The same thing. No—no indications that she received much guidance from him, and I did not interview that Colonel.

[U] Q. I noted that.

[U] A. But you know the information that I can recall was that he was not a very involved player in detainee operations. He was doing the other traditional Provost Marshal stuff and I believe that Command looked to General Karpinski to be the detainee operations person.

[U] Q. All right, Sir. Another finding that was in your report was leaders failed to take steps to effectively manage pressure placed upon JIDC personnel. Sir, do you recall to which leaders specifically failed to take steps to effectively manage that pressure?

[U] A. Yeah, there I'm talking about the 205th and the JIDC management. So we're talking about Colonel Pappas, we're talking about Lieutenant Colonel Jordan; talking about Captain [REDACTED] We're talking about Major [REDACTED] and there's another Major who was also an operations officer—

[U] Q. [REDACTED]

[U] A. Huh? [REDACTED] No [REDACTED] was on the—

[U] Q. The 800th?

[U] A. No, he was on the staff of Colonel Pappas. But he wasn't involved with—well to some extent involved but he was running the operations for the whole Brigade.

[U] Q. [REDACTED]

[U] A. [REDACTED] That was the one, yeah.

[U] Q. One of those common names?

[U] A. That's right. That's right. It was Major [REDACTED] that I was referring to. So that's the leadership that we were—that I was referring to when I made those comments.

[U] Q. So you weren't referring to General Sanchez or Fast or Wojdakowski?

[U] A. No, because it wasn't their jobs to protect those Soldiers at that level from that pressure. It was in my opinion the job of that unit and that unit Command structure.

[U] Q. Given that, Sir, in your view, what pressures did General Sanchez, if any, place on the intelligence community—

[U] A. Oh significant and he testified to General Jones that he did that. I mean General Sanchez was rightly frustrated by the situation. I mean, the situation quickly turned into a insurgency and we didn't have an adequate amount of information to find out who the insurgents were or where they operating, how they were operating, all the things that we need out of a unit, Human Intelligence structure, which of course we don't have a very robust unit intelligence structure. The Army took down most of that in the 1990s.

[U] Q. Okay, Sir.

[U] A. So we had limited assets to get him the information he needed but he was expressing those frustrations and putting that degree of pressure on Colonel Pappas and the other members of the 205th and his entire intelligence community. I don't think that was misplaced. I don't think it was wrong to do that. That's what 'we' in the Intel Community should and do expect from our Commanders. It's how that pressure is managed that's the important issue.

[U] Q. And you placed the responsibility for that management at Colonel Pappas' level and then down at that point?

[U] A. Yes.

[U] Q. All right, Sir. Another finding that you made, there was neither a defined procedure nor specific responsibility within CJTF-7 for dealing with ICRC visits, Red Cross visits. ICRC recommendations were ignored by MI/MP/ and CJTF-7 personnel. Sir, can you tell us who specifically were the MI/MP and CJTF-7 personnel that ignored these ICRC recommendations?

[U] A. Well I can tell you every one that saw the ICRC recommendations.

[U] Q. Okay. If you could give us a list of them.

[U] A. And ignored them. So Colonel Pappas—

[U] Q. Okay.

[] A. Lieutenant Colonel Jordan. I'm not sure that Captain  saw them but she knew but she knew about them. General Karpinski. I don't know the members of General Karpinski's staff but there were people on her staff that saw them.

[U] Q. And her lawyer I believe saw them?

[] A. Her lawyer saw them and the Staff Judge Advocate Office at the CJTF-7 saw them. All the way up to Colonel—

[U] Q. Warren?

[U] A. Colonel Warren who was the CJTF-7, , Staff Judge Advocate.

[U] Q. Sir, in your view whose responsibility was it to establish such procedures and responsibility for dealing with ICRC visits?

[U] A. Again there is no clear doctrine as to who should. What staff element would have primacy. My personal opinion is that the Staff Judge Advocate should have primacy on establishing how do we deal with the International Committee of the Red Cross and their visits and how should they be handled. But that's just my opinion. You can't go to doctrine and find a specific responsibility for that.

[U] Q. All right, Sir, did you come across any evidence that General Fast or General Wojdakowski or General Sanchez were aware of the ICRC visits?

[U] A. I know that General Fast definitely was not until after the fact, because I specifically remember my conversations with her on that subject. I also know that General Sanchez did not know because Colonel Warren told me he didn't bring him—he did not bring these issues to his attention. And I'm sorry what was the other name that you asked about?

[U] Q. Wojdakowski, Sir. Major General Wojdakowski.

[U] A. I can't answer that. I don't remember whether General Wojdakowski knew or didn't know so I don't know.

[U] Q. Sir, did you come across anyone on the CJ-2 staff that was made aware of the ICRC? I mean you mentioned Colonel Pappas, you mentioned Colonel Jordan. They were in the 205th.

[U] A. Yeah.

[U] Q. Colonel Jordan of course was murky. Did anyone on the CJ-2 staff, Colonel [REDACTED] perhaps or—

[U] A. No. I do not remember. That—I know that General Fast didn't know about it. Whether or not [REDACTED] did because he then became her Deputy when she showed up. I don't know whether he saw them or he didn't see them.

[U] Q. You don't recall that, Sir. Sir, do you recall with whom General Karpinski's response to the ICRC report was staffed? I know that the Major, the Australian Major, on the SJA staff was the primary drafter of the response. Do you recall who he routed that through?

[U] A. Well, I know that Colonel Warren knew about the response.

[U] Q. Right.

[U] A. I'm not sure at what stage he saw the response but at some point, he saw the response. I don't know if he saw the final draft or what, but I know that he at some point in time saw some part of the response. I do not know who else besides the Australian Major, Colonel Warren, and would have been whoever the SJA person was on Karpinski's staff.

[U] Q. Lieutenant Colonel [REDACTED] maybe was his name?

[U] A. I believe he was mentioned by Colonel—by General Karpinski to me as being a person she had a discussion with.

[U] Q. Yes. All right, Sir. We discussed the folks that ignored the ICRC recommendations. To what do you attribute this? Why did they ignore them?

[U] A. It was so unbelievable, as many people told me that they were laughable and in fact they did receive a lot—, you know, humorous comments about them. When it was read by people no one could believe that they were true. The stories that were in there which ultimately did turn out to be true, no one that saw them that had direct knowledge about what was going on in that specific cell block could believe that American Soldiers would have been doing that—especially the woman's underwear issue because it was well known, especially at Abu Ghraib, that the clothing was unobtainable. That they were really jumping through hoops to get any type of clothing for the detainees at Abu Ghraib at that period in time. And so for this statement to say not only were they wearing—forced to wear underwear but they were forced to wear women's underwear. It was like well how could you get women's underwear. We can't even get regular clothes let alone women's underwear. But as it turned out, it was true but nobody believed it. Because it just was an unbelievable story.

[U] Q. And as a result, the allegations were not investigated by anyone?

[U] A. Correct.

[U] Q. And, Sir, was this failure to investigate—who would you place blame on? Who do you think should have investigated?

[U] A. I believe that we should—we, all of us that are involved with the International Committee of the Red Cross should give them more credence than we have traditionally given them. They are an independent fact-finding neutral party. So when they are presenting to us allegations, even if we believe those allegations to be false, I believe that we have a duty to look into them. It would be the same thing as what we do with the IG. I mean I know the IG looks into all allegations no matter how outrageous they would seem at first.

[U] Q. Right.

[U] A. We should have that same attitude towards the International Committee of the Red Cross.

[U] Q. And to the best of your knowledge the Army, does not have a standard that would indicate such?

[U] A. Correct, in fact, I would say the prevailing attitude is of the Red Cross. It's, those guys are always looking at the opposition side in protecting the human rights. And things that we are leery or—well, not leery but that we believe are questionable when they present them to us. Because they look upon as advocates for

the adversaries more than independent neutral parties.

[U] Q. Right. So, Sir, were any of the people involved in either seeing the ICRC report or involved in drafting its response, were any of these folks in your view in any way negligent for either failing to report it to higher or for not looking into the allegations further, even though technically we don't have an Army standard that says you have to?

[U] A. My definition of negligent is where a reasonably prudent person would do in like or similar circumstances. I do not believe that they violated that standard because when you looked at them without any independent knowledge of the truth as it came out, it would be reasonable to say how could that ever happen.

[U] Q. But in retrospect you would now say they should be investigated regardless of how outrageous because in fact they were credible.

[U] A. Because in fact they were credible. Right.

[U] Q. Yes, Sir. Okay.

[U] A. Yeah. But I can't criticize them for not believing it.

[U] Q. Right. All right, Sir. On to the next finding, Sir. Interrogation technique memo did not adequately set forth the limits on interrogation techniques. Misinterpretation of CJTF-7 policy memo led to some of the abuses at Abu Ghraib but did not contribute to the violent or sexual abuses. And of course, I am referring to the 14 September 2003 memo and the 12 October 2003 memo that General Sanchez signed.

[U] A. Yes.

[U] Q. , Sir, in your view did the CJTF-7 interrogation policies contribute to any of these abuses, and if so, was it direct or indirect?

[U] A. Well let's be—if I can, I want to be—make sure we're clear on which abuses we're referring to here.

[U] Q. Yes, Sir, let's start with that.

[U] A. Okay, there's no way that any documents that were produced by anybody contributed to the sexual or physical abuses that occurred at Abu Ghraib.

[U] Q. Okay.

