

these policies was inconsistent; the Team concluded, however, based on a review of cases through June 9, 2004, that no confirmed instance of detainee abuse was caused by the approved policies.

(U) Capture, Care, and Control of Detainees:

(U) Army forces are successfully conducting detainee operations to include the capture, care, and control of detainees. Commanders and leaders emphasized the importance of humane treatment of detainees. We observed that leaders and Soldiers treat detainees humanely and understand their obligation to report abuse. In those instances where detainee abuse occurred, individuals failed to adhere to basic standards of discipline, training, or Army Values; in some cases individual misconduct was accompanied by leadership failure to maintain fundamental unit discipline, failure to provide proper leader supervision of and guidance to their Soldiers, or failure to institute proper control processes.

(U) Our review of the detainee abuse allegations attempted to identify underlying causes and contributing factors that resulted in abusive situations. We examined these from the perspective of the Policy and Doctrine, Organizational Structures, Training and Education, and Leadership and Discipline systems. We also examined them in terms of location on the battlefield and sought to determine if there was a horizontal, cross-cutting system failure that resulted in a single case of abuse or was common to all of them. Based on this inspection, we were unable to identify system failures that resulted in incidents of abuse. These incidents of abuse resulted from the failure of individuals to follow known standards of discipline and Army Values and, in some cases, the failure of a few leaders to enforce those standards of discipline. We also found that our policies, doctrine, and training are being continually adapted to address the existing operational environment regarding detainee operations. Commanders adjusted existing doctrinal procedures to accommodate the realities of the battlefield. We expect our leaders to do this and they did. The Army must continue to educate for uncertain environments and develop our leaders to adapt quickly to conditions they confront on the battlefield.

(U) Using a data cut-off of June 9, 2004, we reviewed 103 summaries of Army CID [Criminal Investigative Command] reports of investigation and 22 unit investigation summaries conducted by the chain of command involving detainee death or allegations of abuse. These 125 reports are in various stages of completion: 31 cases have been determined that no abuse occurred; 71 cases are closed; and 54 cases are open or undetermined. Of note, the CID investigates every occurrence of a detainee death regardless of circumstances.

(U) Recognizing that the facts and circumstances as currently known in ongoing cases may not be all-inclusive, and that additional facts and circumstances could change the categorization of a case, the Team placed each report in a category for the purposes of this inspection to understand the overall numbers and the facts currently known, and to examine for

trends or systemic issues. This evaluation of allegations of abuse reports is not intended to influence commanders in the independent exercise of their responsibilities under the Uniform Code of Military Justice (UCMJ) or other administrative disciplinary actions. As an Inspector General inspection, this report does not focus on individual conduct, but on systems and policies.

(U) This review indicates that as of June 9, 2004, 48% (45 of 94) of the alleged incidents of abuse occurred at the point of capture, where Soldiers have the least amount of control of the environment. For this inspection, the DAIG [Department of the Army, Office of the Inspector General] Team interpreted point of capture events as detainee operations occurring at battalion level and below, before detainees are evacuated to doctrinal division forward or central collecting points (CPs). This allowed the DAIG Team to analyze and make a determination to where and what level of possible abuse occurred. The point of capture is the location where most contact with detainees occurs under the most uncertain, dangerous, and frequently violent circumstances.

(U) This review further indicates that as of June 9, 2004, 22% (21 of 94) of the alleged incidents of abuse occurred at Internment/Resettlement (I/R) facilities. This includes the highly publicized incident at Abu Ghraib. Those alleged abuse situations at I/R facilities are attributed to individual failure to abide by known standards and/or individual failure compounded by a leadership failure to enforce known standards, provide proper supervision, and stop potentially abusive situations from occurring. As of June 9, 2004, 20% (19 of 94) of the alleged incidents of abuse occurred at CPs. For the remaining 10% (9 of 94) of the alleged incidents of abuse, a location could not be determined based on the CID case summaries.

(U) Detainee abuse does not occur when individual Soldiers remain disciplined, follow known procedures, and understand their duty obligation to report abusive behavior. Detainee abuse does not occur when leaders of those Soldiers who deal with detainees enforce basic standards of humane treatment, provide oversight and supervision of detainee operations, and take corrective action when they see potentially abusive situations developing. Our site visits, interviews, sensing sessions, and observations indicate that the vast majority of Soldiers and leaders, particularly at the tactical level, understand their responsibility to treat detainees humanely and their duty obligation to report infractions.

Interrogation Operations

(U) The need for timely, tactical human intelligence is critical for successful military operations particularly in the current environment. Commanders recognized this and adapted by holding detainees longer at the point of capture and collecting points to gain and exploit intelligence. Commanders and interrogators also conducted tactical questioning to gain immediate battlefield intelligence. Commanders and leaders must set the conditions for success, and commanders, leaders, and Soldiers must adapt to the ever changing environment in order to be successful.

(U) Doctrine does not clearly and distinctly address the relationship between the MP operating Internment/Resettlement facilities and the Military Intelligence (MI) personnel conducting intelligence exploitation at those facilities. Neither MP nor MI doctrine specifically defines the interdependent, yet independent, roles, missions, and responsibilities of the two in detainee operations. MP doctrine states MI may collocate with MP at detention sites to conduct interrogations, and coordination should be made to establish operating procedures. MP doctrine does not, however, address approved and prohibited MI procedures in an MP-operated facility. It also does not clearly establish the role of MPs in the interrogation process.

(U) Conversely, MI doctrine does not clearly explain MP internment procedures or the role of MI personnel within an internment setting. Contrary to MP doctrine, FM 34-52, Intelligence Interrogation, 28 September 1992, implies an active role for MPs in the interrogation process: "Screeners coordinate with MP holding area guards on their role in the screening process. The guards are told where the screening will take place, how EPWs and detainees are to be brought there from the holding area, and what types of behavior on their part will facilitate the screenings." Subordination of the MP custody and control mission to the MI need for intelligence can create settings in which unsanctioned behavior, including detainee abuse, could occur. Failure of MP and MI personnel to understand each other's specific missions and duties could undermine the effectiveness of safeguards associated with interrogation techniques and procedures.

