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Introduction (U)

(U) In early 2004, revelations of detainee abuse in Iraq's Abu Ghraib prison, potentially involving U.S. Army military intelligence as well as military police personnel, suggested the need for an investigation of Department of Defense interrogation policy and implementation. On May 25, 2004, the Secretary of Defense directed the Naval Inspector General, through the Secretary of the Navy, to conduct a comprehensive review of Department of Defense interrogation techniques related to the following:

- (U) Guantanamo Bay detainee and interrogation operations from January 6, 2002;
- (U) Operation ENDURING FREEDOM;
- (U) Operation IRAQI FREEDOM;
- (U) Joint Special Operations in the U.S. Central Command area of responsibility; and
- (U) The Iraq Survey Group.

Specifically, the Naval Inspector General was tasked to identify and report on all Department of Defense interrogation techniques. The Secretary's directive specified that the Review must:

- (U) Examine all DoD interrogation techniques considered, authorized, prohibited, and employed during the Operations listed above;
- (U) Determine whether (and if so, to what extent) techniques prescribed for use in one command or Operation were adopted for use in another; and

- (U) Inquire into any DoD support to, or participation in, the interrogation operations of non-DoD entities.

In subsequent meetings with the Naval Inspector General, the Secretary of Defense emphasized his desire to investigate thoroughly and present all relevant facts to the Congress and the American people.

Scope of the Review (U)

(U) This independent review is intended to provide a comprehensive chronology regarding the development, approval and implementation of interrogation techniques. In order to meet desired timelines, minimize impact to ongoing operations, and avoid conducting multiple interviews of the same personnel, a decision was made to draw upon numerous other investigations and reviews of interrogation and detention operations, which are summarized in a later section of this report.

(U) Additionally, the Naval Inspector General was designated as the Secretary of Defense's principal representative to the Independent Panel to Review DoD Detention Operations (hereinafter referred to as the "Independent Panel"). Secretary Rumsfeld asked the Independent Panel, which was chaired by the Honorable James R. Schlesinger – a former Director of Central Intelligence, Secretary of Defense, and Secretary of Energy – to provide "independent, professional advice on the issues that you

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consider most pertinent related to the various allegations [of abuse at DoD detention facilities], based on [a] review of completed and pending investigative reports and other materials and information." During the course of our review, information was shared with the Independent Panel to facilitate its deliberations and to avoid duplication of effort in studying interrogation policy and procedures. (In addition to the Honorable James Schlesinger, the Independent Panel included the Honorable Harold Brown, former Secretary of Defense; the Honorable Tillie K. Fowler, former U.S. Representative from Florida; and retired Air Force General Charles A. Horner, who commanded coalition air forces during Operation DESERT STORM, and subsequently commanded the North American Aerospace Defense Command.)

(U) Our review focuses on the specific tasking in the Secretary's memorandum of May 25, 2004. As such, it does not address some issues that may be of importance but are nevertheless not directly related to our tasking. Issues dealing with the interpretation of international law, rationale for specific decisions by senior officials, the value and success of ongoing strategic intelligence efforts, and legal definitions are only addressed when specifically and directly determined to be relevant to our tasking. Finally, any information discovered that was related to potential abuse of detainees was referred to the appropriate criminal investigative authority.

Investigative Approach (U)

(U) On June 1, 2004, the Naval Inspector General, Vice Admiral Albert T. Church III, USN, assembled a planning staff that brought together experienced investigators, interrogation and detention subject matter experts, and representatives of the Office of the Secretary of Defense, the Joint Staff, the Services, and the applicable Combatant Commands (the U.S. Southern, Central and Special Operations Commands). The planning staff developed a nucleus of background knowledge that facilitated the creation of traveling assessment teams, organized to conduct field interviews and document collection, and a Washington team, which would merge and analyze the data collected. The planning staff included Dr. James Blackwell, Executive Director of the Independent Panel, in order to ensure the smooth coordination of our activities with those of the Independent Panel. In addition, William McSwain, an Assistant United States Attorney, was selected to serve as the Executive Editor for our report. Collectively, this group was designated the Interrogation Special Focus Team (ISFT).