[U] A. Those were clearly violations of laws and regulations that those that participated in them knew that what they were doing were wrong and knew what they were doing violated Army laws and regulations. That's based on my investigation and that's what I believe.

[U] Q. Yes, Sir.

[U] A. That's one category. The other category or the other abuses, the non-sexual and non-violent abuses that occurred—

[U] Q. Can you give some example, Sir?

[U] A. Yes, such things as the use of nudity. The interrogators were using nudity as a technique in order to humiliate the detainees in order to encourage them to speak. They believed that they—the interrogators believed—they had authority to perform that specific technique and make those detainees naked as part of the interrogation process. They didn't have that authority. They were wrong when they believed they had that authority.

[U] Q. And, Sir, why did they believe they had that authority?

[U] A. You'll have to go back through that whole long string of DoD, Army and Special Operations Directives that existed dating way back to the point where the War of Terrorism began. So you need to go back originally to the first time you see nudity as an issue is the—, the Secretary of Defense Memo that was issued in December of 2002, which listed all sorts of techniques that could be used at Guantánamo, and one of those was removal of clothing. Now that was taken away six weeks later but not everybody got the memo that it was taken away. So, the mindset had been created in the interrogation world that that was an acceptable technique. And in fact we interviewed people who served at Guantánamo that told us that well removal of clothing is a technique that we have the authority to use in Guantánamo we just don't use it.

[U] Now, they were wrong. They didn't have that authority at the point in time that is in question here. But they thought that they did have that authority.

[U] Q. Because that technique was not listed as an approved technique in either of the Sanchez memos. So, I was just curious how they came to that when it wasn't. Either they had not read the policy or it wasn't explained to them or they didn't think there needed to be a policy regarding it perhaps?

[U] A. The removal of clothing began before the Sanchez policies were even issued.

[U] Q. Okay.

[U] A. And removal of clothing was also a technique that I know was used in Afghanistan.

[U] Q. Right.

[U] A. And it was used by Special Operations I believe and I know that it was used by Army, Military Intelligence/ Military Police personnel in Afghanistan. And some of the Soldiers who were at Abu Ghraib were also in Afghanistan. So, they brought that technique with them to Afghanistan. I mean—I'm sorry to Iraq.

[U] Q. To Iraq.

[U] A. Now , the other issue is isolation. No one understood—, I don't want to say no one, the word 'isolation' was not clearly understood by all of those that were using it. So, the fact that we could use isolation, those that were granting that authority from the General Sanchez level on down had in their mind what isolation meant. It meant something totally different to the Soldiers that were actually employing it. So, whereas I believe that what was in the minds of those that were issuing the authority on isolation they were believing that you were just keeping people separate from the rest of the population. Well that's really segregation. That's not isolation. But what was actually being done at Abu Ghraib was they were placing people in their cells naked and they were—those cells they were placing them in, in many instances were unlit. No light whatsoever. And they were like a refrigerator in the wintertime and an oven in the summertime because they had no outside form of ventilation. And you actually had to go outside the building to get to this place they called the 'hole', and were literally placing people into it. So, what they thought was just isolation was actually abuse because it's—actually in some instances, it was torturous. Because they were putting a naked person into an oven or a naked person into a refrigerator. That qualifies in my opinion as torture. Not just abuse.

[U] Q. Yes, Sir. Okay, Sir. Sir, who prepared and had staff responsibility for the CJTF-7 policies?

[U] A. The interrogation policies?

[U] Q. Yes, Sir.

[U] A. The overall responsibilities rested with Colonel Warren and his staff. They took the primacy for putting that together.

[U] Q. All right, Sir, apparently General Fast was out of the country at the time the 14 September 03 memo was staffed. She indicated that in her testimony she was back in the States having some medical treatment done. In your view, did she as the CJ-2 have any doctrinal responsibility for the policy development?

[U] A. Nothing that I'm aware of in doctrine that says that the C-2 has responsibility over interrogation techniques. The doctrine needs to be overhauled. I mean what the Army teaches is you do what's in the FM, and I believe that should be policy. The policy needs to be we do nothing more than what we train. So, if we don't train it in Huachuca, we don't do it anywhere.

[U] Q. Yes.

[U] A. So, for anyone to have authority to go beyond the Field Manual, which means go beyond the training, I think that is a level of authority that no commander should have.

[U] Q. Yes, Sir, okay. Do you have any evidence of whether General Fast reviewed the policy memo upon her return?

[U] A. I don't. I do not know the answer to that question, no.

[U] Q. Do you know whether or not the policy memos were staffed with the CJ-2? And just to back up I'm aware that the lawyer for the 205th MI was involved in the drafting of the policy, as were other lawyers on Colonel Warren's staff. But I am trying to identify who, if anyone, in the C-2 was involved in the preparation of that policy. (b)(6)-2& (b)(7)(C)-2 or Colonel (b)(6)-2& (b)(7)(C)-2 or any of the people—

[U] A. No, I'd be very—I do not believe Colonel (b)(6)-2& (b)(7)(C)-2 or Colonel (b)(6)-2& (b)(7)(C)-2 saw it. It perhaps might have been seen or passed through Captain (b)(6)-2& (b)(7)(C)-2 who was the staff officer in CJTF-7 C-2 area. Who was overseeing the interrogation operations, but he was a Captain. He's a Major now. My suspicion and I do know that the document went through that office. My suspicion is that's what happened. It went through that office. That Captain now Major (b)(6)-2& (b)(7)(C)-2 probably said the legal issue well beyond my expertise. I don't know a whole heck of a lot about interrogation practices, procedures, which he didn't. And I suspect he did not give that much more than just okay. Probably ready it and

[U] Q. Was he the C-2 X, Sir?

[U] A. He was—I do not believe—he might have been in the C-2 X shop but I really don't—

[U] Q. You can't remember—

[U] A. I really don't remember. I did interview Captain (b)(6)-(2)(c)

[U] Q. You do recall the name?

[U] A. Yes.

[U] Q. But don't have any evidence that General Fast reviewed the policy or weighed in on the policy? I'm just trying to pin down what her involvement was with those.

[U] A. I do not know if she ever actually read the policy when she came back off of sick leave or not.

[U] Q. All right, Sir, how about General Wojdakowski?

[U] A. I'd doubt that he ever did but I don't. I didn't ask him.

[U] Q. All right, Sir. Do you recall, Sir, who in the CJ-3 the policy memos were staffed with?

[U] A. No.

[U] Q. Okay. And do you know why CENTCOM disapproved the 14 September 03 memo or disapproved parts of it? Because you may recall they rescinded that memo and came out with the 12 October. Do you recall what CENTCOM'S issues were?

[U] A. I don't remember specifically. They—my recollection was that they believed it was too broad and gave too much latitude, included too many techniques that CENTCOM was not comfortable with. So, they wanted it to be more restrictive, but specifically in which areas they felt uncomfortable or what they thought I don't remember that.

[U] Q. All right, Sir. And was it your understanding that the 14 September memo was disseminated with the intent that it be put into effect at the same time it was sent back to CENTCOM to reflect their approval?

[U] A. My recollection was they—it was unclear. All right? That in fact it went out with the CJTF-7 expectation that it was going out but that people that were to receive it - basically Abu Ghraib - would know that it hadn't yet received CENTCOM approval, but the reality was there was no guidance whatsoever at Abu Ghraib at point in time.

[U] Q. Right.

[U] A. So, they seized on whatever they had. So they started using what they had and that should have been the reasonable expectation of the CG and the CJTF-7 staff.

[U] Q. Do you think that was a mistake, Sir?

[U] A. Yes. I believe the whole issue relative to the handling of the guidance and interrogation techniques and how it was formulated. The whole thing needs to be overhauled. The whole thing was confusing to the Soldier, confusing to everyone along the line. People had memos that were draft memos. At Abu Ghraib they did not have the two that you're referring to, they had the earlier draft copies.

[U] Q. The 10th of September?

[U] A. Right. So some of them were operating from the draft copies. Somewhat they thought were the approved copies, then it gets changed in October and when did everybody get that is a question mark, that you know, originally they had the (b)(2) memo that basically—they were using, you know, and submitted as their Abu Ghraib recommendation as to what should be adopted. So this whole thing about this policy left a lot to be desired.

[U] Q. Sir, who on the CJF-7 staff do you believe had responsibility to make sure the policy was staffed and disseminated properly?

[U] A. Well, I believe that the burden of the interrogation policies should be the C-2 staff's responsibility. I believe that the Staff Judge Advocate needs to be heavily involved with that to make sure that it complies with all laws and regulations. But I believe the interrogation polices should be the responsibility of the C-2 staff.

[U] Q. And apparently, it was not based on what we've talked about?

[U] A. Correct from my investigation I agree with that statement. It wasn't looked upon as being a C-2 issue.

[U] Q. All right, Sir. Do you think General Fast should have reviewed the policy and take a more active more in its staffing and dissemination and development?

[U] A. Given the benefit of hindsight, yes.

[U] Q. Right.

[U] A. But at that point in time, was not an issue that was even on her radar screen. She had just come into country, in the month before. It was in August I believe she came into the country. She had been doing that assessment for the Secretary of Defense on the whole lay down of the intelligence picture there in Iraq. Doing all the requirements of setting up the new fusion center, which didn't exist before she got there. She was grappling with very, very—and I remember because I was at the Intelligence and Security Command at that time. She was grappling with huge numbers of issues. Very complex issues. Trying to put together an infrastructure that did not exist. This was just one issue that was not even raised to her attention as an issue at that point in time.