(U) Shortfalls in numbers of interrogators and interpreters, and the distribution of these assets within the battlespace, hampered human intelligence (HUMINT) collection efforts. Valuable intelligence-timely, complete, clear, and accurate-may have been lost as a result. Interrogators were not available in sufficient numbers to efficiently conduct screening and interrogations of the large numbers of detainees at collecting points (CPs) and internment/resettlement (I/R) facilities, nor were there enough to man sufficient numbers of Tactical Human Intelligence Teams (THTs) for intelligence exploitation at points of capture. Interpreters, especially those Category II personnel authorized to participate in interrogations, were also in short supply. Units offset the shortage of interrogators with contract interrogators. While these contract interrogators provide a valuable service, we must ensure they are trained in military interrogation techniques and policy.

(U) Current interrogation doctrine includes 17 interrogation approach techniques. Doctrine recognizes additional techniques may be applied. Doctrine emphasizes that every technique must be humane and be consistent with legal obligations. Commanders in both OEF and OIF adopted additional interrogation approach technique policies. Officially approved CJTF-180 and CJTF-7 generally met legal obligations under U.S. law, treaties and policy, if executed carefully, by trained soldiers, under the full range of safeguards. The DAIG Team found that some interrogators were not trained on the additional techniques in either formal

school or unit training programs. Some inspected units did not have the correct command policy in effect at the time of inspection. Based on a review of CID case summaries as of 9 June 2004, the team was unable to establish any direct link between the proper use of an approved approach technique or techniques and a confirmed case of detainee abuse.

(U) **Conclusion:** The Army's leaders and Soldiers are effectively conducting detainee operations and providing for the care and security of detainees in an intense operational environment. Based on this inspection, we were unable to identify system failures that resulted in incidents of abuse. This report offers 52 recommendations that are designed to improve the ability of the Army to accomplish the key tasks of detainee operations: keep the enemy off the battlefield in a secure and humane manner, and gain intelligence in accordance with Army standards."

(U) **OIG Assessment:** In accordance with Army Regulation 20-1, Department of the Army Inspector General records are restricted and may not be used for adverse action without prior approval from the Army Inspector General. The Army IG report did not identify any traditional management control or systemic failure that might have led to incidents of abuse. It attributed detainee abuse only to the failure of individuals, "...to follow known standards of discipline and Army Values and, in a few cases, the failure of a few leaders to enforce those standards of discipline."

Appendix G. U.S. Army Reserve Command Inspector General Special Assessment of Training for Army Reserve Units on the Law of Land Warfare, Detainee Treatment Requirements, Ethics, and Leadership (Army Reserve IG Report) (U)

Investigating Officer: USARC Inspector General

Appointing Authority: LTG Helmly, Commanding General US Army Reserve
Command

Date of Initiation: March 11, 2004

Date of Completion: December 15, 2004

(U) **Scope:** (verbatim per Directing Authority memo dated March 11, 2004)

- "...conduct a review of training for Army Reserve Soldiers and units on the Law of Land Warfare, Detainee Treatments Requirements, Ethics and Leadership. The assessment will focus on the following objectives:"
- "Determine the frequency and standards for training Army Reserve Soldiers on the Law of Land Warfare, Detainee Treatment Requirements, Ethics and Leadership training."
- "Assess the adequacy of specified training for Army Reserve units."
- "Assess the quality of specified training in Army Reserve units."
- "Observe specified training to determine if training is conducted to standard."
- "Identify and recommend any changes to training guidance and procedures related to the Law of Land Warfare, detainee treatment Requirements, Ethics and Leadership."

Additional instructions included, "... conduct the assessment at selected Army Reserve units and locations. *Military Police and Military Intelligence units are given a higher priority for assessment (emphasis added)*, but a cross sample of the Army Reserve will be obtained. You will also observe specific training conducted by Army reserve instructors to include: Advanced Individual training; One Station Unit Training;

Officer Basic course; during unit assemblies; at the Army Reserve Center and School; and at Power Projection Platforms.”

(U) Executive Summary Extract:

(U) This Assessment was not an investigation.

a. (U) In the areas assessed, shortcomings were found in training on the Law of Land Warfare and detainee operations; however, Soldiers and leaders expressed knowledge of the requirements. IGs observed briefings on “The Soldier’s Rules” used as the training vehicle on the Law of Land Warfare. These briefings provided Soldiers a good overview of the Law of Land Warfare and the Geneva and Hague Convention requirements, but they were not conducted to standard for the specified Soldier task. IGs also noted that during detainee operations training, trainers did not always include all Soldier task performance steps and test performance measures. Nearly all Soldiers indicated an understanding of the Army Values and had a strong belief in their own personal ethics, to include adherence to the Law of Land Warfare. Soldiers also had a positive belief that their peers and leaders would adhere to the Army Values and would ethically treat detainees in accordance with the Law of War. This is encouraging in spite of a lack of systematic training on the Army Values and values-based ethics in Army Reserve units.

(U) Conclusion. The Army Reserve is aggressively moving to correct faults in Law of Land Warfare and detainee handling training. Training initiatives were developed and implemented to better teach Soldiers, particularly MPs [Military Police], how unit mission relates to the principles of the Law of Land Warfare. The same model must be applied to other Combat Support and Combat Service Support units to ensure that all Soldiers understand the application of Law of Land Warfare training. Training should be integrated with different units, particularly, but not limited to, MP and MI [Military Intelligence] units. The training of future Army Reserve Force Packages in annual “Warrior Exercises” can be critical to accomplishing integration. Army Reserve Soldiers expressed strong feelings of individual ethics and the Army Values. Capitalizing on this with relevant training and dedicated leadership can only make the Army Reserve a better, stronger national asset.

