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DEPUTY SECRETARY OF DEFENSE
1010 DEFENSE PENTAGON
WASHINGTON, DC 20301-1010

JAN 19 2007

MEMORANDUM FOR COMMANDER, U.S. CENTRAL COMMAND

SUBJECT: Enemy Combatant Status Determinations ~~(FOUO)~~

~~(S)~~ Pursuant to Deputy Secretary of Defense memorandum, "Global Screening Criteria (GSC) for Detainees," February 20, 2004, the combatant commanders shall assess individuals over whom they obtain control in connection with War on Terrorism operations to determine whether they are enemy combatants (EC) and are therefore subject to detention by DoD personnel. The Detainee Treatment Act of 2005 provides that no person in the custody or under the effective control of the Department of Defense shall be subject to any treatment or technique of interrogation not authorized by and listed in the United States Field Manual on Intelligence Interrogations. Field Manual 2-22.3, "Human Intelligence Collector Operations," September 6, 2006, provides that separation as an interrogation technique may only be used in the interrogation of persons determined to be unlawful enemy combatants. The National Defense Authorization Act, 2005 requires that the Secretary of Defense submit to Congress an annual report that includes, among other things, the number of individuals determined to be enemy combatants. Finally, pursuant to Deputy Secretary of Defense memorandum, "Policy Guidance on Department of Defense Detention Operations in Iraq, September 16, 2005, provides additional DoD policy guidance on detention operations in Iraq and includes a definition of enemy combatant.

~~(S)~~ The GSC defines "enemy combatant" as any person that U.S. or allied forces could properly detain under the laws and customs of war. For the purposes of the war on terrorism, an enemy combatant includes, but is not necessarily limited to, a member or agent of al Qaeda, the Taliban, or another international terrorist organization against which the United States is engaged in armed conflict. A determination that an individual is an enemy combatant in the war on terrorism is equivalent to a determination that a detainee is an unlawful enemy combatant.

~~(S)~~ Determining which detainees are unlawful enemy combatants is important for a number of reasons, including in preparation for the transition of detainees to Government of Iraq control, to identify those detainees who are eligible for separation pursuant to the Field Manual, and to ensure that DoD has the necessary information to report accurately to Congress the status of detainees under DoD control.

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(S) U.S. forces are conducting war on terrorism operations against al Qaeda in Iraq. Although the designation of detainees as enemy combatants under the GSC applies globally, it is understood that individuals detained in Iraq generally are held as security internees under the law of war and relevant U.N. Security Council Resolutions. Because some of these detainees are al Qaeda and associated forces and would meet the criteria for designation as unlawful enemy combatants under the GSC, it is necessary that such detainees be formally evaluated pursuant to the GSC, consistent with the September 16, 2005, Iraq policy guidance.

(S) For the purposes of applying the GSC in Iraq and other areas in the U.S. Central Command area of responsibility, Commander, U.S. Central Command, may delegate to the level of Task Force Commander, including to the Deputy Commanding General for Detainee Operations, the authority to designate detainees as enemy combatants in the war on terrorism under the GSC.

(S) It is necessary that we have accurate information on the status of detainees, including the number of unlawful enemy combatants in Iraq, for congressional reporting and other purposes. For example, as stated above, the technique of separation may be used only in the interrogation of unlawful enemy combatants. Moreover, in order to complete the required 2006 report to Congress under reference (d), we will need to ensure that information on the distinct categories of detainees, including unlawful enemy combatants in Iraq, is accurate. Paragraph 47 of the September 16, 2005, Iraq policy guidance requires individualized reporting of each such status determination. That requirement is waived; however, I expect such determinations will be reported accurately to OSD when requested, including for the preparation of congressional reports.

(S//NF) Please review your procedures and policies regarding determination of enemy combatant status and confirm that such determinations are being made consistent with the requirements referenced above. Should you require further guidance regarding these matters, please let me know.

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