[U] Q. Right. All right, Sir. Sir, you said that the policies were very confusing. In what way should they have been clarified in your view?

[U] A. Well, first of all, I don't believe that we should have policies that are different from what we teach and what are in the FMs.

[U] Q. Okay.

[U] A. So there should be a total consistency between what is taught at Huachuca and at the other Intelligence Schools, and what we do in the field. In any combatant command. And the only authorities that should exist within the combatant command for interrogation procedures are whatever is taught in the schools. And so there shouldn't even be a need for a policy. The policy should say, comply with all laws, regulations, Geneva Convention, and use the techniques you learned in the schools. As part of that that I found and that should be as simple as that.

[U] Q. And the total —

[U] A. Total consistency.

[U] Q. —policy letters contained techniques that were not in the FM. Do you believe that that contributed to the confusion or even indirectly to some of the non-violent abuses?

[U] A. Yes, and some of the violent abuses, because you would—although there wasn't the hitting, the kicking, and the physical abuses, some of the things that existed like the things we talked about with the stripping. I think I would personally consider that violent in that it violates the person.

[U] Q. Okay, Sir. So then, just to restate, the policy should have stuck with doctrine and should not have gone beyond that because it's not taught at Fort Huachuca. So there's—

[U] A. Yes. We should you know put ourselves in the shoes of the Spec Four or the Sergeant E5 that was asked to do these things. What is sleep deprivation? How do you actually do that? What is dietary control? How do you actually do that? We're passing all those judgments to the lowest ranking individuals in the chain and putting huge burdens on them as to when do they go too far?

[U] Q. Right.

[U] A. And when don't they? Isolate this detainee. Well what does that mean? They were doing it as they thought they should be doing it. The fact that it was a violation of the Geneva Convention and abusive really didn't occur to them.

[U] Q. Sir, should, in your view, General Sanchez have recognized this at the time he signed the policies and put them into effect?

[U] A. I don't believe that you know when we have a Three Star General who is fighting insurgency and he's got it with an inadequate level of staff that we could really expect him to think through that level. I think that's not a failure on General Sanchez—that's not a failure of command. That's a failure of 'the system' to think through and be prepared for these types of realities. Army doctrine is not the responsibility of the Commander on the ground.

[U] Q. Right. Okay, Sir. So, in your view was General Sanchez either negligent or culpably inefficient in the way the CJTF-7 policies were developed? In other words, did he get sufficient legal reviews; was it properly staffed?

[U] A. He got legal reviews. I don't think the legal reviews were sufficient, but he got legal reviews. He was relying on his Staff Judge Advocate. And not only did he get legal reviews, remember this was approved by CENTCOM. So, CENTCOM got legal reviews and it still didn't work.

[U] Q. Right.

[U] A. So you know it's not—it's not just Sanchez here. I mean where is CENTCOM in all of this? Why aren't they clearing up these confusions? They have another whole group of lawyers, and other staff officers. Of course I did the report for CENTCOM but if we want to use that logic, that reasoning to hold General Sanchez accountable then General Abizaid is just as accountable as is others. DoD would therefore be as accountable.

[U] Q. All right, Sir.

[U] A. Under that logic.

[U] Q. Right. So would you say anyone on the CJTF-7 staff was negligent or inefficient in this regard concerning the way the policies were developed and ultimately approved?

[U] A. I believe that the Staff Judge Advocate Office should have been more careful in their development of this. I can't be totally—critical of them because they were under the same strain that everybody was. They were understaffed; under resourced; they were using young—all they had was young inexperienced attorneys and in this particular instance some of this work was done by not even an American attorney but an Australian attorney. Now, I'm not casting dispersions on Australia, but it's a different country.

[U] Q. Right.

[U] A. They don't comply with our regulations, Army regulations or laws. So I believe it's an issue that goes broader than just the SJA Staff. But I have quite a bit of experience dealing with legal issues and lawyers and my expectation is that the SJA staff probably could have done a more thorough job even given the circumstances, than what was done in this instance.

[U] Q. So, in your view was there anything that General Sanchez could have done differently, given the circumstances concerning the policy?

[U] A. Well, I believe that given the previous instances that had become the issues that he probably at an early stage should have been more alert. Focusing on those issues.

[U] Q. All right, Sir, and those issues that were cited in the report includes the instances at Camp Cropper, the ICRC visits, some of the CID cases that had already come to light?

[U] A. Yes. The Bucca, the Camp Bucca---

[U] Q. Camp Bucca, right.

[U] A. --issues. Yes, and I think all of those taken together should have focused in sooner than he did.

[U] Q. Was his failure to recognize this in your view, negligent on his part?

[U] A. No, I don't consider it negligent. I consider it an issue that he perhaps could have recognized sooner. It's very difficult for me to say. That didn't comply with the standard of care that any other Three Star would have given this under the same facts and circumstances that he found himself.

[U] Q. Yes, Sir. Okay. And finally, Sir, for my last question on the policies, were the policies themselves in anyway improper, in that the techniques violated an Army standard or law? And we've already talked about how some of the techniques were outside of doctrine.

[U] A. No, the policies themselves, were not outside of law or regulation as you specifically read them.

[U] Q. Okay, did any of the techniques violate the Geneva Convention in your view to include those techniques that required General Sanchez's approval?

[U] A. Yes, I believe that the—and this is one of the ones that weren't thought through. Remembering in all of the documents that were produced they all said that these have to be complied, it doesn't relieve you of compliance with the Geneva Convention.

[U] Q. Right.

[U] A. But that transferred the decisions as to when it did and when it didn't down to the Soldier. When I thought you know in some instances that the Staff Judge Advocate could have thought those issues more thoroughly. As an example, use of dogs. They should have been specifically and absolutely prohibited. The fact that there was a question about whether or not they could or couldn't be used should have been taken out of those documents entirely. They should have — specifically- dogs are authorized in the interrogation booth. Because if you use dogs in the interrogation booth, what good would they have done unless they were used in order to physically intimidate somebody? And a physical intimidation is a violation of the Geneva Convention. And if you're not going to physically intimidate somebody with a dog why use them in the first place? So there even the thought of using them doesn't make any sense to me. So they should have been totally excluded and that's just one example to answer your question.

[U] Q. Okay, Sir. The next finding, Sir, the JIDC was created in a very short time with parts and pieces of various units. It lacked unit integrity and this lack was a fatal flaw. Sir, do you recall who in CJTF-7 was responsible for developing the JIDC? Who was kind of the lead agent on that?

[U] A. Well who actually came up with the original idea——

[U] Q. Idea——

[U] A. —by JIDC, JIDC is actually in doctrine. So, you can actually go to doctrine and find that in a operation such as CJTF-7. That there is a Joint

Interrogation Debriefing Center is mentioned. It should be used for the interrogation debriefing of prisoners and detainees. The problem is that's about all it says. So it doesn't specify as to how should that be manned. How should the manning be determined? Where does the manning come from? So, you create this thing in doctrine known as the JIDC. Yet, you don't staff it. So whose—where do the bodies come from? Where do the Soldiers, Sailors, Marines, and Airmen; where do they come from? Where do the civilians come from? You know out of whole cloth. So there is no doctrine beyond the fact that it just states that the JIDC should exist. And that I believe is, is the initial four.

[U] Q. Okay. And do you recall which officer actually suggested setting it up? Was that part of General Miller's visit when he came over or was it General Fast idea or—

[U] A. I believe it was— yeah, I think it was a general consensus that 'we' needed to set this up so that—, Colonel Pappas was involved with that discussion. Colonel (b)(6):2, (b)(7)(C):2 Not General Fast because General Fast wasn't there yet.

[U] Q. Okay.

[U] A. General Sanchez was involved with discussion. They were influenced by the General Miller visit as to what to do. They were actually thinking in this concept before General Miller showed up. But then when General Miller showed up it sort of cemented the case that they needed to stand one of these things up in order to have a place to interrogate all those prisoners because they were overwhelmed by the numbers of detainees versus the numbers of people they had to interrogate those detainees. We just didn't have enough interrogators anywhere.

[U] Q. Yes, Sir.

[U] A. So they figured well let's put them all together in one central place.

[U] Q. And you indicated that the lack of unit integrity was the fatal flaw. What made you characterize this as a fatal flaw?

[U] A. Because we build units for reasons. For very good reasons. Be the Military Intelligence units, whatever kind of unit, builds teamwork and it builds the reliance on the strengths and weaknesses of individuals to build a better team. Non-commissioned Officers have a critical role in any unit and Non-commissioned Officers are relied upon because they know the strengths and weaknesses of their Soldiers. They also are relied upon for the oversight of those Soldiers, so they watch those Soldiers and lead those Soldiers through the day-to-day activities. Officers are generally not involved with the day-to-day activities of the Soldiers. When you are just putting people together, individuals together, from all over the Army as we did with the JIDC,

you lose that familiarity that the unit has. You lose the ability for the NCOs to make the determinations as to who has the ability to do which jobs. Who needs to be watched? Who doesn't need to be watched? How much influence does one Soldier have over another? Who's trained well; who isn't trained well? Who really knows their job; who doesn't know their job? NCOs do all of that. That couldn't happen at Abu Ghraib because nobody knew anybody. People were just sent there to do 'a job', it wasn't a unit. They created their own organization as best they could given the circumstances, but they never trained together. It's common and we hear it all the time in the Army you train as you fight. Well these people never trained together. They didn't know each other.

[] Q. Right.

[U] A. So how do we expect them to fight together?