(U) **OIG Assessment:** As indicated by its stated scope, the U.S. Army Reserve Command IG report is a comprehensive assessment only of the type, frequency, and adequacy of Reserve training on the Law of Land Warfare, Detainee Treatments Requirements, and Ethics and Leadership. It is not a comprehensive assessment of the causes or frequency of substantiated detainee abuse committed by Army Reserve Soldiers. While some statistics in the report may possibly be perceived as slightly skewed by the overwhelmingly higher proportion of MP soldiers and MP units surveyed compared to Military Intelligence personnel and other non-MP units, the report’s overall methodology and findings appear to otherwise adequately support the root cause for the issues addressed.

**Appendix H. Army Regulation 15-6
Investigation of the Abu Ghraib
Prison and the 205th MI Bde
(Fay Report; and/or Fay/Jones
Report; and/or Kern Report)
(U)**

Investigating Officer: LTG Jones, Deputy Commanding General, U.S. Army Training and Doctrine Command and MG Fay, Assistant Deputy Chief of Staff Army G2

Appointing Authority: GEN Kern, Commander, U.S. Army Materiel Command

Date of Initiation: March 31, 2004

Date of Completion: August 6, 2004

(U) **Scope:** To investigate all relevant facts and circumstances surrounding alleged misconduct on the part of personnel assigned and/or attached to the 205th MI Bde from 15 Aug 03 to 1 Feb 04 at the Abu Ghraib Detention facility in Iraq.

(U) **Executive Summary Extract:**

(Part I MG Fay's unclassified version)

(2) (U) This investigation identified forty-four (44) alleged instances or events of detainee abuse committed by MP [Military Police] and MI [Military Intelligence] Soldiers, as well as civilian contractors. On sixteen (16) of these occasions, abuse by the MP Soldiers was, or was alleged to have been, requested, encouraged, condoned, or solicited by MI personnel. The abuse, however, was directed on an individual basis and never officially sanctioned or approved. MI solicitation of MP abuse included the use of isolation with sensory deprivation, the removal of clothing to humiliate, the use of dogs as an interrogation tool to induce fear, and physical abuse. In eleven (11) instances, MI personnel were found to be directly involved in the abuse. MI personnel were also found not to have fully comported with established interrogation procedures and applicable laws and regulations. Theater Interrogation and Counterresistance Policies (ICRP) were found to be poorly defined, and changed several times. As a result, interrogation activities sometimes crossed into abusive activity.

(3) (U) This investigation found that certain individuals committed offenses in violation of international and US law to include the Geneva Conventions and the UCMJ [Uniform Code of Military Justice] and violated Army Values. Leaders in key positions failed to properly

supervise the interrogation operations at Abu Ghraib and failed to understand the dynamics created at Abu Ghraib. Leaders also failed to react appropriately to those instances where detainee abuse was reported, either by other Service members, contractors, or by the International Committee of the Red Cross (ICRC).

(4) (U) Leader responsibility, command responsibility, and systemic problems and issues also contributed to the volatile environment in which the abuse occurred. These systemic problems included: inadequate interrogation doctrine and training, an acute shortage of MP and MI Soldiers, the lack of clear lines of responsibility between the MP and MI chains of command, the lack of a clear interrogation policy for the Iraq Campaign, and intense pressure felt by the personnel on the ground to produce actionable intelligence from detainees.

b. (U) Problems: Doctrine, Policy, Training, Organization, and Other Government Agencies.

(1) (U) Inadequacy of doctrine for detention operations and interrogation operations was a contributing factor to the situations that occurred at Abu Ghraib. The Army's capstone doctrine for the conduct of interrogation operations is Field Manual (FM) 34-52, Intelligence Interrogation, dated September 1992. Non-doctrinal approaches, techniques, and practices were developed and approved for use in Afghanistan and GTMO as part of the Global War on Terrorism (GWOT). These techniques, approaches, and practices became confused at Abu Ghraib and were implemented without proper authorities or safeguards. Soldiers were not trained in non-doctrinal interrogation techniques such as sleep adjustment, isolation, and the use of dogs. Many interrogators and personnel overseeing interrogation operations at Abu Ghraib had prior exposure to or experience in GTMO or Afghanistan. Concepts for the non-doctrinal, non field-manual approaches and practices came from documents and personnel in GTMO and Afghanistan. By October 2003, interrogation policy in Iraq had changed three times in less than thirty days and soldiers became very confused about what techniques could be employed and at what level non-doctrinal approaches had to be approved.

(2) (U) MP personnel and MI personnel operated under different and often incompatible rules for treatment of detainees. The military police referenced DoD-wide regulatory and procedural guidance that clashed with the theater interrogation and counterresistance policies that the military intelligence interrogators followed. Further, it appeared that neither group knew or understood the limits imposed by the other's regulatory or procedural guidance concerning the treatment of detainees, resulting in predictable tension and confusion. This confusion contributed to abusive interrogation practices at Abu Ghraib. Safeguards to ensure compliance and to protect against abuse also failed due to confusion about the policies and the leadership's failure to monitor operations adequately.

(4) (U) The term Other Government Agencies (OGA) most commonly referred to the Central Intelligence Agency (CIA). The CIA conducted

unilateral and joint interrogation operations at Abu Ghraib. The CIA's detention and interrogation practices contributed to a loss of accountability and abuse at Abu Ghraib. No memorandum of understanding existed on the subject interrogation operations between the CIA and CJTF-7, and local CIA officers convinced military leaders that they should be allowed to operate outside the established local rules and procedures. CIA detainees in Abu Ghraib, known locally as "Ghost Detainees," were not accounted for in the detention system. With these detainees unidentified or unaccounted for, detention operations at large were impacted because personnel at the operations level were uncertain how to report or classify detainees.

c. (U) Detainee Abuse at Abu Ghraib.

