

Separation and Common Article 3 Talking Points

- Technique meets Common Article 3 Standards
 - No suggestion of "torture," unless prolonged isolation or sensory deprivation, and severe mental suffering involved
 - Not "cruel, inhuman, or degrading," as it is a technique used extensively in US prisons and does not "shock the conscience"
 - Been subject to numerous legal reviews, from DoD to DOJ
- Separation may not be used on EPW's, for interrogation, due to the following GPW provisions:
 - Article 17 – "prisoners who refuse to answer may not be threatened, insulted, or exposed to any unpleasant or disadvantageous treatment of any kind." (emphasis added)
 - Article 21 – subject to disciplinary and health measures, EPW's "may not be held in close confinement;" close confinement means confinement to a cell or room.
 - Article 22 – EPW's "shall not be interned in penitentiaries;" and the nations agree they "shall assemble prisoners of war in camps or camp compounds according to their nationality, language and customs, provided that such prisoners shall not be separated from prisoners of war belonging to the armed forces with which they were serving at the time of their capture, except with their consent."
- EPW treatment/standards are the right policy choice:
 - DoDD 2311.1E, "DoD Law of War Policy," says that US forces will "comply with the law of war during all armed conflicts, however such conflicts are characterized, and in all other military operations."
 - Army has chosen to train to the highest standards – those applicable to international armed conflict.
- Separation a necessary technique:
 - "Separation" was viewed by the COCOMs as an essential tool for interrogation, particularly in the first few weeks of internment.
 - Therefore, the "separation" technique was added, as a carefully controlled, or "restricted" technique, solely for unlawful combatants [to whom the GPW does not apply, but who are covered by Common Article 3]