[U] Q. Given the shortage of personnel and other resources that you cited in your report, Sir, what else could CJTF-7 have done?

[U] A. They should have asked for a unit. Send me a unit. Send a Military Intelligence trained unit. Don't send me parts and pieces. I want a battalion and I want a company whatever the right number is. Two companies. Whatever the requirements. The right requirements are, but send me a unit and let me give the unit the mission to do this.

[U] Q. And whose responsibility, Sir, would it have been to ask for that unit?

[U] A. I believe that the person that should have brought to General Sanchez's attention would have been Colonel Pappas. He's the one that should have identified that as a requirement, and---

[U] Q. Do you have any idea why he didn't or did he and it was just not acted upon?

[U] A. I believe that his solution was that he was going to get enough assets from the Army to perform his mission, so he put out a request for forces, to the Army which the Army responded to by sending him Soldiers from MI units all over the world to fill his void. I don't think that was the right way to do it. I think a more effective method would have been for Colonel Pappas to turn to one of his battalions. Remember he had nine battalions assigned to him.

[U] Q. Yes, Sir.

[U] A. To turn to one of his battalions and said this is now your job. Figure this out. You're the one that has responsibility for this. The battalion already

has its staff elements, its NCOs that know each other. And leave it to that battalion to build the structure that they needed. But you could have had that battalion staff available for the leadership that would have been required.

[U] Q. So, you would place this responsibility for ensuring unit integrity of the JIDC on Colonel Pappas?

[U] A. In this instance.

[U] Q. Yes, Sir.

[U] A. Now broader than that we as a Nation if we need JIDCs then we should state so and staff them. And say where specifically we're supposed to get the bodies for these. We create all these joint organizations and then pay for them out of hide because nobody wants to increase end strength. Well then, we shouldn't create these additional things.

[U] Q. All right, Sir. Okay, Sir, moving on to the next finding, Major General Geoffrey Miller, it says, did not introduce harsh techniques into Abu Ghraib interrogation operations. In the follow-on, JTF GTMO Training Team had a positive impact on the operational management of the JIDC. However, the report also found a disconnect between the strategic orientation of the JTF GTMO Team and Abu Ghraib orientation on tactical operations. Can you comment, Sir, on the difference between the strategic and tactical orientations?

[U] A. Yeah, at GTMO their focus was on the detainees that had been captured in Afghanistan. Their perspective was to develop strategic long term information from those detainees. Their tactical information had long since perished.

[U] Q. Right.

[U] A. It had been a long time since they had any tactical operational intelligence of any value. Generally, operational intelligence value perishes within 72-hours or so. The further you get away from 72-hours, the less valuable information you're going to get from a detainee. That's of operational use. You know we talk about 'actionable intelligence'?

[U] Q. Right.

[U] A. Well, actionable intelligence is perishable. So where is the Army's cache? You know where is the leadership of the insurgency? Where were they living? What's their address? That stuff perishes very quickly. Especially in an insurgency. So, you need to get that stuff very quickly and that should have been the focus and was the focus at Abu Ghraib. Whereas in GTMO it was well, what was the

methodologies used to recruit you? Where did they recruit you? Where did they train you? Much more long-term strategic information.

[U] Q. So, they came in with a different focus then?

[U] A. And their experience was different because they were use to focusing on that long-term stuff.

[U] Q. Right. Yeah.

[U] A. And they came in with that mindset whereas the people at Abu Ghraib were trying to respond to the Division Commanders.

[U] Q. Right.

[U] A. That says where's the next ambush site? Where are they getting all these IEDs from? , you know who's the leadership in this village? Much more tactically oriented as we should be in an insurgency.

[U] Q. Okay, Sir, was this different focus then between the two different groups, how did that contribute, if at all, to the abuse that ultimately occurred? Did it have to do with the different interrogation techniques that may be used depending on your focus? And I'm not trying to put words into your mouth—

[U] A. No. No, It really did not impact the abuses at all. This was just an inefficiency that existed that we addressed in our investigation and in our report. But it had no impact on the abuses. Now the GTMO Team did have an impact on the abuses but not in regards to what we just spoke about.

[U] Q. And can you elaborate on that, Sir? That kind of flows—

[U] A. Yes, there was the GTMO Team that came to assist Abu Ghraib and to learn the Tiger Team method that General Miller successfully used in Guantánamo Bay. And members of that team from GTMO, or one member in particular, actually observed and reported that abuse or those instances. There were two instances of abuse to his supervisor.

[U] Q. And that was [REDACTED] reporting to Chief [REDACTED]

[REDACTED]

[U] A. That's correct. And, and for whatever reason Chief [REDACTED] doesn't recall either of those incidents and did not therefore take them any higher and didn't do anything about the abuses that reported to him. And Specialist [REDACTED] we found to be a very credible witness and Chief [REDACTED] agreed that if he says he reported them to me I—he was confident that it was reported to him. He just plain for

whatever reason doesn't remember those instances. But I believe that the fact that the Guantánamo Team was present during interrogations, that were abusive, and that no action was taken—, that that in essence condoned those procedures, because here we have the experts from GTMO. They see this stuff going on and—

[U] Q. Nothing happens.

[U] A. Nothing happens.

[U] Q. All right, Sir. I understand that now. Did Chief [REDACTED] or Specialist [REDACTED] have any responsibility to report their observations of these abuses that we just talked about to General Miller back in GTMO?

[U] A. No, not—

[U] Q. Because they were OPCON as I understand it to the 800th at that point.

[U] A. They were—well not to the 800th. They were OPCOM to the 205th.

[U] Q. To the 205th, yes, Sir. Right.

[U] A. And they had a responsibility, especially [REDACTED] I think. I think [REDACTED] fulfilled his responsibility because he told [REDACTED] who was his supervisor and the supervisor according to [REDACTED] said he'll take care of it. He was going to talk to Colonel Pappas about it. So I think [REDACTED] did fulfill his responsibilities.

[U] Q. Right.

[U] A. The shortcomings were on Chief [REDACTED] performance. But that reporting chain at that point would have been to Colonel Pappas. And that was definitely a shortcoming. But no, he did not have, the responsibility to therefore report it to Miller. Miller wasn't there. He wasn't OPCOM to Miller. Since he doesn't remember it, he couldn't have told Miller about it anyway, but—so.

[U] Q. Right, and you have no evidence that General Geoffrey Miller was ever made aware?

[U] A. I specifically asked Miller that question. And General Miller told me no, [REDACTED] never had any such conversation with him. And [REDACTED] said no I never told Miller because I never told anybody because I don't remember being told.

[U] Q. Okay, Sir. Do you think General Miller bears any responsibility at all for this failure to report abuse?

[U] A. No,

[U] Q. As indicated by (b)(6)-2 & (b)(7)(C)-2

[U] A. No. No. I mean (b)(6)-2 & (b)(7)(C)-2 is I forget if he's a CW3 or a CW4—

[U] Q. Right.

[U] A. As we're sitting here today I cannot imagine what the heck happened in that incident. He—from what I have observed, what General Miller told me, and what others told me about (b)(6)-2 & (b)(7)(C)-2, upstanding, you know. Subject matter expert—, how he could not have reported something like this and not even remember it is beyond me. I cannot understand it as we sit here today.

[U] Q. Yes, Sir, in one of his statements he indicated that he was sick at some point. But--

[U] A. He was ill at the— but even being ill I can't understand it.

[U] Q. Right.

[U] A. But yes, both (b)(6)-2 & (b)(7)(C)-2 and he, and he did go on sick call the next day after this occurred, but still, I still can't understand how he couldn't have reported it.

[U] Q. Okay. You already discussed how in your view that the JTF GTMO Team quote unquote "validated" the use of unacceptable interrogation techniques by being present when such techniques were being used and nothing happened. So therefore, the folks at Abu Ghraib believed that they were okay. Is that a correct summation?

[U] A. Yes, that's my supposition.

[U] Q. Yes, Sir.

[U] A. Yes.

[U] Q. Yes, Sir. Okay. And finally, Sir, this is kind of an overarching question. In your opinion as a senior leader, did the actions of any senior leader noted in your investigation constitute a failure to take appropriate action, a dereliction of duty, or potentially criminal misconduct?

[U] A. No.

[U] Q. Okay. Sir, is there anything that, we failed to ask you that you would like to add?

[U] A. No.

[U] Q. Okay, Sir, well in that case if you've got nothing else to add I'll go ahead and do the formal read-out and let you get back to work.

[U] A. Okay. Great.

[U] Q. First before we get into that, Sir, based on the questions that I've asked you, is there someone else that you think we should talk to and why? I've already mentioned that we'll talk to General Jones tomorrow. Are there key folks that you have interviewed that you would recommend that we re-interview based on the results of our questions?

[U] A. And the focus of your investigation again is what? The senior officials?

[U] Q. The senior officials. Yes, Sir.

[U] A. General Jones obviously, I think is a key individual. You know I had a whole team of investigators. You certainly have access to all their names. If there are any fact issues that you think need further clarification on, certainly feel that you could review that list and speak with any of those.

[U] Q. Okay, Sir.

[U] A. But I don't think any of them that would have the degree of knowledge that I had relative to the subjects you talked about.

[U] Q. Yes, Sir.

[U] A. Because they didn't focus on senior leaders. So basically, I was the one that dealt with those issues.