(1) (U) The physical and sexual abuses of detainees at Abu Ghraib were by far the most serious. The abuses spanned from direct physical assault, such as delivering head blows rendering detainees unconscious, to sexual posing and forced participation in group masturbation. At the extremes were the death of a detainee in OGA custody, an alleged rape committed by a US translator and observed by a female Soldier, and the alleged sexual assault of a female detainee. These abuses are, without question, criminal. They were perpetrated or witnessed by individuals or small groups. Such abuse can not be directly tied to a systemic US approach to torture or approved treatment of detainees. The MPs being prosecuted claim their actions came at the direction of MI. Although self-serving, these claims do have some basis in fact. The environment created at Abu Ghraib contributed to the occurrence of such abuse and it remained undiscovered by higher authority for a long period of time. What started as nakedness and humiliation, stress and physical training (exercise), carried over into sexual and physical assaults by a small group of morally corrupt and unsupervised Soldiers and civilians.

(2) (U) Abusing detainees with dogs started almost immediately after the dogs arrived at Abu Ghraib on 20 November 2003. By that date, abuses of detainees was already occurring and the addition of dogs was just one more device. Dog Teams were brought to Abu Ghraib as a result of recommendations from MG G. Miller's assessment team from GTMO. MG G. Miller recommended dogs as beneficial for detainee custody and control issues. Interrogations at Abu Ghraib, however, were influenced by several documents that spoke of exploiting the Arab fear of dogs. The use of dogs in interrogations to "fear up" detainees was utilized without proper authorization.

(3) (U) The use of nudity as an interrogation technique or incentive to maintain the cooperation of detainees was not a technique developed at Abu Ghraib, but rather a technique which was imported and can be traced through Afghanistan and GTMO. As interrogation operations in Iraq began to take form, it was often the same personnel who had operated and deployed in other theaters and in support of GWOT who were called upon to establish and conduct interrogation operations in Abu Ghraib. The lines of authority and the prior legal opinions blurred. They simply carried

forward the use of nudity into the Iraqi theater of operations. The use of clothing as an incentive (nudity) is significant in that it likely contributed to an escalating "de-humanization" of the detainees and set the stage for additional and more severe abuses to occur.

(4) (U) There was significant confusion by both MI and MPs between the definitions of "isolation" and "segregation." LTG Sanchez approved the extended use of isolation on several occasions, intending for the detainee to be kept apart, without communication with their fellow detainees. His intent appeared to be the segregation of specific detainees. The technique employed in several instances was not, however, segregation but rather isolation - the complete removal from outside contact other than required care and feeding by MP guards and interrogation by MI. Use of isolation rooms in the Abu Ghraib Hard Site was not closely controlled or monitored. Lacking proper training, clear guidance, or experience in this technique, both MP and MI stretched the bounds into further abuse; sensory deprivation and unsafe or unhealthy living conditions. Detainees were sometimes placed in excessively cold or hot cells with limited or poor ventilation and no light."

(Part II Extract from LTG Jones' Separate Classified Report)

c. (U) Abuse at Abu Ghraib

(1) (U) Clearly, abuses occurred at the prison at Abu Ghraib. For purposes of this report, I defined abuse as treatment of detainees that violated U.S. criminal law or international law or treatment that was inhumane or coercive without lawful justification. Whether the Soldier or contractor knew, at the time of the acts, that the conduct violated any law or standard is not an element of the definition. MG Fay's portion of this report describes the particular abuses in detail.

(2) (U) I found that no single, or simple, explanation exists for why some of the Abu Ghraib abuses occurred. For clarity of analysis, my assessment divides abuses at Abu Ghraib into two different types of improper conduct: First, intentional violent or sexual abuses and, second, actions taken based on misinterpretations of or confusion about law or policy.

(3) (U) Intentional violent or sexual abuses include acts causing bodily harm using unlawful force as well as sexual offenses including, but not limited to rape, sodomy and indecent assault. No Soldier or contractor believed that these abuses were permitted by any policy or guidance. If proven, these actions would be criminal acts. The primary causes of the violent and sexual abuses were relatively straightforward - individual criminal misconduct clearly in violation of law, policy, and doctrine and contrary to Army values.

(4) (U) Incidents in the second category resulted from misinterpretations of law or policy or resulted from confusion about what interrogation techniques were permitted. These latter abuses include some cases of clothing removal (without any touching) and some uses of dogs in interrogations (uses without physical contact or extreme fear). Some of these incidents may have violated international law. At the time the Soldiers or contractors committed the acts, however, some of them may have honestly believed the techniques were condoned.

d. (U) Major Findings

(1) (U) The chain of command directly above the 205th MI Brigade was not directly involved in the abuses at Abu Ghraib. However, policy memoranda promulgated by the CJTF-7 Commander led indirectly to some of the non-violent and non-sexual abuses. In addition, the CJTF-7 Commander and Deputy Commander failed to ensure proper staff oversight of detention and interrogation operations. Finally, CJTF-7 staff elements reacted inadequately to earlier indications and warnings that problems existed at Abu Ghraib. Command and staff actions and inaction must be understood in the context of the operational environment discussed above. In light of the operational environment, and CJTF-7 staff and subordinate unit's under-resourcing and increased missions, the CJTF-7 Commander had to prioritize efforts. CJTF-7 devoted its resources to fighting the counter-insurgency and supporting the CPA, thereby saving

Coalition and civilian Iraqi lives and assisting in the transition to Iraqi self-rule. I find that the CJTF-7 Commander and staff performed above expectations, in the over-all scheme of OIF.

(2) (U) Most, though not all, of the violent or sexual abuses occurred separately from scheduled interrogations and did not focus on persons held for intelligence purposes. No policy, directive or doctrine directly or indirectly caused violent or sexual abuse. Soldiers knew they were violating the approved techniques and procedures.

(3) (U) Confusion about what interrogation techniques were authorized resulted from the proliferation of guidance and information from other theaters of operation; individual interrogator experiences in other theaters; and the failure to distinguish between interrogation operations in other theaters and Iraq. This confusion contributed to the occurrence of some of the non-violent and non-sexual abuses.