(U) The ISFT's intent was to conduct a thorough investigation, including in-theater interviews, with a minimum of disruption to ongoing military operations. To that end, during the month of June 2004, the ISFT began detailed research into DoD interrogation policy and doctrine, as well as available information concerning specific interrogation operations in Guantanamo Bay, Afghanistan, and Iraq. The research encompassed

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informational interviews with interrogation subject matter experts and the review of policy and doctrine documents (many provided by multiple DoD agencies in response to ISFT data calls). This enabled the development of standard interview templates used to collect statements from interrogation-related personnel in the theaters of operation, as well as key senior military and civilian officials. Persons interviewed or who provided written responses would include:

- (U) Senior DoD policymakers, including the Deputy Secretary of Defense, the Under Secretary of Defense for Intelligence, and the General Counsel of the Department of Defense, and others (see figure below)
- (U) General and Flag officers, including the Vice Chairman of the Joint Chiefs of Staff, the Commander, U.S. Central Command, and others (see figure below)
- (U) Military Intelligence leaders
- (U) Interrogators, interpreters and intelligence analysts
- (U) Military Police
- (U) Staff judge advocates
- (U) Medical personnel
- (U) Chaplains
- (U) Interrogation instructors
- (U) Personnel involved in "point of capture" questioning of detainees (e.g., infantry soldiers)

Senior-Level ISFT Interviewees and Respondents (U)

Senior Civilians

- Dr. Paul Wolfowitz, Deputy Secretary of Defense
- Dr. Stephen Cambone, Under Secretary of Defense for Intelligence
- Mr. Douglas Feith, Under Secretary of Defense for Policy
- Mr. William Haynes, General Counsel of the Department of Defense
- Mr. Matt Waxman, Deputy Assistant Secretary of Defense for Detainee Affairs
- Ms. Mary Walker, General Counsel, Department of the Air Force
- Mr. Steven Morello, General Counsel, Department of the Army
- Mr. Alberto Mora, General Counsel, Department of the Navy
- Mr. Jacques Grimes, SES, Chief of Survey Center, Iraq Survey Group (ISG)

General and Flag Officers

- Gen Peter Pace, USMC, Vice Chairman of the Joint Chiefs of Staff
- GEN John Abizaid, USA, Commander, U.S. Central Command
- GEN Dan McNeill, USA, United States Army Forces Command, former Commander, JTF-180
- LTG Anthony Jones, USA, Deputy CG/Chief of Staff, USA Training & Doctrine Command
- LTG Ricardo Sanchez, USA, CG, V Corps, former Commander, CJTF-7 (Iraq)

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- LTG Keith Alexander, USA, Deputy Chief of Staff of the Army, G-2
- LTG David Barno, USA, Commander, Combined Forces Command, Afghanistan (CFC-A)
- LtGen James Conway, USMC, Director, J-3, Joint Staff, former Commanding General, I MEF
- VADM Lowell Jacoby, USN, Director, Defense Intelligence Agency
- VADM David Nichols, USN, Commander, NAVCENT/Commander, FIFTH Fleet
- MG Geoffrey Miller, USA, DCG Detainee Ops/CG, TF 184 MNF-I, former CJTF-GTMO
- MG Keith Dayton, USA, Director of Strategy, Plans and Policy, G-3, Former Commander, Iraq Survey Group
- MG Thomas Romig, USA, Judge Advocate General of the Army
- MG Eric Olson, USA, CG, CJTF-76, Afghanistan
- MG Peter Chiarelli, USA, Commanding General, 1st Cavalry Division
- MG Walter Wojdakowski, USA, Deputy Commanding General, V Corps
- MG George Fay, USA, Deputy Commander (IMA), USA Intelligence & Security Command
- MG Ronald Burgess, USA, Director J-2, Joint Staff
- MG Stanley McChrystal, USA, CG, Joint Special Operations Command (JSOC)
- MG Barbara Fast, USA, former C-2, MNF-I
- MG Martin Dempsey, USA, CG, 1st Armored Division
- MG Michael Dunlavey (Retired), USAR, former CJTF-170 and CJTF-GTMO
- MajGen Thomas Fiskus, USAF, Judge Advocate General of the Air Force
- MajGen James Mattis, USMC, CG, Marine Corps Combat Development Command, former Commanding General, 1st Marine Division
- RADM Michael Lehr, USN, Judge Advocate General of the Navy
- BG Jay Hood, USA, Commander, JTF-GTMO
- BG John Custer, USA, Director for Intelligence, J-2, U.S. Central Command
- BG Charles Jacoby, USA, DCG Support, CJTF-76, Afghanistan
- BGen Michael Ennia, USMC, Deputy Director for Human Intelligence, DIA
- BGen Joseph McMennamin, USMC, Director, Iraq Survey Group
- BGen Kevin Sandkuhler, USMC, SJA to the Commandant of the Marine Corps
- RADM William McRaven, USN, Deputy CG for Operations, JSOC