[U] MS (b)(7)-2,3 Okay. All right, Sir. Great. We are required to protect the confidentiality of IG inquiries and the rights, privacy, and reputations of all people involved in them. We ask people not to discuss or reveal matters under inquiry. Accordingly, we ask that you not discuss this matter with anyone except your attorney, if you choose to consult one, without permission of the Investigating Officers.

Your testimony is part of an official Inspector General record. Earlier, I advised you that while access is normally restricted to persons who clearly need the information to perform their official duties, your testimony may be released outside official channels. Individual members of the public who do not have an official need to know may request a copy of this record, to include your testimony. If there is such a request, do you consent to the release of your testimony outside official channels?

[U] MG FAY: Yes.

[U] MS (b)(6)-2&(b)(7)(C)-2 Sir, do you have any questions?

[U] MG FAY: No, I do not. Thank you.

[U] MS (b)(6)-2&(b)(7)(C)-2 All right, Sir, the time is 1415 and the tape-recorded portion of this interview is concluded.

Testimony of **MAJOR GENERAL GEORGE R. FAY**

Was transcribed and certified by (b)(6)-2&(b)(7)(C)-2
Certified Court Reporter, Department of the Army Inspector
General Agency, Washington, D.C.

D/O

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Telephonic Testimony of COLONEL RETIRED

(b)(6)-2 & (b)(7)(C)-2

Taken between Presidential Towers, Crystal City,
Virginia, and Carlsbad, California,
Between the hours of 1810 and 1856,
3 November, 2004 by (b)(6)-2 & (b)(7)(C)-2

(b)(6)-2 & (b)(7)(C)-2 united States Army Inspector General
Agency, Washington, D.C.

(b)(6)-2 & (b)(7)(C)-2 The time is now 1810. This tape-recorded
interview is being conducted on 3 November, 2004 at Presidential
Towers, Crystal City, Virginia and Carlsbad, California.

Persons present are the witness Colonel (b)(6)-2 & (b)(7)(C)-2
and the Investigating Officer (b)(6)-2 & (b)(7)(C)-2

This inquiry is directed by The Inspector General
of the united States Army concerning allegations regarding
detainee OPS in Iraq.

An Inspector General is an impartial fact-finder
for the Directing Authority. Testimony taken by an IG and reports
based upon that testimony may be used for official purposes.
Access is normally restricted to persons who clearly need the
information to perform their official duties. In some cases,
disclosure to other persons may be required by law or regulation,
or may be directed by proper authority.

Upon completion of this interview I will ask you
whether you consent to the release of your testimony if requested
by members of the public pursuant to the Freedom of Information
Act. Since I will ask you to provide your Social Security Account
Number to help identify you as the person testifying, you've been
previously provided with an explanation of the Privacy Act.

Sir, do you understand it?

COL. (b)(7)(C) I do.

(b)(6)-2 & (b)(7)(C)-2 You are not suspected of any criminal
offense and are not the subject of any unfavorable information.
Before we continue, I want to remind you of the importance of
presenting truthful testimony. It is a violation of Federal Law
to knowingly make a false statement under oath.

Sir, do you have any questions before we begin?

COL. (b)(6)-2 & (b)(7)(C)-2 I'm fine. Thank you. No.

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(b)(6)-2 & (b)(7)(C)-2

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(b)(6)-(2)&(b)(7)(C)-2 All right. Please raise your right hand so I may administer the oath. Right hand so raised?

(b)(6)-(2)&(b)(7)(C)-2 Raised.

[Colonel [Retired] (b)(6)-(2)&(b)(7)(C)-2 was sworn and testified under oath as follows:]

BY (b)(6)-(2)&(b)(7)(C)-2

Q. All right, Sir. For the record please state your name?

A. (b)(6)-(2)&(b)(7)(C)-2

Q. Your rank and component?

A. Colonel, US Army Retired.

Q. And your current position and organization?

A. (b)(6)-(2)&(b)(7)(C)-2

Q. And your Social Security Account Number giving it is completely voluntary on your part to provide.

A. (b)(6)-(2)&(b)(7)(C)-2

Q. And an address home or office?

A. Home. (b)(6)-(2)&(b)(7)(C)-2

Q. All right, Sir. Now this will be an unclassified interview, Sir. So we cannot make any references to any particular units by name, and specifically the one I'm talking about Special OPS type units. All right, Sir?

A. Okay. So I'll just tell you in a code you'll understand then.

Q. Well I do have your memorandums that you have written. So I know what units you would be referring to. Sir, when you were informed of the possible abuses to detainees located in the vicinity of the Baghdad International Airport, who brought this to your attention?

A. I was contacted by Mister (b)(6)-(2)&(b)(7)(C)-2

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Q. Did he call you or e-mail you or--

A. I believe he e-mailed me but it might have been a phone call. Let me see--no, it was a phone call. He called me.

Q. Okay. And this occurred approximately when, Sir?

A. The 24th of November 2003.

Q. What exactly did he tell you, Sir?

A. [REDACTED] told me that he wanted to share with me some information about things that were going on in Iraq with respect to the handling of EPW or detainee personnel. That he wanted me to be aware of, because he had heard that I was preparing to go to Iraq in a consultant capacity dealing with detainee and detainee exploitation.

Q. Did he give you any indication when these possible abuses had occurred?

A. He did. He said that he had actually been there in Iraq on the ground and was the one who had established a Joint Interrogation and Debriefing Center which he established and ran initially at Baghdad International. And that the timeframe of this was June and early July 2003.

Q. Did he state he had witnessed abuses or he had just heard of the abuses?

A. No, I believe he told he had personally witnessed the effects of such abuse. That is to say prisoners, detainees, were being brought to him, where it was pretty evident that they were being abused. Or they having been brought to his center were being signed out for off-site exploitation and returned in a condition that showed signs of abuse.

Q. And I have a copy of the e-mail that he had sent you, Sir. And when he states that the personnel that were abusing the detainees were Agency guys and Army guys. Who was he referring to when he spoke of Agency guys?

A. I don't know who he was referring to specifically but I know that he was in general referring to different civilian agency types as well as military types who worked in an organized unit that was responsible for hunting down and bringing to justice or apprehending high value detainees.

Q. Got it. So you're saying that the agency guys and the Army guys were working with the same unit?

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(b)(6)-2-8 (b)(7)(C)-2

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A. Yes. It was one organization that was out there doing the hunting and when they made a capture they brought them in not frequently right away, but after a certain delay. They would bring them into [REDACTED] facility where they were supposed to be housed, fed, and interrogated. And that was how [REDACTED] observed and made his observations in that capacity.

Q. Sir, you said that [REDACTED] had established the JIDC there at the Baghdad International?

A. Yes, and that's in the memo that you have dated 26 November 2003. I assume that you have that memo, is that correct?

Q. Yes, I do. Yes, I do, Sir.

A. And so the details, the things you're asking me, are in that memo, and it's more reliable than my verbal answers now. I'm referring to the memo as we speak.

Q. Well based upon the phone conversation and I guess the e-mail that he sent to you, did he give you any indication that he had taken these allegations of abuse to anyone higher?

A. He did indeed. That's the subject in paragraph 4 of my report. I specifically called him back after the first phone conversation and interviewed him in some detail, and one of the things that I wanted to do was to find out clarifying information from him to include did he report the matter, and if so, to whom, and what was he looking for? Why was he contacting me? What did he wish me to do?

Q. Did he give you any specific names of individuals that he had reported this to?

A. He did. Let's see that's again in paragraph 3 and 4. There's a number of people who are either aware of the problem or saw, for example he refers to a guy, a Civilian GS-15 named [REDACTED] who was a Collection Manager in that organization. And [REDACTED] said was in a position to verify because [REDACTED] had seen one detainee, [REDACTED] and the damage done to him. He mentioned a British Officer, Major [REDACTED] who was aware of the problems with brutality and then he gave a laundry list of people to whom he reported this to.

Q. Did he specifically name any Army Officials, or were they--

A. Or Army Officials detailed to a non-Army unit.

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Q. Correct.

A. And he says that he complained to Major General Dayton.

Q. Did he specifically tell you what he told General Dayton?

A. He says he complained to him. Well when he told me he complained to him, it was very clear to me what he meant by that was the substance of the problem, namely that the abuse was going on by the capturing unit.

Q. Did he indicate to you what actions General Dayton or let's jump back. Did he indicate when he had complained to General Dayton? Was it--we're still talking the June-July 2003 timeframe?

A. Yes, we are because (b)(6)-2 & (b)(7)(C)-2 finally was sufficiently upset about the problem by early July that he basically didn't want to associate himself with it anymore. And essentially his words to me were he gave up and asked to leave. Asked to depart theater. He didn't want to have anything to do with it. And he did not think that the people he told about it, in this case General Dayton whom he understands, he believes, Dayton then brought the information to the CENTCOM Chief of Staff. As well as the CINCCENT General Franks. He believes that the Red Cross knew about the problem, and that CENTCOM'S attitude was when the ICRC writes it up we'll deal with it.

Q. Okay. So General Dayton was within his Chain of Command, is that correct, Sir?

A. That's correct. Yes. I think--well General Dayton's Chain of Command, it's not clear to me that General Dayton's Chain of Command went through CINCCENT.

Q. Okay.

A. It's not clear to me. I don't have a line and block chart. I think that whole outfit that General Dayton was the head of was a Civilian/Military outfit and that the chain ran and you can check me on this, but I think that chain ran not through CINCCENT but rather back to Washington, D.C. You have to check that.

Q. But you believe he reported to Major General Dayton and that Dayton had at least attempted to take some action by--

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A. Going to CENTCOM.