(4) (U) MI and MP units also had missions throughout the Iraqi Theater of Operations (ITO), however, 205th MI Brigade and 800th Military Police Brigade leaders at Abu Ghraib failed to execute their assigned responsibilities. The leaders from these units located at Abu Ghraib or with supervision over Soldiers and units at Abu Ghraib, failed to supervise subordinates or provide direct oversight of this important mission. These leaders failed to properly discipline their Soldiers. These leaders failed to learn from prior mistakes and failed to provide continued mission-specific training. The 205th MI Brigade Commander did not assign a specific subordinate unit to be responsible for interrogations at Abu Ghraib and did not ensure that a Military Intelligence chain of command at Abu Ghraib was established. The absence of effective leadership was a factor in not sooner discovering and taking actions to prevent both the violent/sexual abuse incidents and the misinterpretation/confusion incidents.

(5) (U) Neither Defense nor Army doctrine caused any abuses. Abuses would not have occurred had doctrine been followed and mission training conducted. Nonetheless, certain facets of interrogation and detention operations doctrine need to be updated, refined or expanded, including the concept, organization, and operations of a Joint Interrogation and Debriefing Center (JIDC); guidance for interrogation techniques at both tactical and strategic levels; the roles, responsibilities and relationships between MP and MI personnel at detention facilities; and, the establishment and organization of a Joint Task Force (JTF) structure and, in particular, its intelligence architecture.

(6) (U) No single or simple theory can explain why some of the abuses at Abu Ghraib occurred. In addition to individual criminal propensities, leadership failures, and multiple policies, many other factors contributed to the abuses occurring at Abu Ghraib, including: safety and security conditions at Abu Ghraib; multiple agencies/organizations involvement in interrogation operations at Abu Ghraib; failure to effectively screen, certify, and then integrate contractor interrogators/analysts/linguists; lack of a clear understanding of MP and MI roles and responsibilities in

interrogation operations; and dysfunctional command relationships at brigade and higher echelons, including the tactical control relationship between the 800th MP Brigade and CJTF-7.

(8) (U) Working alongside non-DoD organizations/agencies in detention facilities proved complex and demanding. The perception that non-DoD agencies had different rules regarding interrogation and detention operations was evident. Interrogation and detention policies and limits of authority should apply equally to all agencies in the Iraqi Theater of Operations.

(9) (U) Leaders and Soldiers throughout Operation Iraqi Freedom were confronted with a complex and dangerous operational environment. Although a clear breakdown in discipline and leadership, the events at Abu Ghraib should not blind us from the noble conduct of the vast majority of our Soldiers. We are a values based profession in which the clear majority of our Soldiers and leaders take great pride.

(U) **OIG Assessment:** The Fay report is a very detailed and exhaustive review of the allegations of misconduct by personnel assigned to the 205th MI Bde at the Abu Ghraib Detention facility in Iraq. MG Fay identified several issues that were determined to be outside the scope of his report. One issue dealt with other government agency involvement with detainees and prisoners. A second issue referred to the accounts by a Colonel (U.S. Army retired) who deployed to Iraq at the request of CJTF-7 and the U.S. Army G2 to provide feedback on the overall HUMINT process in the Iraq Theater of Operations. The Colonel became aware of allegations of detainee abuse and summarized his allegations in his after-action report following his return from Iraq. This information was eventually passed to the Church Team. The Fay report acknowledged severe shortages in personnel, training and resource issues which were beyond the control of the 205th MI Brigade's ability to overcome. The report ultimately assigned primary responsibility to the Brigade Commander under the auspices of leadership failure, while acknowledging the CJTF-7 Commander and Deputy Commander failed to ensure proper oversight of detention and interrogation operations.

Appendix I. Treatment of Enemy Combatants Detained at Naval Station Guantanamo Bay, Cuba, and Naval Consolidated Brig Charleston (First Navy IG Review; and/or Church: GITMO and Charleston Report) (U)

Note: This initial Navy IG review preceded the subsequent full Church review which began May 25, 2004.

Investigating Officer: Vice Admiral Church, Navy Inspector General
Appointing Authority: Secretary of Defense
Date of Initiation: May 3, 2004
Date of Completion: May 11, 2004

(U) **Scope:** "...ensure DoD orders concerning proper treatment of enemy combatants detained by the Department at Guantanamo Bay, Cuba and Naval Consolidated Brig Charleston are followed ... immediately review the relevant practices at such locations and...brief findings to SECDEF by May 10, 2004."

(U) **Executive Summary Extract:**

Given the short suspense of one week, a briefing was presented to the Secretary of Defense on 8 May 2004 in lieu of a more formal written report. The essence of those briefing slides provided a "snapshot of current existing conditions." The slides also reported that the review uncovered, "No evidence or suspicion of serious or systemic problems." Additionally, while humane treatment of detainees was assessed as, "Appears to be in Compliance." ... a number of possible "infractions" were described which seemed to indicate a potential pattern of a somewhat lesser degree of compliance than otherwise indicated or assumed. The briefing slides stated however, "All incidents documented during review were reported to SOUTHCOM [U.S. Southern Command] and resulted in timely action."

(U) **OIG Assessment:** The one week assessment necessitated a cursory review rather than a more thorough investigation of the assigned scope. The resulting May 8, 2004, out-brief to Secretary of Defense stated the findings were therefore "not based on 100 percent compliance" and provided a "snapshot of current existing conditions." Consequently, the review uncovered no evidence or suspicion of serious or systemic problems. Additionally, while humane treatment of detainees was assessed as "in

compliance," a number of possible infractions were also described. Those infractions seemed to indicate a lesser degree of compliance than was otherwise indicated or assumed. The briefing stated that all incidents documented during the review were reported to U.S. Southern Command and resulted in timely action; however, the review did not specify what actions, or whether any action included investigating allegations of possible detainee abuse.

