

Report No. 06-INTEL-10  
August 25, 2006  
Evaluation Report

# OFFICE OF THE INSPECTOR GENERAL OF THE DEPARTMENT OF DEFENSE



DEPUTY INSPECTOR GENERAL FOR INTELLIGENCE

## Review of DoD-Directed Investigations of Detainee Abuse (U)

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**Acronyms (U)**

CJCS	Chairman, Joint Chiefs of Staff
CJTF	Combined Joint Task Force
DIA	Defense Intelligence Agency
DSLOC	Detainee Senior Leadership Oversight Committee
HUMINT	Human Intelligence
JIDC	Joint Interrogation and Debriefing Center
JTF	Joint Task Force
OGA	Other Government Agency
SERE	Survival, Evasion, Resistance, and Escape
SOP	Standard Operating Procedure



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INSPECTOR GENERAL  
DEPARTMENT OF DEFENSE  
400 ARMY NAVY DRIVE  
ARLINGTON, VIRGINIA 22202-4704

August 25, 2006

MEMORANDUM FOR SECRETARY OF DEFENSE  
UNDER SECRETARY OF DEFENSE FOR POLICY  
UNDER SECRETARY OF DEFENSE FOR INTELLIGENCE  
DIRECTOR, JOINT STAFF  
COMMANDER, U.S. JOINT FORCES COMMAND  
SECRETARY OF THE ARMY

SUBJECT: Review of DoD-Directed Investigations of Detainee Abuse (Report No. 06-INTEL-10) (U)

(U) We are providing this report for review and comment. We performed this review as a result of our monitoring and oversight of the investigations of allegations of detainee abuse and of the 13 senior-level reports appointed to inspect, assess, review, and investigate detention and interrogation operations initiated as a result of allegations of detainee abuse. We considered management comments on a draft of this report when preparing the final report.

(U) We requested and received written comments from the Under Secretary of Defense for Policy; the Director, Joint Staff; and the Deputy Chief of Staff, Army G-2. While not required, we received written comments from the Director, Defense Intelligence Agency, and the Department of the Army Inspector General.

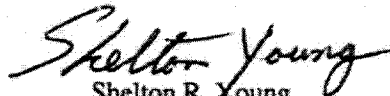
(U) DoD Directive 7650.3 requires that all recommendations be resolved promptly. The Under Secretary of Defense for Policy and the Department of the Army G-2's comments were responsive. The Director, Joint Staff's comments were partially responsive and we request additional comments on Recommendation A.2. and B.3. We did not receive written comments from the Secretary of Defense; the Under Secretary of Defense for Intelligence; and the Commander, U.S. Joint Forces Command. We redirected Recommendation B.2. to the Secretary of the Army based on comments from the Under Secretary of Defense for Policy. We revised Recommendation B.4. to include the Under Secretary of Defense for Intelligence in addition to the Secretary of the Army. We request comments on the final report by September 29, 2006.

(U) If possible, please send management comments in electronic format (Adobe Acrobat file only) to Team2@dodig.mil. Copies of the management comments must contain the actual signature of the authorizing official. We cannot accept the / Signed / symbol in place of the actual signature. If you arrange to send classified comments electronically, they must be sent over the SECRET Internet Protocol Router Network (SIPRNET) or the Joint World-wide Communications System (JWICS).

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(U) We appreciate the courtesies extended to the staff. Questions should be directed to [REDACTED] at (703) 604 [REDACTED] (DSN 664 [REDACTED]) or [REDACTED] at (703) 604 [REDACTED] (DSN 664 [REDACTED]). See Appendix X for the report distribution. The evaluation team members are listed inside the back cover.



Shelton R. Young  
Deputy Inspector General  
for Intelligence

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Office of the Inspector General of the Department of Defense

Report No. 06-INTEL-10  
(Project No. D2004-DINT01-0174)

August 25, 2006

**Review of DoD-Directed Investigations  
of Detainee Abuse (U)**

**Executive Summary (U)**

(U) **Who Should Read This Report and Why?** DoD officials overseeing and determining policy on detainee operations and training personnel involved in detention and interrogation operations should read this report to understand the significance of oversight, timely reporting, and investigating allegations of detainee and prisoner abuse.

(U) **Background.** Following news media reports of allegations that U.S. Forces were abusing detainees held at detention facilities in Iraq, on May 7, 2004, 110 Members of Congress formally requested of the Secretary of Defense that the DoD Inspector General "supervise the investigations of tortured Iraqi prisoners of war and other reported gross violations of the Geneva Conventions at Abu Ghraib Prison in Iraq." In response to this request, the Inspector General announced, in a May 13, 2004, memorandum to the Secretaries of the Military Departments, the establishment of a multidisciplinary team to monitor allegations of detainee and prisoner abuse. This announcement generated a reporting requirement for the various military criminal investigative organizations and other agencies reporting allegations of detainee and prisoner abuse on the status of all open and closed investigations. The multidisciplinary team comprised personnel from two separate functional components of the DoD Office of Inspector General, with two separate objectives. For the first objective, the Office of Investigative Policy and Oversight evaluated the thoroughness and timeliness of criminal investigations into allegations of detainee abuse by focusing on the closed case files of 50 criminal investigations of allegations. That office issued a separate report on August 25, 2006.