Q. Going to CENTCOM?

A. Yes. That would argue that CENTCOM is in the chain of command, but it's not clear to me that that's the case.

Q. But given the fact that General Dayton was not in the chain of command of the units that are allegedly performing these abuses?

A. Yes. I don't know. I know what General Dayton's title was and it's certainly an unclassified unit. The Iraq Survey Group.

Q. Right, the ISG. Yes, Sir.

A. The ISG. He's the Commander of that thing. As to where that thing latches up between dotted lines and solid lines, and operational control or admin control or straight back, I'm not real clear on that. But I know that [b)(6)-2 & (b)(7)(C)-2] was explicit that he took General Dayton and [b)(6)-2 & (b)(7)(C)-2] who was the big boss to the Interrogation Center and showed them the poor conditions there. That's a little bit different than saying that there was mistreatment. But the conditions were terrible and he felt that the conditions were not conducive to good exploitation.

Q. He also alludes to possible e-mail between himself and General Dayton. Have you seen any copies of those e-mails?

A. He told me that he had heard from Dayton, "that it's worse than you think and that one of them was even killed" or something like that. And [b)(6)-2 & (b)(7)(C)-2] told me he had that Dayton e-mail. And a photo of one mistreated prisoner, but I never got that from him. He also reported it to a [b)(6)-2 & (b)(7)(C)-2] who was a GS-16, ISG OPS Officer.

Q. Could you spell that last name, Sir?

A. [b)(6)-2 & (b)(7)(C)-2] It's in paragraph four of the report. My memo. My 26 November memo. It also says he reported it to the DIA Chain of Command in Clarendon, when he got back. Specifically General Counsel [b)(6)-2 & (b)(7)(C)-2] and [b)(6)-2 & (b)(7)(C)-2]. Both [b)(6)-2 & (b)(7)(C)-2] and [b)(6)-2 & (b)(7)(C)-2] were told. They told him the matter was being investigated.

Q. So it looks like in June and July he had reported these abuses to his chain of command within Iraq. He got fed up

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I bluntly asked him whether mistreatment was going on or whether he'd seen evidence of mistreatment of EPWs or detainees when they arrived by the capturing units. And he told me he had indeed seen it.

Q. And it's from the capturing unit?

A. Yes. From--on the part of the capturing units.

Q. Okay, Sir, he didn't indicate any abuses by the MP Battalion?

A. No. None whatsoever. If I recall I said to him you know, "Are you aware of any of this is either going on or what not?" and he said, "Yes." And I said, "It's going on?" and he said, "Yes, Sir." I said, "Have you reported it?" And his answer was, "Everyone knows it." And I said, "That's not what I asked you. I want to know if you reported it. Did you report it to your commander, to the JAG, to anybody in writing?" And he said he had not. And I said, "Well, how do you know it's going on?" And he said, "Because when they show up they show signs of being abused and beaten." And I said, "Well how is it documented?" And he said, "Our medical team that you saw here does an arrival medical exam with these detainees and on more that one occasion on multiple occasions they document it in the medical file detainee shows signs of having been beaten."

Q. So you had basically asked him to begin reporting and did he give you any indication that he was going to?

A. No. This was as we were getting ready to leave. It was about the last thing I did on the trip. I essentially said to him, "I'm going to give you some advice when things like this are going on, if you don't report it and report it in writing when this hits the press, the you know what will hit the fan. And it's on you if you knew about it and you didn't report it. You should report this in writing to your chain of command to include to the JAG and the next time a capturing unit brings a detainee, who shows signs of being beaten, you should call them on it. Right there on the spot and tell them this must stop. And tell them that you're going to report it." I said, "I found out about this in California. If I found out about it in California it's going to get into the media."

Q. Yes, Sir.

A. He nodded meekly.

Q. Did you brief anybody else regarding your concerns?

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with it. Came back to the States and had reported it again to his unit back here in the D.C. area?

A. Yes, I got the impression from my interviews of [REDACTED] that he had reported it multiple times and the reason for calling me was that he was distressed that there was never any follow-up on it. No, he expected after having rendered all these reports that there would be someone like you coming to him to do an interview like this. It never happened. He was upset. He had worked for me in the past. He, I think, felt that I was someone who got things done. And that he'd have one more try and his motive was that he just wanted it to stop. He knew it was wrong. And he wanted it--what did he tell me? He feels loyal the Army. He hadn't reported it to the Army but he had reported to everybody else and what he really wanted was that this thing be corrected so this never happens again.

Q. Okay. So you took the interview that you conducted with him along with the e-mail and when you went over to Iraq who did you inform of the abuse?

A. I went over to Iraq. I don't think I brought his e-mail with me. But I brought the report. There were a couple of e-mails between him and me, but I don't remember that I actually brought the e-mails. I think I used the e-mails to help me write the report. I brought the report with me after I was invited over there by General Fast through DA G-2. And with the intention of while I was in theater pursuing it.

Q. Okay, Sir, and you evidentially got to at least visit the site. Is that correct?

A. I did. I visited the site. Had a tour of the entire site. Observed their care and feeding and their procedures in some detail step-by step from arrival of a detainee until he's housed and then sometimes mainstreamed into a room where a bunch of the detainees could be together if they were finished with them. And during the course of that had the opportunity to talk to a civilian whom I believed to be the OIC of the facility from the point of view of the intelligence exploitation piece of the facility.

Q. Did you relay any concerns to him?

A. I did. I believe his name was [REDACTED] I think it was [REDACTED] I believe he was a--I think he was a civilian. But he was the head of the actual interrogation debriefing element that was housed about a half a mile away or some distance away from the camp. The camp was being run exclusively by the MPs, the 800th MP Battalion and the 800th MP. I did. I took him aside and

A. My Team over there with me Lieutenant Colonel Promotable at the time [REDACTED], in fact he had come out on the Colonel's list I think the day before, and Lieutenant Colonel [REDACTED] from DCSINT or what do you call it G-2 DA, told them about it. Of course they knew about the [REDACTED] allegation because I briefed them before we went out there. So I shared it with them, and then the next person I shared it with was General Fast during my out-brief a couple of days later.

Q. And what indication did she give you as far as what action she was going to take?

A. She registered her immediate concern and it was clear to me she understood how serious it was. And I essentially told her words to the effect of I know I'm putting this on you and it's the other half of the house here. It's not your facility. You don't own it. It's these other guys, but since you're the person who invited me here and you're the MI General Office I'm bequeathing it to you. And she understood that since she invited me over and I was out-briefing her and she accepted the fact that I was going to dump it on her and she'd have to do something with it. And I gave her a copy of the memo that I had written, the 26 November memo.

Q. Okay. And did she say she was going to take action on it?

A. Oh, yes.

Q. Did she give you any--do you know if she did take action on it, to the best of your knowledge?

A. I do understand she took action on it. Both from an e-mail she sent me some months later and from the fact that people from the CJTF-7 JAG office subsequently e-mailed me as a professional courtesy to share with me the action that they had taken and it appeared to me like they did an investigation. I mean by 'they' from what I can tell from this e-mail traffic from the captain and the colonel at CJTF-7 JAG that they did their own investigation.

Q. And what were the results? Did they give you an indication of the results of the investigation?

A. They did. They sent me a letter they planned to send to [REDACTED] And I e-mailed them back and told them that I was very concerned about this letter. And that [REDACTED] himself could be excused for thinking that this was a cover-up. I expressed essentially some pretty relatively blunt dismay that

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"their investigation" in quotes could conclude what they concluded given that I gave them the names of the witnesses and I had already two people who admitted it. And let's see in my e-mail to the JAG captain, "If found persuasive evidence in response to queries I made as a result of Mister [REDACTED] approach to me, then how could an investigation find nothing?" That's the next to last sentence in my e-mail to Captain [REDACTED]. And I went on record. I said, "I just want to be sure I'm on record on this. I simply don't see how you could possibly come up with a blanket conclusion that no evidence to support the allegations that detainees were mistreated could be found." That's a quote from her letter. I said if you send this to [REDACTED] could be excused for thinking that this is a cover-up. For that I got a response from her colonel giving me all sorts of very unpersuasive reasons why they just couldn't seem to succeed in their investigation. And I have all this traffic and I'll be happy to send you.

Q. Yes, Sir, I would appreciate it. When we go off tape I'll give you my fax number and if you could fax it to me.

A. Well, I've got more--to assist you in this matter. I've got about fifty or sixty pages of stuff here. I'd be better to FedEx it to you.

Q. I'll give you my FedEx address then, Sir.

A. Yes, I think you should have everything I have.

Q. Okay, Sir, so did you have any other conversations with other than General Fast and the correspondence that you had between the two JAG officers?

A. Yes, when I returned to the Pentagon on my way back from Iraq. It was scheduled that I would have an out-brief with Lieutenant General Alexander and [REDACTED] his Civilian Assistant. I believe that took place on a Saturday morning and I'll guess that it was around December the 12th or so. You can check on that. It was about the one day before the day they caught Saddam Hussein. So I am pretty sure it's December 12th or 13th, a Saturday. And I out-briefed General Alexander. I provided him a copy of my report that I had just e-mailed to General Fast. I provided him a copy of the 26 November memo on the [REDACTED] thing to include that I had given it to General Fast and that she had taken it on. And had some discussion with General Alexander explaining what we had encountered at the facility where Mister [REDACTED] acknowledged that this was going on and that he knew about it and that he had not reported it.