Appendix J. Schlesinger: Final Report of the Independent Panel to Review DoD Detention Operations (Schlesinger Report) (U)

Investigating Officer: Schlesinger Panel
Appointing Authority: Secretary of Defense
Date of Initiation: May 12, 2004
Date of Completion: Aug 24, 2004

(U) Scope:

- To review all previous DoD investigations and reports.
- Provide advice on highlighting issues most important for SECDEF attention and correction.
- Provide views on the causes and contributing factors to problems in detainee operations and corrective measures required.

(U) Executive Summary Extract:

OVERVIEW (U)

(U) The events of October through December 2003 on the night shift of Tier 1 at Abu Ghraib Prison were acts of brutality and purposeless sadism. We now know these abuses occurred at the hands of both military police and military intelligence personnel. The pictured abuses, unacceptable even in wartime, were not part of authorized interrogations nor were they even directed at intelligence targets. They represent deviant behavior and a failure of military leadership and discipline. However, we do know that some of the egregious abuses at Abu Ghraib which were not photographed did occur during interrogation sessions and that abuses during interrogation sessions occurred elsewhere.

ABUSES (U)

(U) As of the date of this report, there were about 300 incidents of alleged detainee abuse across the Joint Operations Areas. Of the 155 completed investigations, 66 resulted in a determination that detainees under the control of U.S. forces were abused. Dozens of non-judicial punishments have already been awarded. Others are in various stages of the military justice process.

(U) Of the 66 already substantiated cases of abuse, eight occurred at Guantanamo, three in Afghanistan and 55 in Iraq. Only about one-third were related to interrogation, and two-thirds to other causes. There were five cases of detainee deaths as a result of abuse by U.S. personnel during interrogations. Many more died from natural causes and enemy mortar attacks. There are 23 cases of detainee deaths still under investigation: three in Afghanistan

and 20 in Iraq. Twenty-eight of the abuse cases are alleged to include Special Operations Forces (SOF) and, of the 15 SOF cases that have been closed, 10 were determined to be unsubstantiated and 5 resulted in disciplinary action. The Jacoby review of SOF detention operations found a range of abuses and causes similar in scope and magnitude to those found among conventional forces.

(U) Concerning the abuses at Abu Ghraib, the impact was magnified by the fact the shocking photographs were aired throughout the world in April 2004. Although U.S. Central Command had publicly addressed the abuses in a press release in January 2004, the photographs remained within the official criminal investigative process. Consequently, the highest levels of command and leadership in the Department of Defense were not adequately informed nor prepared to respond to the Congress and the American public when copies were released by the press.

CONCLUSION (U)

(U) The vast majority of detainees in Guantanamo, Afghanistan and Iraq were treated appropriately, and the great bulk of detention operations were conducted in compliance with U.S. policy and directives. They yielded significant amounts of actionable intelligence for dealing with the insurgency in Iraq and strategic intelligence of value in the Global War on Terror. For example, much of the information in the recently released 9/11 Commission's report, on the planning and execution of the attacks on the World Trade Center and Pentagon, came from interrogation of detainees at Guantanamo and elsewhere.

(U) **OIG Assessment:** Similarly to the Church Report, the Schlesinger Panel's report was a broad overview of detainee and detention operations along a timeline which denoted major actions taken up to August 2004. The report stated, "There is both institutional and personal responsibility at higher levels." However, the panel's overall recommendations did not specify where and to whom such culpability should be assigned for follow-up investigation. While the finding provided a useful historical perspective, it lacked sufficient detail to pinpoint the root causes and effects. Recommendation 14 acknowledged this gap and suggested that the report's recommendations and all other assessments on detention operations should be studied further. Most notably, detention and interrogation operations, including personnel and leadership resourcing, common doctrine, and skill certification training, were not fully addressed.

Appendix K. Combined Joint Special Operations Task Force (CJSOTF) Abuse (Formica Report) (U)

Investigating Officer: BG Formica, Commander, III Corps Artillery
Appointing Authority: LTG Sanchez, Commander, CJTF-7
Date of Initiation: May 15, 2004
Date of Completion: November 13, 2004

(U) Scope:

- Determine command and control for detainee operations within JSOTF-AP and 5th SF Group.
- Investigate specific allegations of detainee abuse within CJSOTF-AP and 5th SF Group.
- Inform LTG Sanchez if other specific incidents of abuse within CJSOTF-AP were discovered, and investigate them.
- Determine whether CJSOTF-AP was in compliance with regulatory and policy guidance established for detainee operations within Iraq.

(U) ~~(S//NF)~~ Executive Summary Extract:

MAJOR FINDINGS

- (U) 1. ~~(S//NF)~~ CJSOTF-AP units are conducting operations that result in the killing or capturing of known AIF [Anti-Iraqi Forces]. They have detained and interrogated AIF consistent with their mission and CJTF-7 policy as capturing units. Based upon available data, the vast majority of CJSOTF-AP detainees were transferred to a conventional unit's custody coincident to or immediately following capture. Length of detention within CJSOTF-AP facilities was generally not an issue.
- (U) 2. ~~(S//NF)~~ CJSOTF-AP (10th SF GP) operated six (6) tactical interrogation facilities: one at their headquarters at Radwaniya Palace Complex (RPC) in Baghdad; one each with NSWTD [Naval Special Warfare Task Detachment]-N and NSWTD-W (Mosul and Al Asad); and three at ODA [Operational Detachment Alpha] safe houses (Adamiya Palace in Baghdad, Tikrit, and Samarra). These were not internment facilities, i.e. facilities intended for long-term detention, but rather temporary facilities to elicit tactical intelligence coincident to capture. These facilities at least met the minimum standards for tactical interrogation facilities, except as noted below. Only the RPC facility remains in operation at this time.
- (U) 3. ~~(S//NF)~~ NSWТУs [Naval Special Warfare Task Units] and ODAs are specially trained teams that are organized, trained, and resourced to conduct direct action missions in support of tactical operations. They have seasoned,

experienced personnel who are trained in conducting battlefield questioning coincident to capture. Some personnel received additional training in interrogations prior to deployment. There is a valid requirement for immediate tactical intelligence derived from temporary detention by capturing units. However, without augmentation, CJSOTF-AP units do not have the facilities or resources to conduct such operations, except for short periods of time (i.e. 24-48 hours) coincident to capture.