(U) For the second objective, the Office of the Deputy Inspector General for Intelligence monitored allegations of detainee and prisoner abuse and evaluated the 13 senior-level inspections, assessments, reviews, and investigations of detention and interrogation operations that were initiated as a result of allegations of detainee abuse. The purpose of this review was to evaluate the reports to determine whether any overarching systemic issues should be addressed.

(U) The Deputy Inspector General for Intelligence's team developed a matrix to assist in tracking the growth in the number of allegations of criminal and noncriminal detainee abuse. As of February 27, 2006, DoD Components opened 842 criminal investigations or inquiries into allegations of detainee and prisoner abuse. A matrix detailing the status of these allegations is at Appendix P. According to the Deputy Assistant Secretary of Defense for Detainee Affairs, as of May 2005, more than 70,000 individuals have been detained by U.S. military and security forces since military operations began in Afghanistan on October 7, 2001.

(U) Beginning on August 31, 2003, through April 1, 2005, DoD officials released 13 senior-level reports that included 492 separate recommendations. The Secretary of Defense established the Detainee Senior Leadership Oversight Committee to review and track all recommendations. Commanders and their respective Inspectors General should implement adequate corrective actions to prevent reoccurrence of the conditions identified. As of March 1, 2006, 421 recommendations were closed and 71 recommendations remained open.

(U) **Results.** The 13 senior-level reports provided extensive coverage of interrogation and detention operations, including detainee abuse. However, we identified three areas that should be examined further.

(U) Allegations of detainee abuse were not consistently reported, investigated, or managed in an effective, systematic, and timely manner. Multiple reporting channels were available for reporting allegations and, once reported, command discretion could be used in determining the action to be taken on the reported allegation. We did not identify any specific allegations that were not reported or reported and not investigated. Nevertheless, no single entity within any level of command was aware of the scope and breadth of detainee abuse. The Secretary of Defense should, when applicable, direct that all Combatant Commanders assign a Deputy Commanding General for Detention Operations, based on mission assignments. The Chairman, Joint Chiefs of Staff should expedite issuance of Joint Publications that outline responsibilities for intelligence interrogations. (See Finding A.)

(U) Interrogation support in Iraq lacked unity of command and unity of effort. Multiple DoD organizations planned and executed diverse interrogation operations without clearly defined command relationships, common objectives, and a common understanding of interrogation guidance. The Under Secretary of Defense for Intelligence and the Under Secretary of Defense for Policy should expedite issuance of relevant Manuals and Directives. The Chairman, Joint Chiefs of Staff and the Secretary of the Army should also expedite issuance of Joint and Multi-Service Publications. (See Finding B.)

(U) Counterresistance interrogation techniques migrated to Iraq, in part, because operations personnel believed that traditional interrogation techniques were no longer effective for all detainees. In addition, policy for and oversight of interrogation procedures were ineffective. As a result, interrogation techniques and procedures used exceeded the limits established in the Army Field Manual 34-52, "Intelligence Interrogation," September 28, 1992. The Under Secretary of Defense for Intelligence in coordination with the Commander, U.S. Joint Forces Command should develop and implement policy and procedures to preclude introducing survival, escape, resistance, and evasion techniques in an environment other than training. (See Finding C.)

(U) **Management Comments.** The Under Secretary of Defense for Policy concurred with one recommendation and nonconcurred with Recommendation B.2, requesting we redirect the recommendation to the Secretary of the Army. We redirected Recommendation B.2, to the Secretary of the Army.

(U) The Department of the Army G-2 concurred with the report, with comments. In response to verbal comments from the Under Secretary of Defense for Intelligence, we revised Recommendation B.4, to request that the Under Secretary of Defense for Intelligence, in coordination with the Secretary of the Army, expedite the issuance of Army Field Manual 2-22.3, "Human Intelligence Collector Operations."

(U) Although not required to provide comments, the Director, Defense Intelligence Agency and the Department of the Army Inspector General concurred with the report, with comments.

(U) The Director, Joint Staff nonconcurred with findings and recommendations that he believed assigned responsibilities to the Chairman of the Joint Chiefs of Staff that were beyond his statutory authority. The Director, Joint Staff did not address specific recommendations directed to the Chairman that are within his statutory authority. We consider these comments nonresponsive and request that the Director, Joint Staff comment on the recommendations by September 29, 2006.

(U) We did not receive written comments on the draft report from the Secretary of the Defense; the Under Secretary of Defense for Intelligence; and the Commander, Joint Forces Command. Therefore, we request the Secretary of Defense, the Under Secretary of Defense for Intelligence, and the Commander, Joint Forces Command provide comments by September 29, 2006.