Q. And what was General Alexander's response?

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A. Concerned. I forget what he said but it was very clear to me he looked at [b)(6)-2 & (b)(7)(C)-2] and [b)(6)-2 & (b)(7)(C)-2] assured him that they would follow up on this and that it was taken very seriously.

Q. And it was December of 03. When is the next time that you had heard anything regarding these alleged abuses? Was it when the JAG captain had e-mailed you?

A. Yes, well of course in the meantime Abu Ghraib happened. And that broke in about February I think. I'll take a guess late January or early February. And that was real distressing and disturbing to me because my team and I had been there for the better part of one day. We had observed no such thing although we observed a lot of bad things there. That's one you're not going to pick up on the day shift. You know? They're not going to be carrying on like that. So I found myself wondering you know what's been done on the other matter and out of the blue on about the 1st of April or sooner I received a e-mail from Captain [b)(6)-2 & (b)(7)(C)-2] No, I'm sorry. Friday, March 19th, I got a copy of an e-mail--no April 1st I got a copy from Captain [b)(6)-2 & (b)(7)(C)-2] of an e-mail that she sent to [b)(6)-2 & (b)(7)(C)-2] And that's when--so it was right around 1 April the thing pops up again because Captain [b)(6)-2 & (b)(7)(C)-2] from the CJTF-7, Admin Law Attorney's Office, is communicating with me and [b)(6)-2 & (b)(7)(C)-2] to essentially close the loop on what they found out.

Q. Okay, Sir.

A. So I think that's about the next time it comes up. And when that happens I communicate with Lieutenant Colonel [b)(6)-2 & (b)(7)(C)-2] in G-2 and [b)(6)-2 & (b)(7)(C)-2] and essentially say to them that this approach that's taken by this Captain [b)(6)-2 & (b)(7)(C)-2] and her colonel is really unsatisfying and unprofessional. And shame on them. And what kind of amateur hour is going on over there that they should come back with an answer that they're unable to find anything. Any evidence of any wrongdoing when it's very clear that we had witnesses. And you know don't they know how to pursue a witness? Stuff like that.

Q. Did Mister [b)(6)-2 & (b)(7)(C)-2] or Lieutenant Colonel [b)(6)-2 & (b)(7)(C)-2] give you any indication what they were going to do?

A. Yes. My memory is and I'm not perfect on this but my memory is that [b)(6)-2 & (b)(7)(C)-2] told me and I think maybe [b)(6)-2 & (b)(7)(C)-2] that you know you couldn't disagree with the fact that this was really a shame. You know what I mean? That it was not very professional and I believe that they said they were going to bring it to the DAIG. I think DAIG.

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Q. That's the only other--and then you stated you had some e-mail traffic back and forth with Captain [REDACTED]

A. I have that e-mail traffic for you.

Q. When was the final communication with the SJA Office at CJTF-7?

A. Wednesday, April 7th, after I sent back an e-mail saying I don't know how you can come up with this. This is not very satisfying and [REDACTED] could be excused for thinking it's a cover-up. That was a pretty heavy e-mail as e-mails go for a captain. And the next thing I got was a letter to me from the Office of the SJA, from the SJA himself, Colonel [REDACTED] and he says, "Dear Colonel [REDACTED] Thanks you for your e-mail expressing concerns about the investigation into the reported irregularities occurring at the JIDC in Iraq." And then he gives all his reasons as to why they really weren't able to do much about this. But I should be assured that the Investigating Officer did have my report, et cetera, et cetera, et cetera, and again not a very satisfying response. And I probably--and I'm quite sure I shared that with [REDACTED] at the G-2 Army. I just felt like [REDACTED] complains about this stuff and doesn't hear a word throughout July through Christmas 03 or July through November. [REDACTED] calls me and asks me to look at it because he wants this thing to be handled. I look at it. Find confirmatory evidence. Report it again in theater this time. And out of it three or four months later comes a colonel telling me that they just couldn't find anything due to all the time that passed from the time I interviewed this guy in early December until they're out investigating for almost four months later. I just found it to be unimpressive.

Q. Got it, Sir. So that's the last time you had spoken with anybody or received any correspondence from anybody regarding the alleged abuses?

A. I could have over the course of the next month or two or three. Could have had a phone conversation with [REDACTED] or with [REDACTED] which would have been you know anything happen on that, any results on that? I don't specifically recall it, but it would have been like me if I'd been on the phone with them as this issue at Abu Ghraib played out. And so I couldn't rule out that I said something to one or the other of them about it. But I'm looking through e-mails and stuff here and I'll send you what I have.

Q. Has anyone else contacted you regarding these alleged abuses?

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[REDACTED]

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A. I was. I was contacted by the DOD IG.

Q. And how long ago was that, Sir?

A. I'll take a guess. Maybe three weeks ago. Four weeks ago.

Q. Now have you had any more contact with Mister

(b)(6)-2 & (b)(7)(C)-2

A. Not since I think he e-mailed me after I returned at some point and said, anything going on? Have you heard anything or something like that? Or he got the letter maybe and he might have e-mailed me a one-liner, Did you hear anything about this? or something like that. But I've had no conversations with (b)(6)-2 & (b)(7)(C)-2 whatsoever. There might have been one or two fragmentary e-mails but I'm not sure.

Q. Okay, Sir, just looking through to make sure--

A. In fact I have my (b)(6)-2 & (b)(7)(C)-2 e-mails here. Let me just see. (b)(6)-2 & (b)(7)(C)-2 a JAG officer. I have (b)(6)-2 & (b)(7)(C)-2 e-mails. The first one is Monday, November the 24th, and 15 to the 25th and there is a picture of the facility. March 6th, I have an e-mail from (b)(6)-2 & (b)(7)(C)-2 "How have you been? I haven't heard much news of any investigation. Has (b)(6)-2 & (b)(7)(C)-2 or Barbara Fast been in touch? Seems like everything is under the deck, if anything is happening at all." It's a frustrated e-mail on his part.

Q. Did he give you an impression that no one had contacted him?

A. Yes, he said, "I haven't heard much news. Guess some things never change. Looks like Army is getting back in the business after ten years and they've discussed our effort is a failure. We told them this from the get go if you remember. Hope you're doing okay." Yes, and he e-mailed me because (b)(6)-2 & (b)(7)(C)-2 died. He sent me an e-mail about (b)(6)-2 & (b)(7)(C)-2 dying. Yes. So I have e-mails from (b)(6)-2 & (b)(7)(C)-2 for the period April 04, March 04, March 6, 04. I have e-mails from (b)(6)-2 & (b)(7)(C)-2 Maybe three or four here. Between him and me, between March 6, 04 and June 28th. Okay? And I shall send them to you.

Q. I would appreciate it. I would appreciate any of those e-mails and documents. Although I believe the memorandums that you're referring to.

A. Yes, I'll send them to you anyway.

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(b)(6)-2 & (b)(7)(C)-2

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Q. Yes, Sir, that's all the questions that I have for you. Do you have anything else you wish to present?

A. I guess the only would be and I thought you would have asked me, is what response if anything did I get to my report. Do you have my report that was sent to General Fast?

Q. Yes, I do, Sir.

A. Okay. We gave her that report on about December-- faxed it to her or e-mailed to her on about December the 13th. And on June 14th 04, I received an e-mail from General Fast. She officially confessing to me that she just found my report in her e-mail account on 27 May. That since it came from Lieutenant Colonel [REDACTED] she didn't recognize his name and they captured Saddam at the time. She had not gotten to a lot of her e-mail. And she was going through her e-mails to spruce her memory up on Abu Ghraib. I think the Fay Commission was on its way over to interview her at that time. And she encountered my report for the first time.

Q. But you had already verbally out-briefed her did you not, Sir?

A. That is correct. I verbally out-briefed her on virtually everything in the report, other than I gave her a couple of observations about a couple of her people of the sort that I didn't choose to put in writing, but I felt she needed to know it from me. So she got a pretty good detailed out-brief from me and although when I first got her e-mail I thought this is weird you know. I can't believe this that she didn't see this report. And you know it crossed my mind and I wouldn't be human if I--if it happened, but you know, did she really not see my report? Or in light of the Abu Ghraib thing is this something here that's convenient and comfortable? And then knowing her and the character of her as a person I ruled that out. I don't believe that that was the case and so I returned her e-mail by saying--and I have that on June 30th. She sent me an e-mail June 14th and I'm really busy at that time. I think I was traveling. June 30th I replied to her e-mail referring to the fact that she had most of the stuff from the verbal out-brief anyway. She had taken action. She specifically states that she took action on the one issue, the [REDACTED] issue. She says we discussed it and forwarded the info [REDACTED] the next day to the CG, meaning General Sanchez, and he through CENTCOM and the investigation was conducted. That was a little bit of a curve-ball for me because the investigations results that I was told about came from the mouth of her JAG and her JAG captain. Yet she says in her e-mail that they sent it to CENTCOM where an investigation was conducted. Although you could read it either way, you'd have to

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(b)(6)-2 & (b)(7)(C)-2

see the e-mail for yourself. Anyway I sent her a response and I honestly believe having had time to really think it over that she honestly didn't see that report precisely for the reason that when you're a One Star Promotable in a wartime Headquarters like she was, with what she had on her plate, that it would have been easy for her to have missed this e-mail from [REDACTED]. Had it been from me versus [REDACTED] she probably would have opened it, and I'm also very conscious of the fact that she invited me over there to look at an area that she thought was (a) a critical area. Probably the most important thing that they were doing in intelligence collection, but which (b) by her words she knew was not in a good state of health and she wanted me to look at it. And it took a lot of courage for her to do that. She invited an outsider into the tent to look at an area that she's responsible for. That she considered to be in an ill state of health, and for that reason I thought that showed great character. And that's why I made my report confidential to her although she understood that General Alexander would see it, but that my report when it was sent to her was not sent to her subordinates or to anybody but her. She asked me over. She deserved the professional courtesy of a report from me to her and the fact that she didn't read the written version until May I accept that.