4. (U) The specific allegations of egregious physical abuse by indigenous personnel working with US forces or in conjunction with US forces are not substantiated by the evidence.
- (U) 5. ~~(S//NF)~~ Some detainees were held for periods of time in small (20" wide x 4' high x 4' deep) cells at ODA 065. As a technique for setting favorable conditions for interrogation, guards banged on the doors of the cells and played loud music to keep detainees awake and prevent them from communicating with one another. Two detainees claimed to have been held in these cells for five to seven days. ODA personnel stated it was not for more than 72 consecutive hours. I found an instance in which one detainee was held naked in this manner for uncertain periods of time.
- (U) 6. ~~(S//NF)~~ Some detainees, including [REDACTED] and [REDACTED] were fed primarily a diet of bread and water at ODA 554. There is evidence that this diet may have been supplemented by some ODA team members. ODA 554 could not specifically recall to what extent this occurred in each case. One detainee may have been fed just bread and water for 17 days.
- (U) 7. ~~(S//NF)~~ CJSOTF-AP (10th SF GP) units employed five (5) interrogation techniques that were no longer authorized by CJTF-7 policy, including Sleep Management, Stress Positions, Dietary Manipulation, Environmental Manipulation, and Yelling / Loud Music.
- (U) 8. ~~(S//NF)~~ As a general rule, CJSOTF-AP employed assigned personnel to conduct interrogations. In most cases, CJSOTF-AP used their targeting warrant officers (180A) and/or their intelligence NCO [Non Commissioned Officer] (18F).
9. (U) During the course of this investigation, I received information about seven (7) previously investigated incidents of alleged detainee mistreatment that potentially involved CJSOTF-AP units. As part of my general assessment of CJSOTF-AP detention and interrogation operations, I reviewed and considered these investigations and summarize them in PART II, SECTION FOUR. Of the seven, one was found not to involve CJSOTF-AP personnel; two were unfounded; two were founded; and two remain under investigation.

RECOMMENDATIONS (U)

- (U) 1. ~~(S//NF)~~ CJSOTF-AP, 10th and 5th SF GP commands should be provided a copy of this report and cautioned to ensure greater oversight of their subordinate units' detention / interrogation operations. CJSOTF-AP should respond by

endorsement upon implementation of appropriate corrective action consistent with this report.

- (U) 2. ~~(S//NF)~~ The evidence does not support imposing adverse action against any CJSOTF-AP personnel in connection with the allegations that are the subject of this investigation. However, all CJSOTF-AP personnel, especially ODA 554 and ODA 065, should receive mandatory corrective training and education in the principles of the Geneva Conventions relating to the treatment of detainees, specifically including adequate diet, sufficiently comfortable quarters, and the provision of adequate clothing.
3. (U) Ensure dissemination of MNF-I [Multi National Forces-Iraq]/ MNC-I [Multi National Corps-Iraq] policies to CJSOTF-AP and provide oversight of compliance.
- (U) 4. ~~(S//NF)~~ CJSOTF-AP should publish policy guidance that:
- (U) Clarifies authorized interrogation techniques;
 - (U) • ~~(S//NF)~~ Differentiates between tactical questioning and interrogation - NSWTDs and ODAs authorized to conduct tactical questioning unless specifically trained and / or augmented with trained interrogators;
 - (U) • ~~(S//NF)~~ Authorizes subordinate NSWTDs and ODAs to detain as capturing units with the explicit, documented approval of an LTC (O-5) or above and, then only long enough to get detainees to RPC or another suitable CF detention facility, i.e. 24-48 hours;
- (U) ~~(S//NF)~~ Establishes SOP for conduct of detention and interrogation operations and ensures periodic review for compliance with current MNF / MNC-I policies;
- (U) ~~(S)~~ Ensures all Special Operations Forces (SOF) personnel are trained on the SOP and implementing procedures.
5. (U) MNF-I should establish policy guidance that delineates minimum standards for detention facilities, including capturing unit operations, to include:
- Adequate, environmentally controlled holding areas in a secure, guarded facility;
 - Adequate bedding (blanket or mat) and clothing;
 - Adequate food and water (type and quantity; three meals a day);
 - Documented, systematic medical screenings at every level of detention;
 - Formalized accountability process at every level.

6. (U) MNF-I policy should ensure that the accountability process requires annotation of dates of capture, transfers between units, medical screenings, and detainee locations starting at the capturing unit level and through each transfer. Results of this process should be maintained in a permanent file that travels with the detainee and copies should be retained by the units involved at each stage in the process.

7. (U) While the specific allegations of abuse are not substantiated by the evidence, these circumstances raise the issue of how indigenous personnel are employed to conduct or participate in Coalition detention operations or interrogations.

(U) 8. ~~(S//NF)~~ [REDACTED]

(U) ~~(S//NF)~~ [REDACTED]

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Appendix L. Detention Operations and Facilities in Afghanistan (Jacoby Report) (U)

Investigating Officer: BG Jacoby, Deputy Commanding General CJTF-76
Appointing Authority: MG Eric Olson, Commanding General, CJTF-76
Date of Initiation: May 18, 2004
Date of Completion: June 26, 2004

(U) Scope:

- Conduct "top-to-bottom review" of all detainee operations across the CFC-A CJOA (Afghanistan), to ensure compliance with current operational guidance and Army regulations for detention and safeguarding of detainees.
- "...ascertain the standard of treatment provided to persons detained by US forces throughout the detention process from apprehension to release or long-term confinement."
- Focus Areas: "C2" [Command and Control]
 - "medical treatment provided to detainees"
 - "collection area procedures"
 - "Soldier special instructions and general orders"
 - "compliance with international humanitarian law as it applies to this conflict." {War on Terrorism}
- Review and assess:
 - Requests for Forces (RFF)
 - Request for training
 - Technology support
 - Facility upgrades

(U) Executive Summary Extract:

3. (U) While there was a near universal understanding in CJTF-76 that humane treatment was the standard by which detainees would be treated, guard awareness and application of standard operating procedures (SOP) was lacking. Comprehensive SOP do exist in theater, but dissemination, implementation, and a corresponding appreciation for assigned responsibilities were inconsistent across the AO [Area of Operations]. Failure to establish and enforce standards throughout the detention process creates friction on the process, which increases risk of detainee abuse and frustrates effective collection and dissemination of intelligence and information. A lack of focused training for Soldiers responsible for both handling and collecting intelligence and information also increases the risk of potential abuse.