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## Background (U)

(U) On May 13, 2004, the DoD Inspector General announced the establishment of a multidisciplinary team to monitor allegations of abuse of Enemy Prisoners of War and other detainees (hereafter referred to collectively as detainees). This action was precipitated by the growing number of investigations subsequent to the April 2004 media release of photos taken from October through December 2003 that showed various abuses of detainees held at the Abu Ghraib Prison. The review also followed a May 7, 2004, letter to the Secretary of Defense in which 110 Members of Congress formally requested that the DoD Inspector General "supervise the investigation of tortured Iraqi prisoners of war, and other reported gross violations of the Geneva Convention at Abu Ghraib Prison in Iraq."

(U) The multidisciplinary team comprised personnel from two separate functional components of the DoD Office of Inspector General--the Office of Investigative Policy and Oversight and the Office of the Deputy Inspector General for Intelligence. The Office of Investigative Policy and Oversight evaluated the thoroughness and timeliness of criminal investigations into allegations of detainee abuse by focusing on the closed case files of 50 criminal investigations of allegations. The Office of Investigative Policy and Oversight prepared a separate report (see Appendix A). The Office of the Deputy Inspector General for Intelligence monitored allegations of detainee and prisoner abuse and evaluated the 13 senior-level inspections, assessments, reviews, and investigations of detention and interrogation operations that were initiated as a result of allegations of detainee abuse. (See Appendix B.) The purpose of this review was to evaluate the reports to determine whether any overarching systemic issues should be addressed.

(U) Although there are legal distinctions between Enemy Prisoners of War, civilian internees, retained personnel, and others captured or detained by U.S. Forces, this report focuses on reports, investigations, and reviews of matters involving persons who were in custody of the U.S. military, without regard to the status of the person in custody.

(U) On May 19, 2004, the DoD Inspector General tasked DoD Components to report the status of their organizations' review of allegations of detainee and prisoner abuse. Following a prescribed format, organizations reported on their opened and closed cases for criminal and non-criminal investigations, inspections, or reviews. Components started weekly reporting on May 20, 2004, and biweekly reporting on March 1, 2005. As of February 27, 2006, DoD Components opened 842 criminal investigations or inquiries into allegations of detainee and prisoner abuse. A reporting matrix detailing these Service-specific efforts is at Appendix P.

(U) From August 2003 through December 2004, senior officials directed the accomplishment of 13 senior-level reviews and investigations on

detention and interrogation operations. The last report was issued on April 13, 2005. Although the purpose, mandate, and format of the reports were different, each report ultimately highlighted specific problems in the management and conduct of detention and interrogation operations. (See Appendix B.)

(U) The Secretary of Defense signed an order on July 16, 2004, that created the Office of Detainee Affairs to review detainee problems and formulate a coherent and seamless policy. The Deputy Assistant Secretary of Defense for Detainee Affairs, who is responsible for developing policy recommendations, reports to the Under Secretary of Defense for Policy.

(U) The 13 senior-level reports resulted in 492 recommendations. In November 2004, the Deputy Assistant Secretary of Defense for Detainee Affairs and the Joint Staff J-5 Deputy Director, War on Terrorism established the Detainee Senior Leadership Oversight Council (DSLLOC) to review and monitor the status of the recommendations and actions in the major detainee abuse reviews, assessments, inspections and investigations. Working in concert with the Office of Detainee Affairs, the DSLLOC meets quarterly to review the status reports and action plans from the designated office of primary responsibility on all open recommendations. See Appendix Q for information on the DSLLOC as well as for observations and suggestions from the DoD Office of the Deputy Inspector General for Intelligence.

## **Detainee Treatment (U)**

(U) Various international laws and national treaties govern the treatment of detainees taken during war and other armed hostilities. The Geneva Conventions set the standard for international law to address humanitarian concerns. Overall, the laws and treaties are intended to ensure that detainees taken during armed hostilities are treated humanely.

(U) As of May 2004, the date of the congressional request, the DoD programs governing detainee treatment were prescribed in DoD Directive 5100.77, "DoD Law of War Program," December 9, 1998, and DoD Directive 2310.1, "DoD Program for Enemy Prisoners of War (EPOW) and Other Detainees," August 18, 1994.

(U) **Detention Operations.** Within DoD, the Under Secretary of Defense for Policy has overall responsibility for the coordination, approval, and implementation of major DoD policies and plans relating to detainee operations. The Secretary of the Army, as the DoD Executive Agent, administers the program through DoD Directive 2310.1 and Army Regulation 190-8 (AR 190-8), "Enemy Prisoners of War, Retained Personnel, Civilian Internees, and Other Detainees," October 1, 1997.

(U//~~FOUO~~) The Deputy Assistant Secretary of Defense for Detainee Affairs reported that, as of May 2005, the United States had eight theater-level holding facilities, and coalition forces had five facilities in Iraq; two

theater-level holding facilities and 20 Forward Operating Bases in Afghanistan; and one facility at Guantanamo Bay. Further, U.S. military and security forces detained over 70,000 individuals since military operations began in Afghanistan on October 7, 2001.