Q. Got it. But you did provide the written version to General Alexander when you came back though Washington is that not correct, Sir?

A. That is correct. I told her when I left at the out-briefing that I would clearly share it because my appointment to brief General Alexander was the day I got back. That I would write the report on the airplane. That I would brief the report and share the report with General Alexander, but that I would e-mail her the report at the same time, and if there was anything in the report that she felt that I either erred in fact, got it wrong, or that where the language was just such that she was uncomfortable with it and would like me to tone it down or otherwise make it better, that she could e-mail me back and I would be pleased to do that. And I extended her that courtesy again because she had bigness of professional spirit to invite me over and giving her a look at it with the idea to be sure that what I write is not unfair or incorrect or maybe even overly emotional or something. I thought that was a courtesy she deserved. She never did send any response back whatsoever and now I understand that she didn't see that written report till May.

Q. Did she display any shock at some of the things that were in the report once she read it?

A. Indeed she did. There were several key things in the report. And I have my notes of my out-brief to her. I did a

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handwritten outline. Detailed handwritten outline before I walked into her office, and it was just her and me and those notes I'll send to you. She had several of the revelations. Particularly the Abu Ghraib situation. Overcrowding, powder keg waiting to go off, lack of support, she was astonished. In a couple of cases she said, "I was unaware of that. I didn't know that" or "I thought we fixed that." And it was very evident to me that she was not being well informed by the Staff Officer responsible for Human Counterintelligence (a) and (b) by her FOB, Commander Colonel Pappas. And I told her that. I didn't put it in my report. But I told her that my assessment of Colonel Pappas was very negative based on my visit with him and how he tried to you know guild the Lilly with me as opposed to being frank and I also told her that her Colonel [REDACTED] who was her Chief of HUMINT/CI although a fine fellow and bright fellow was to me not the right guy for the job. He was desk bound and didn't seem to really have a grasp on it. And the fact that she didn't know what was going on in that critical area told me that the two people that would be responsible to be sure that she did know what was going on, would have been Colonel Pappas and Colonel [REDACTED]. And the fact that she didn't know what was going on plus my observations of the two of them as they did their jobs forced me to say to her again not in writing that I thought she was not being well served by either of them.

Q. Got it, Sir. That's what you told her verbally?

A. Yes. That was the night before we flew back and that would have been--I'll take a guess Thursday. well, I can tell you exactly when it was. I think it was the 11th of December. Was it was either the 10th, Wednesday the 10th, Thursday the 11th, or something like that.

Q. Okay, Sir.

A. It was about nine at night. It could have been the night of the 9th or the 10th, because you know you had to go out and wait for your chance to get on the airplane and you couldn't just go out there and jump on a plane. The whole world--these Soldiers are trying to get home for Christmas you know. And I told her I knew [REDACTED] I knew him when he was a teenager. His dad is Colonel [REDACTED] And I knew them from when he was a teenager and his father brought him to Vietnam where we served together during the cease fire. And then I really liked him. But that to me having had the same job in Desert Storm, I had that same job for General Stewart. And I know what the job involved. You couldn't do the job sitting behind a computer all day.

Q. Yes, Sir. Sir, is there anything else you wish to present?

A. No. I think that that about covers it. I'll send you the report. I'll also send you my report to General Dunlavey when I went to Guantánamo Bay to evaluate their area. I'll send you reports that I wrote for Colonel [REDACTED] at CENTCOM Headquarters the month before I was asked to come over by General Fast. I guess the last thing that I would say and it's a little bit outside the scope of what you're saying or what you're asking me about. Is that it was very distressing to go over there and find out that they didn't have a sophisticated Human Exploitation Facility over there, such as Iran and Desert Storm and Panama. And the fact that they didn't, the fact that they were treating detainees like, in a very hostile Enemy Prisoner of War mode as opposed to being more sophisticated in having a sophisticated facility with an appropriate approach just told me that there's no institutional memory in the Army. The doctrine is lacking. The trained people of the expertise and the skills that are required are lacking. And the result is they went over there with a very one dimensional and short-sighted approach on how we treat prisoners and how we house them; and how we take care of them; and it was not a very good show.

Q. Sir. Who else do you think we should talk to and why?

A. Well you could talk to Colonel [REDACTED] but if you're not willing to fly to California or because you're unable to fly to California because of your schedule, you know, good luck because he's in Korea.

Q. Yes, Sir.

A. Very keen observer of reality. Colonel [REDACTED] now Full Colonel [REDACTED] I think he's stationed in Berlin in a Special Assignment. He certainly is a good co-testifier although they weren't with me when I out-briefed General Fast on purpose. They came with me for her welcome in-brief but then I went in just the two of us for the out-brief because my experience told me that's a better way to do it when you're going to say things that are delicate. You could talk to them. Certainly Colonel [REDACTED] who served with me in the Panama Interrogation Center that we ran and the Desert Storm Interrogation Center has a very keen idea of the overall bigger problem that may not be part of your scope which is why we stepped on it over there and didn't know what we were doing with respect to exploitation of Human Detainees. Those would be the ones that I could think of.

LTC [REDACTED] Okay, Sir, we are required to protect the confidentiality of IG inquiries, and the rights, privacy, and reputations of all people involved in them. We ask people not to

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discuss or reveal matters under inquiry. Accordingly, we ask that you not discuss this matter with anyone, except an attorney if you choose to consult one, without permission of the Investigating Officer.

Your testimony is part of an official Inspector General Record. Earlier, I advised you that while access is normally restricted to persons who clearly need the information to perform their official duties, your testimony may be released outside official channels. Individual members of the public who do not have an official need to know may request a copy of this record to include your testimony under the Freedom of Information Act.

Sir, if there is such a request, do you consent to the release of your testimony outside official channels?

COL. [REDACTED] Without my Social Security Number, yes.

LTC [REDACTED]: Your name and personal information will be redacted. Sir, do you have any questions?

[REDACTED] No, I think I'm fine. Other than I hope that somebody takes action and that somebody gets a hold of Mister [REDACTED] and lets Mister [REDACTED] know that the system might have taken a long time to work but that some action was taken, because I know him to be a person of great passion. I know how painful it was for him. And I think he deserves a hell of a lot of credit for having the courage to step forward and I think he needs some kind of reassurances that somebody finally better late than never addressed themselves to the matter in a competent and professional fashion.

LTC [REDACTED] Okay, Sir, the time is now 1856 and the tape-recorded portion of this interview is concluded.

[Testimony of COLONEL RETIRED [REDACTED] was recorded by means of magnetic tape, and transcribed and certified by [REDACTED] Certified Closed Microphone Court Reporter, united States Army Inspector General Agency, Presidential Towers, Crystal City, Virginia.]

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STATEMENT

The following is submitted as a follow-on to the DAIG interview. I have, in several statements, provided the dates/months of my visits to Abu Ghraib. I based my knowledge principally on what we could reconstruct from flight requests/actual flights and therefore actually confirm. In my mind I always felt that I had made another visit to Abu Ghraib subsequent to the 2 November visit where I accompanied LTG Sanchez, but my staff and I couldn't find the documentation. Now I have found my calendar card for 18 November 2003 which indicates that I did, in fact, visit Abu Ghraib for a 2 ½ hour visit on that date. This synchs with my recollection of a follow-up visit. There were a couple of reasons I wanted to make another trip. First, there is little flexibility to see and ask questions when accompanying the CG. Secondly, I wanted to follow-up on LTG Sanchez' comments and observations that he made to the 205th MI Bde/JIDC at Abu Ghraib on 2 Nov 03 to ensure actions were taken. Additionally, LTG Sanchez had been pretty stern and intense in his direction to interrogators to ensure that they didn't take the middle road, but rather be aggressive without going over legal boundaries. I wanted to ensure that the interrogators were not confused and that they didn't interpret his guidance as "doing whatever it takes to break them." During this visit I gathered all available interrogators and questioned them on understanding left and right limits and told them they were never authorized to go over the boundaries (as per my previous statements). Again, I left satisfied there was no confusion in the minds of the interrogators. My notes on the back of my calendar card also indicate, as per my previous statements, that I was concerned about force protection. I did a walk-through of the prison area (I do not believe I went into the hard cell area, but rather concentrated on the open areas and perimeter). I did this not as the C2, but as a senior leader in CJTF-7. Among other things, I noted that there had been seven escapes over the last few weeks, there were towers that weren't manned, and that there weren't enough MP's to escort prisoners. As I mentioned in previous statements, I provided this information to the command group upon my return and again discussed the leadership issue. This was in synch with LTG Sanchez' existing concerns over unity of effort and force protection. While I did not recommend that COL Pappas be appointed, nor was I informed until after the 19 Nov 03 FRAGO was published, my observations may have contributed to the TACON change directed by the FRAGO.

One additional clarification to my statements. I have, in the past, indicated that the Herrington verbal outbrief was on the evening of 2 Dec 2003. It appears as though his visit was actually 2-9 Dec, with 9 Dec being the outbrief.



FAST, Barbara G.
Major General, USA

23 Dec 04
Date