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(U) We made a decision not to interview the detainees themselves in order to minimize any impact on ongoing interrogation operations; however, we did review many reports provided by the International Committee of the Red Cross (ICRC).

(U) In late June through early July 2004, the assessment teams traveled to Guantanamo Bay, Afghanistan and Iraq in order to conduct interviews and first-hand examinations of detention and interrogation facilities and operations. In total, the ISFT collected more than 800 statements from personnel involved in detainee operations. In addition, a series of follow-on questions was asked of senior officials in the Office of the Secretary of Defense and the Joint Staff during the course of the investigation. The information thus collected provided the foundation for the findings presented in this report. Throughout our effort, we were impressed by the high level of cooperation and accommodation we received, particularly from combat forces in the field.

(U) Following this introduction, the report is divided into nine main sections.

- (U) The first section discusses the legal, policy and doctrinal framework within which DoD detention and interrogation operations take place.

- (U) The second section provides a summary of previous reports that address detention and interrogation operations in the Global War on Terror.
- (U) The third section provides an analysis of detainee abuse investigations during the Global War on Terror.
- (U) The fourth, fifth, and sixth sections describe the evolution of interrogation techniques considered, authorized, prohibited, and employed in the course of the Global War on Terror in Guantanamo Bay, Afghanistan, and Iraq respectively.
- (U) The seventh section examines the role of contractors in DoD interrogations.
- (U) The eighth section examines DoD support to, or participation in, the interrogation operations of non-DoD entities, also termed other government agencies, or OGAs.
- (U) The ninth section examines the role of U.S. medical personnel in interrogation.

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Department of Defense Interrogation: Law, Policy, Doctrine and Training (U)

(U) Timely and accurate intelligence is essential to the effective conduct of military operations. Defense Department interrogators, both military and civilian, seek to gain human intelligence (HUMINT) from enemy prisoners of war and other detainees in order to support DoD missions, from the tactical (e.g., counter-insurgency patrols in Iraq or Afghanistan) to the strategic (e.g., defense of the U.S. homeland against a catastrophic terrorist attack).

(U) This section of our report provides the background for our subsequent discussion of interrogation operations in GTMO, Afghanistan, and Iraq. It begins with an overview of international law, U.S. law, Department of Defense policy, and doctrine governing DoD interrogations, including a discussion of the President's February 7, 2002 determination regarding the legal status of al Qaeda and Taliban members under the Geneva Conventions. It then provides a summary of DoD doctrine for detention operations, including the doctrinal relationship between military police (MP) and military intelligence (MI) personnel. Next, this section provides a summary of the limited doctrine pertaining to joint, coalition and interagency interrogation facilities. It concludes with an overview of the force structure and training for DoD interrogators.

Interrogation: Law and Policy (U)

(U) Army Field Manual 34-52, *Intelligence Interrogation*, states that "the goal of any interrogation is to obtain reliable information in a lawful manner, in a minimum amount of time, and to satisfy intelligence requirements of any echelon of command" (emphasis added). Interrogators are at all times bound by applicable U.S. laws, including treaty-based laws, and U.S. policies.

(U) Applied to detention and interrogation operations in time of armed conflict, this body of law and policy is intended to ensure the humane treatment of individuals who fall into the hands of a party to the conflict. In the following paragraphs, we will review the legal and policy framework governing detention and interrogation before turning to the subject of interrogation doctrine.

(U) DoD personnel are bound by U.S. law, including the law of armed conflict, found in treaties to which the U.S. is party. Among other things, these laws prohibit torture or other cruel, inhumane or degrading treatment of detainees. International and U.S. laws define torture in the *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* and in Title 18, Section 2340 of U.S. Code, respectively; note, however, that there is no treaty-defined or universally accepted definition of cruel, inhumane or degrading treatment.