## Interrogation (U)

(U) **Department of the Army Field Manual 34-52 (FM 34-52), "Intelligence Interrogation."** Prior to the issuance of the Deputy Secretary of Defense memorandum, "Interrogation and Treatment of Detainees by the Department of Defense," December 30, 2005, there was no official DoD-wide interrogation doctrine, but FM 34-52 was the de facto doctrine for intelligence personnel who conduct interrogations. The FM 34-52 expressly prohibits inhumane treatment and warns that the use of torture by U.S. personnel will bring discredit upon the United States and its armed forces, while undermining domestic and international support for the war effort.

(U) **Interrogation Operations.** DoD defines intelligence interrogation as the systematic process of using approved interrogation approaches to question a captured or detained person to obtain reliable information to satisfy intelligence requirements, consistent with applicable law. Interrogation is an art that can only be effective if practiced by trained and certified interrogators. Certified interrogators are trained to employ techniques that will convince an uncooperative source to provide accurate and relevant information.

(U) **Tactical to Strategic Interrogation.** Interrogation may be conducted at any level, from tactical questioning at the point of capture to the debriefing or interrogation conducted at a detainee's long-term internment facility. AR 190-8 recognizes that the value of intelligence information diminishes with time and therefore allows prisoners to be interrogated in the combat zone, usually by intelligence or counterintelligence personnel. Additionally, non-Military Intelligence personnel can conduct "tactical questioning" of detainees in the field prior to moving them to short-term or long-term holding facilities. After capture and tactical questioning, detainees should be expeditiously transferred to collecting points, corps holding areas, internment, or resettlement facilities. High value detainees are then selected for debriefing or interrogation at a Joint Interrogation and Debriefing Center (JIDC) or Joint Interrogation Facility.

(U) **Coercive Techniques.** The FM 34-52 states that:

Physical or mental torture and coercion revolves around eliminating the source's free will and are expressly prohibited by GWS [Geneva Convention for the Amelioration of the Wounded and Sick in Armed Forces in the Field], Article 13; GPW [Geneva Convention Relative to the Treatment of Prisoners of War], Articles 13 and 17; and GC [Geneva

Convention Relative to the Protection of Civilian Persons in Time of War], Articles 31 and 32. Torture is defined as the infliction of intense pain to body or mind to extract a confession or information, or for sadistic pleasure. Examples of physical torture include-- electric shock, forcing an individual to stand, sit, or kneel in abnormal positions for prolonged periods of time, food deprivation, and any form of beating. Examples of mental torture include--mock executions, abnormal sleep deprivation, and chemically induced psychosis. Coercion is defined as actions designed to unlawfully induce another to compel an act against one's will. Examples of coercion include--threatening or implying physical or mental torture to the subject, his family or others to whom he owes loyalty.

According to the FM 34-52, prohibited techniques are not needed to gain the cooperation of detainees; their use leads to unreliable information that may damage subsequent collection efforts. Not only does a detainee under duress provide information simply to stop the pain, but future interrogations will require more coercive, perhaps more dangerous, techniques. Finally, the interrogator must consider the negative effect that captivity stories will have on the local population, such as choosing not to communicate with or to actively oppose the presence of U.S. military personnel.

(U) **Field Manual 27-10 (FM 27-10), "The Law of Land Warfare."** provides authoritative guidance to military personnel on customary and treaty law for conducting warfare as follows:

Places limits on the exercise of a belligerent's power...and requires that belligerents refrain from employing any kind or degree of violence which is not actually necessary for military purposes and that they conduct hostilities with regard for the principles of humanity and chivalry."

FM 27-10 further discusses prisoners of war and persons entitled to be treated as prisoners of war.

(U) **Presidential Military Order.** In a memorandum dated February 7, 2002, the President stated that Taliban and al Qaeda detainees were "unlawful combatants" not legally entitled to prisoner of war status. However, he did determine that al Qaeda and Taliban detainees were to be treated "humanely and to the extent appropriate and consistent with military necessity, in a manner consistent with the principles of Geneva [Conventions]."

(U) ~~(S//NF)~~ **Approved Counterresistance Interrogation Techniques for Guantanamo Bay.** On April 16, 2003, the Secretary of Defense approved "Counter-Resistance Techniques in the War on Terrorism," which were designed for the U.S. Southern Command, specifically the Guantanamo Bay, Cuba, facility. The April 16, 2003, memorandum reiterated that U.S. Forces must continue to treat detainees humanely. A previous

memorandum dated December 2, 2002, incorporated techniques not found in the Army FM 34-52, but that were designed for those detainees identified as "unlawful combatants." (See Appendix V.) In response to Service-level concerns, the Secretary of Defense rescinded the harsher techniques and directed that a study be completed before he provided further guidance. This action led to a Working Group which evaluated 39 techniques for compliance with U.S. and international law and policy. The Secretary of Defense approved 24 of these interrogation techniques and included them in the April 16, 2003, memorandum. All 17 approved interrogation techniques found in Army FM 34-52 were also included in the April memorandum. Once again, these techniques were limited to interrogations of unlawful combatants held at Guantanamo Bay, Cuba. (See Appendix S.)