6. (U) Conditions--within a month of the Transfer of Authority (TOA) between the outgoing 10th Mountain Division and the incoming 25th Infantry Division (Light), allegations of detainee abuse surfaced in Iraq. Amidst concerns about the scope of these issues, this inspection was initiated within a command actively engaged in major combat operations and extensive civil-military operations. Approximately one-third of the bases visited as part of this inspection were established within the past three months or were under construction. All had either recently conducted a relief in place (RIP) or were in the process of a RIP. This same period also witnessed an on-going shift in operational focus from active counter-terrorism operations to complex counter-insurgency and stability operations."

(U) **OIG Assessment:** The review was limited to inspecting detainee operations in Afghanistan and did not assess factors which may have influenced detainee interrogation operations. However, the report notes that, "Of special interest in this inspection was the humane treatment of detainees." Despite this acknowledgement, there is no indication that the Jacoby team pursued any specific allegations of detainee abuse.

Appendix M. Review of DoD Detention Operations and Detainee Interrogation Techniques (Church Report) (U)

Investigating Officer: VADM Church, Navy Inspector General

Appointing Authority: Secretary of Defense

Date of Initiation: May 25, 2004

Date of Completion: March 7, 2005

(U) Scope:

- Identify and report, "on all DoD interrogation techniques, including those considered, authorized, prohibited and employed, identified with, or related to the following operations: GTMO from the inception of detainee operations; Operation Enduring Freedom; Operation Iraqi Freedom; Joint Special Operations in the U.S. Central Command Area of Responsibility; the Iraqi Survey Group."
- "...monitor all reviews and investigations, completed and on-going, relating to the Department's involvement in detention operations, and to report any gaps among these reviews and investigations."
- Inquire into any DoD support to or participation in non-DoD entity interrogation techniques.

(U) Executive Summary Extract:

(U) Interrogation is constrained by legal limits. Interrogators are bound by U.S. laws, including U.S. treaty obligations, and Executive (including DoD) policy - all of which are intended to ensure the humane treatment of detainees. The vast majority of detainees held by U.S. forces during the Global War on Terror have been treated humanely. However, as of September 30, 2004, DoD investigators had substantiated 71 cases of detainee abuse, including six deaths. Of note, only 20 of the closed, substantiated abuse cases - less than a third of the total - could in any way be considered related to interrogation, using broad criteria that encompassed any type of questioning (including questioning by non-military-intelligence personnel at the point of capture), or any presence of military-intelligence interrogators. Another 130 cases remained open as of September 30, 2004, with investigations ongoing.

(U) The events at Abu Ghraib have become synonymous with the topic of detainee abuse. We did not directly investigate those events, which have been comprehensively examined by other officials and are the subject of ongoing investigations to determine criminal culpability. Instead, we considered the findings, conclusions and recommendations of previous Abu Ghraib investigations as we examined the larger context of interrogation policy

development and implementation in the Global War on Terror. In accordance with our direction from the Secretary of Defense, our investigation focused principally on: (a) the development of approved interrogation policy (specifically, lists of authorized interrogation techniques), (b) the actual employment of interrogation techniques, and (c) what role, if any, these played in the aforementioned detainee abuses. In addition, we investigated DoD's use of civilian contractors in interrogation operations, DoD support to or participation in the interrogation activities of Other Government Agencies (OGAs), and medical issues relating to interrogations. Finally, we summarized and analyzed detention-related reports and working papers submitted to DoD by the International Committee of the Red Cross (ICRC). Our primary observations and findings on these issues are set forth below.

Interrogation Policy Development (U)

(U) Overview

(U) An early focus of our investigation was to determine whether DoD had promulgated interrogation policies or guidance that directed, sanctioned or encouraged the abuse of detainees. We found that this was not the case. While no universally accepted definitions of "torture" or "abuse" exist, the theme that runs throughout the Geneva Conventions, international law, and U.S. military doctrine is that detainees must be treated "humanely." Moreover, the President, in his February 7, 2002, memorandum that determined that al Qaeda and the Taliban are not entitled to EPW [Enemy Prisoner of War] protections under the Geneva Conventions, reiterated the standard of "humane" treatment. We found, without exception, that the DoD officials and senior military commanders responsible for the formulation of interrogation policy evidenced the intent to treat detainees humanely, which is fundamentally inconsistent with the notion that such officials or commanders ever accepted that detainee abuse would be permissible. Even in the absence of a precise definition of "humane" treatment, it is clear that none of the pictured abuses at Abu Ghraib bear any resemblance to approved policies at any level, in any theater. We note, therefore, that our conclusion is consistent with the findings of the Independent Panel, which in its August 2004 report determined that "[n]o approved procedures called for or allowed the kinds of abuse that in fact occurred. There is no evidence of a policy of abuse promulgated by senior officials or military authorities."

(U) Nevertheless, with the clarity of hindsight we consider it a missed opportunity that no specific guidance on interrogation techniques was provided to the commanders responsible for Afghanistan and Iraq, as it was to the U.S. Southern Command (SOUTHCOM) for use at Guantanamo Bay. As the Independent Panel noted, "[w]e cannot be sure how the number and severity of abuses would have been curtailed had there been early and consistent guidance from higher levels."

(U) Another missed opportunity that we identified in the policy development process is that we found no evidence that specific detention or interrogation lessons learned from previous conflicts (such as those from the Balkans, or