### **Objectives (U)**

(U) Our overall objective was to monitor allegations of detainee and prisoner abuse. Specifically, our objective was to evaluate each of the 13 senior-level reports and recommendations to determine whether any overarching systemic problems should be addressed. We identified three areas of concern and they are described as Findings A, B, and C. See Appendix A for a discussion of the scope and methodology and related report coverage. We did not review the management control program of any organization discussed in this report because such a review would be outside the scope of this review.

## A. Reporting Incidents of Alleged Detainee Abuse (U)

The primary objective that the staff seeks to attain for the commander and for subordinate commanders is understanding, or situational awareness—a prerequisite for commanders anticipating opportunities and challenges. True understanding should be the basis for information provided to commanders in order to make decisions.

Joint Publication 0-2, "Unified Action Armed Forces (UNAAF)," July 10, 2001.

- (U) Allegations of detainee abuse were not consistently reported, investigated, or managed in an effective, systematic, and timely manner because clear procedural guidance and command oversight were either inadequate or nonexistent. As a result, no single entity within any level of command was aware of the scope and breadth of detainee abuse.
- (U) See paragraph, Management Actions, in the finding discussion.

### Background (U)

(U) **DoD Policies.** DoD Directive 2310.1 supports the DoD policy to provide humane treatment and effective care of all persons captured or detained. DoD Directive 5100.77 and DoD Directive 2310.1 prescribe policy to handle reportable incidents and require prompt reporting and thorough investigations. DoD Directive 5240.1-R, "Procedures Governing the Activities of DoD Intelligence Components that Affect United States Persons," December 1982, which applies to intelligence components, also contains reporting requirements for questionable activities.

(U) DoD Directive 5100.77 pertains to the DoD Law of War Program, which encompasses all law for the conduct of hostilities binding on the United States, applicable U.S. law, treaties to which the United States is a party, and customary international law. Among other things, DoD policy is to ensure humane treatment and full accountability for all persons under DoD control. As defined in DoD Directive 5100.77, a reportable incident is, "...[a] possible, suspected, or alleged violation of the law of war," and provides that:

All reportable incidents committed by or against U.S. or enemy persons are promptly reported, thoroughly investigated, and, where appropriate, remedied by corrective action.



(U) DoD Directive 2310.1 requires the implementation of the international law of war, both customary and codified, including the Geneva Conventions for Enemy Prisoners of War, to include the sick or wounded, retained personnel, civilian internees, and other detained personnel. The program's objectives require that the U.S. Military Services observe and enforce the obligations and responsibilities of the U.S. Government for humane and efficient care and full accountability for all persons captured or detained by the U.S. Military Services throughout the range of military operations.

(U) DoD Directive 2310.1 defines a reportable incident as "... suspected or alleged violations of the Geneva Conventions and other violations of the international law of war," and states that the Secretaries of the Military Departments and the Commanders of the Unified Combatant Commands are responsible for reporting and investigating incidents promptly to the appropriate authorities in accordance with the DoD Law of War Program prescribed in DoD Directive 5100.77.

(U) DoD Directive 5240.1-R, "Procedures Governing the Activities of DoD Intelligence Components that Affect United States Persons," December 1982, Procedure 15, requires each employee to report any questionable activity to the General Counsel or Inspector General for the DoD Component concerned or to the DoD General Counsel or the Assistant to the Secretary of Defense (Intelligence Oversight). DoD Directive 5240.1, "DoD Intelligence Activities," April 25, 1988, requires DoD intelligence component employees to report all activities that may violate a law, an Executive order, a Presidential Directive, or applicable DoD policy to the Inspector General or General Counsel responsible for the DoD intelligence component concerned, or to the Assistant to the Secretary of Defense (Intelligence Oversight).

(U) **Army Policies.** Army reporting criteria for allegations of detainee abuse fall under the reporting requirements of Army Regulation 190-40, "Serious Incident Report," June 15, 2005. A serious incident is any actual or alleged incident, accident, misconduct, or act, primarily criminal in nature, that, because of its nature, gravity, potential for adverse publicity, or potential consequences, warrants timely notice to Headquarters Department of the Army.

(U) Army Regulation 15-6, "Procedure for Investigative Officers and Boards of Officers," September 30, 1996, includes procedures that Army commanders in the field typically use to conduct administrative investigations. The regulation states that the policy is limited to investigations "not specifically authorized by any other directive." Commanders' inquiries under this regulation are subordinate to criminal investigations.

## Inconsistent Reporting of Incidents (U)

(U) Allegations of detainee abuse were not reported consistently, in part because multiple channels existed to report them.<sup>1</sup> Multiple reporting channels were available for reporting allegations and, once reported, command discretion could be used in determining the action to be taken on the reported allegation. We did not identify any allegations that were not reported or reported and not investigated. Appendix R includes a case study on the difficulty of reporting and investigating allegations in a command environment with multiple organizations and differing reporting chains of command.

(U) Each command level has multiple channels available to report an allegation of abuse: the supervisor/commander, Inspector General, criminal investigators, and others, such as doctors, Staff Judge Advocates, and Chaplains. Once received by a commander, the following general options may be considered:

- Based on the lack of information or evidence, the receiving official may decide there is not enough evidence to take any action or that the alleged actions may not violate approved interrogation techniques.
- The receiving officials may initiate an internal investigation.
- The receiving official may also refer the case for outside review to a higher command or other channel.

(U) The reporting processes of the various Services and DoD agencies were different and therefore less than effective. Multiple reporting channels added to the challenge of maintaining situational awareness of authority and responsibility for directing, conducting, and overseeing unit-level investigations. Different DoD personnel could report an observed incident through any number of reporting channels. This is further exacerbated when some personnel are temporarily assigned or embedded with organizations that have different reporting procedures. The presence and activities of other Government agencies and Coalition partners not wholly subject to U.S. military procedures and policies also present intense challenges to commanders charged with overall situational awareness and oversight within their geographic and operational areas of responsibility. Despite the existence of DoD specialty-specific guidance for criminal investigators, Inspectors General, and medical organizations, the overarching guidance on detainee treatment was either not specific enough or nonexistent.

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<sup>1</sup> We are not suggesting that multiple reporting channels be removed. However, multiple reporting channels do not provide the commander with situational awareness; therefore no single entity within the command is aware of the scope and breadth of the detainee abuse.

(U) As documented in the Vice Admiral Church Report (Appendix M), Service members, DoD civilians, and contractors all agreed that they had an obligation to report any observed abuse. However, their descriptions of what constituted abuse (which ranged from "beating" to "verbal abuse"), to whom they would report abuse (ranging from supervisor to command's Inspector General), and finally who would determine the legitimacy of those allegations (senior enlisted or warrant officer, the interrogator, or the unit judge advocate) were varied.

### **Investigations Not Managed in an Effective Manner (U)**

(U) We believe that allegations of detainee abuse were not consistently investigated or managed in an effective, systematic, and timely manner. Commanders usually exemplify a strong tendency to limit information sharing during ongoing investigations. For example, the need to protect evidence and privacy in criminal cases may discourage Service investigative organizations from readily sharing case information, particularly during open cases and investigations or other high profile inquiries. The need to protect and the need to communicate are at odds with each other. For example, information developed by the Inspector General tends to stay in a restricted Inspector General channel, while private medical information remains within medical channels. Although this process works well for investigations in which one office has primary jurisdiction, such stove-piping otherwise disrupts and impedes a commander's oversight ability and prevents information from reaching the commander. As a result, decision makers often do not have the necessary information to make effective and informed decisions.

(U) The Military Criminal Investigative Organizations are responsible for investigating felony crimes committed in their respective Military Departments. In May 2004, the Commander, U.S. Army Criminal Investigation Command, announced that it would investigate all allegations involving detainees under U.S. Army personnel control or within U.S. Army facilities.

(U) As discussed in the Office of Investigative Policy and Oversight report, commanders frequently did not expeditiously refer potential criminal matters to the Army Criminal Investigation Command. Delays in investigations frequently resulted in evidence degradation or less reliable testimonial evidence as memories faded. Military commanders who do not refer potentially criminal matters to the Military Criminal Investigative Organizations in a timely fashion may also contribute to the perceptions of conspiracies and "coverups." Additionally, a commander's administrative investigation into a criminal matter may prematurely influence witness testimony in a subsequent criminal investigation, or eliminate interviews by trained investigators altogether when individuals invoke their right to counsel.

(U) A delay occurred in reporting potential felony crimes to the Army Criminal Investigation Command in 13 of the 50 cases reviewed

(26 percent), which may have adversely affected the collection of evidence and subsequent punitive or remedial action. (See Appendix A.)

## **Procedural Guidance and Command Oversight**

(U) The inconsistency in reporting and investigating allegations was caused, in part, by the lack of clear procedural guidance and command oversight. Without command oversight, no single entity within any level of command was aware of the results of all investigations.

(U) At the initiation of enemy hostilities and planning for the War on Terrorism, DoD operations orders, local standard operating procedures, and other command guidance did not include or require clear criteria and procedures for reporting, processing, and investigating incidents of alleged detainee abuse.

(U) Before the position of Deputy Commanding General for Detention Operations, Multi-National Force-Iraq was established in July 2004, no single office was specifically responsible for detainee operations and treatment. This position is now the natural focal point for all allegations of detainee abuse in Iraq. All detention-related incidents in theater are now required to be reported through the Deputy Commanding General for Detention Operations.

## **Summary**

(U) A lack of oversight and uniformity in reports and investigations and in following up on incidents of alleged detainee abuse adversely affected situational awareness at the command level. With the establishment of the Deputy Commanding General for Detention Operations, Multi-National Force-Iraq, the commander created the focal point required for situational awareness on detainee abuse and any potential systemic problems. DoD needs to establish policy on detainee abuse that covers reporting criteria, mechanisms, chains of command, and responsibilities for the Services to include applicable Joint and Service policies and regulations.

## **Management Actions**

(U) The following directive was published after the 13 senior-level reports were issued.

(U) DoD Directive 3115.09, "DoD Intelligence Interrogations, Detainee Debriefings and Tactical Questioning," November 3, 2005, consolidates and codifies existing DoD policies and assigns responsibilities for intelligence interrogation, detainee debriefings, tactical questioning, and support activities conducted by DoD personnel. The Directive also establishes requirements for reporting violations of the policy on humane treatment during intelligence interrogations, detainee debriefings, or tactical questioning. Reportable incidents must be reported immediately

through command or supervisory channels to the responsible Combatant Commander.

## **Recommendations (U)**

**A.1 (U) We recommend that the Secretary of Defense, when appropriate, direct all Combatant Commanders to assign a Deputy Commanding General for Detention Operations.**

**(U) Management Comments.** The Secretary of Defense did not respond to this recommendation. We request a response from the Office of the Secretary of Defense to this recommendation by September 29, 2006.

**A.2 (U) We recommend that the Chairman, Joint Chiefs of Staff expedite issuance of Joint Publications that outline responsibilities for intelligence interrogations, debriefings, and tactical questioning, and issue guidance for reporting, tracking, and resolving reports of all detainee abuse inquiries and investigations.**

**(U) Management Comments.** The Director, Joint Staff nonconcurred with the findings and recommendations assigning responsibilities to the Chairman of the Joint Chiefs of Staff that are beyond his statutory authority. The complete response is included in the Management Comments section of the report.

**(U) Evaluator Response.** We agree that some recommendations in the report are not within the Chairman of the Joint Chiefs of Staff's statutory authority; however, this specific recommendation is. Therefore we request comments on this recommendation by September 29, 2006.

## B. Joint Interrogation Support (U)

To be effective, interrogations must be conducted by specially trained personnel operating under strict guidelines and with proper oversight.

LTG William Boykin, USA  
Deputy Under Secretary for  
Intelligence & Warfighter Support (House Permanent  
Select Committee on Intelligence, July 14, 2004)

(U) Interrogation in Iraq lacked unity of command and unity of effort. Multiple DoD organizations planned and executed interrogation operations without clearly defined command relationships and common objectives and understanding of interrogation guidance. These conditions occurred because:

- Interrogation policy was not uniform and consistent.
- Interrogation oversight was inadequate, and
- The Joint planning documents did not adequately consider the possible need for sustained and widespread detention and interrogation operations.

As a result, operational commanders may have failed to realize the full potential of interrogations.

(U) See Management Actions in the finding discussion.

### Background (U)

(U) **Staff Planning.** Planning for effective command and control is the result of commanders and their staffs collaborating to define the commander's intent, the mission statement, and the operational objectives. A collaborative environment disseminates the overarching strategic plan for staffs working on the various sections and helps commanders quickly identify and resolve conflicts early in the planning process. In this way, campaign objectives and operational guidance are communicated at every level, from beginning to end of operations. The Joint Strategic Capabilities Plan and other planning documents provide a complete description of the forces and resources required to execute the Combatant Commander's concept of operations for all phases of a campaign. Military planners prioritize and apportion available forces and resources, including limited and critical support forces.

## Interrogation Support Lacked Unity of Command and Unity of Effort (U)

(U) Strategic interrogation support in Iraq lacked unity of command and unity of effort because multiple organizations performed interrogations without common objectives and clearly defined roles and responsibilities for all command participants.

**(U) Unity of Command.** Command is central to all military actions, and inherent in command is the authority that a military commander lawfully exercises over subordinates to demand accountability. Unity of command means that all forces operate under a single commander who has the requisite authority to direct all forces employed in pursuit of a common purpose. Unity of command is the foundation for the trust, coordination, and teamwork necessary for unified action and requires responsibility among commanders to be described in detail.

**(U) Unity of Effort.** Unity of command is central to unity of effort. A single commander with the necessary authority can influence all forces, even those that are not part of the same command structure, to coordinate and collaborate to achieve a common objective of obtaining intelligence within the established rules and winning the cooperation of the populace. This unity of effort cannot be achieved when command relationships and procedures for coordination are unclear.

**(U) Combined Joint Task Force-7 (CJTF-7).** The U.S. Central Command ordered the formation of CJTF-7 to coordinate and execute all Coalition military operations in Iraq. The primary mission of the CJTF-7 was to conduct "stability and support" operations to facilitate the eventual transfer of power to an Iraqi government. The CJTF-7 was also responsible for interrogation operations, including the maintenance of interrogation facilities at all locations. The objective of the interrogations was to obtain actionable tactical and operational intelligence on insurgency groups. However, the CJTF-7 did not control the detention and interrogation operations conducted by the Iraq Survey Group, the Special Mission Unit Task Force, and Other Government Agencies. There was no unity of command for all detention and interrogation operations in Iraq until July 2004 when Major General Geoffrey Miller was assigned as Deputy Commanding General for Detainee Operations.

(U) ~~(S//NF)~~ **Iraq Survey Group.** In May 2003, the Secretary of Defense established the Iraq Survey Group to undertake the U.S. Central Command's search for weapons of mass destruction. The Iraq Survey Group was responsible for operating an interagency JIDC comprising a mix of intelligence community, allied, and contractor personnel. The objective of their debriefings and interrogations was to obtain strategic intelligence from high value detainees.

(U)



(U)

~~(S//NF)~~ **Human Intelligence Augmentation Teams.** The Defense Intelligence Agency (DIA) assigned human intelligence (HUMINT) augmentation teams to assist the special mission units in Iraq. These task-organized, direct-support interrogators and case officers plan, coordinate, conduct, and supervise interrogation operations.

(U)

~~(S//NF)~~ **Other Government Agencies.** DoD interrogation operations were sometimes conducted in conjunction with external agencies. In particular, Other Government Agencies (OGAs) operated with military units and used military facilities without interagency agreements that clearly defined roles and responsibilities. The lack of specific guidance led to the development of local agreements and contributed to the concerns expressed about what interrogation techniques were appropriate. (See Appendix M.)

(U)

~~(S//NF)~~ **Command Relationships.** For approximately 1 year, from May 2003 to June 2004, interrogations in Iraq were not conducted as part of a coordinated intelligence campaign plan. The command or supporting relationships among those elements operating in the U.S. Central Command Area of Responsibility were often not clearly understood. This ambiguous condition negatively impacted resource management. For example, Lieutenant General Jones stated in his report that the Iraq Survey Group did not acknowledge a mutual support relationship with the CJTF-7 and went so far as to "deny a request for interrogation support" from the Commander, U.S. Central Command. (See Appendix H.) Based on interviews with cognizant HUMINT personnel, we concluded that the DIA interrogators assigned to the Iraq Survey Group and attached to the special mission unit task forces were unable to effectively collaborate or support operations at the CJTF-7 JIDC when it was overwhelmed with detainees. Because these organizations had no previous common operational experience, as was the case with the Iraq Survey Group when it was first established in May 2003, formal command relationships were not fully developed enough to deal with complex coordination required in Iraq. In a July 6, 2004, memorandum to the Director, DIA, the Commander responsible for special mission units emphasized the need to build and maintain the right team for the mission, but admitted that the command "did not adequately in-brief and assimilate your personnel into the scheme of operations."

b(1)



## Interrogation Policy Was Not Uniform and Consistent (U)

(U) Interrogations in Iraq lacked uniform execution of interrogation policy because approved interrogation techniques varied. Although the Commander, U.S. Central Command had primary responsibility for establishing interrogation policy in theater, the Under Secretary of Defense for Intelligence and the Under Secretary of Defense for Policy did not promulgate one definitive interrogation policy to reinforce the existing FM 34-52.<sup>2</sup>

- (U) ~~(S//NF)~~ **Combined Joint Task Force-7.** The CJTF-7 September 2003 Interrogation Policy used the FM 34-52 as a baseline for conducting interrogations, but expanded the techniques by incorporating more aggressive counterresistance policies. (See Appendix V.) As discussed in the Church Report,<sup>3</sup> it was only after the U.S. Central Command's legal review that some of the techniques, such as stress positions, isolation, sleep management, yelling, and loud music, were removed when CJTF-7 released a revised policy on October 12, 2003.

(U) Major General Fay (see Appendix H) reported that interrogation policies promulgated by CJTF-7 were poorly defined and had changed three times in less than 30 days so that it became very confusing as to what techniques could be employed. According to the Schlesinger Report:<sup>4</sup>

"changes in DoD interrogation policies between December 2, 2002 and April 16, 2003 were an element contributing to uncertainties in the field as to which techniques were authorized." "in the absence of specific guidance from [U.S.] CENTCOM [Central Command], interrogators in Iraq relied on Field Manual FM 34-52 and on unauthorized techniques that had migrated from Afghanistan. . . clearly led to confusion on what practices were acceptable."

(U) **Iraq Survey Group.** The Iraq Survey Group used interrogation or debriefing techniques in the Army FM 34-52. The Commander, Iraq Survey Group and numerous interrogators operating at the Iraq Survey Group described debriefing techniques that included direct questions and incentives.

- (U) ~~(S//NF)~~ **Special Mission Unit Task Force.** At the commencement of Operation Iraqi Freedom, the special mission unit forces used a January 2003 Standard Operating Procedure (SOP) which had been developed for operations in Afghanistan. The Afghanistan SOP was influenced by the

<sup>2</sup> Army FM 34-52 was the guideline used until December 29, 2005. (See Background for more information on FM 34-52.)

<sup>3</sup> See original Church Report.

<sup>4</sup> See original Schlesinger Report.