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(U) It is U.S. policy to use the Geneva Conventions as a baseline for humane treatment even when the Conventions are not legally binding (in the words of DoD Directive 5100.77, "during all armed conflicts, however such conflicts are characterized"). The Geneva Conventions indicate that the irreducible minimum standard of treatment is "humanity," without further defining the term. Thus, the concept of humane treatment remains undefined, and well-meaning individuals analyzing interrogation techniques might differ on whether certain techniques are in fact humane.

(U) In addition, DoD personnel engaged in armed conflict are bound by the law of war, enumerated in the Geneva Conventions of 1949. The law of war is intended to "diminish the evils of war" by regulating the means of warfare, and by protecting the victims of war, both combatant and civilian. An overview of the purpose and scope of the Geneva Conventions, their implementation in DoD policy, and their application in the Global War on Terror is provided below.

(U) Purpose and Scope of the Law of War

(U) The Geneva Conventions pertinent to detention and interrogation operations are the *Geneva Convention Relative to the Treatment of Prisoners of War*, herein abbreviated as GPW, and the *Geneva Convention Relative to the*

Protection of Civilian Persons in Time of War, abbreviated as GC. The GPW provides protection for captured enemy military personnel, including military medical personnel and chaplains (referred to as "retained persons"). The GC protects civilian internees captured in a belligerent's home state or occupied territory. Private citizens who engage in unauthorized acts of violence and who fail to meet the criteria set forth in the GPW are unprivileged belligerents.

(U) Detainees meeting Geneva criteria are entitled to the protection commensurate with their category (prisoner of war or civilian protected person). The figure on the next page provides a list which, while not all-inclusive, describes the protections that are most relevant to interrogation operations. In all cases, DoD personnel are obliged to uphold the basic standard of humane treatment of detainees, and to obey laws prohibiting assault, torture, homicide, and other forms of maltreatment.

(U) GPW explicitly addresses those instances when capturing forces cannot immediately determine the status of a detainee: "should any doubt exist as to whether persons, having committed a belligerent act and having fallen into the hands of the enemy, belong to the categories enumerated in [GPW] Article 4, such persons shall enjoy the protection of [prisoners of war] until such time as their status has been determined by a com-

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Geneva Convention Protections: Prisoners of War and Protected Persons (U)

(U) Protections afforded to prisoners of war (GPW):

- (U) Shall be humanely treated at all times. (GPW, Article 13)
- (U) No physical or mental torture, nor any other form of coercion, may be inflicted on prisoners of war to secure from them information of any kind whatever. Prisoners of war who refuse to answer may not be threatened, insulted, or exposed to unpleasant or disadvantageous treatment of any kind. (GPW, Article 17)

(U) Protections afforded to protected persons (GC):

- (U) Shall be humanely treated at all times. (GC, Article 27)
- (U) No physical or moral coercion shall be exercised against protected persons, in particular to obtain information from them or from third parties. (GC, Article 31.)

petent tribunal" (GPW, Article 5). Though the Geneva Conventions do not describe the composition of such a tribunal, DoD policy provides specific guidance, as will be described below.

(U) In sum, DoD personnel are always bound to treat detainees humanely, at a minimum; and enemy prisoners of war and civilians covered by the Geneva Conventions are to be granted the additional protections prescribed by Geneva.

(U) The following section provides a survey of the DoD policy documents that amplify and assign responsibilities with regard to U.S. law of war obligations.

(U) DoD Policy

(U) Two Department of Defense Directives, or DoDDs, specify DoD policy regarding the law of war and detainee operations: DoDD 5100.77, *DoD Law of War Program*, and DoDD 2310.1, *DoD Program for Enemy Prisoners of War and Other Detainees*. These directives highlight several key points:

- (U) It is DoD policy to ensure that the law of war obligations of the United States are observed and enforced by the DoD Components.

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- (U) It is DoD policy to comply with the principles, spirit and intent of the international law of war, both customary and codified, to include the Geneva Conventions.
- (U) Captured or detained personnel must be accorded an appropriate legal status under international law. In addition, DoD personnel must comply with the law of war during all armed conflicts, however such conflicts are characterized, and with the principles and spirit of the law of war during all other operations.

These directives assign executive responsibility for the DoD law of war and detainee programs to the Secretary of the Army, and specify that individuals captured or detained by U.S. military forces should normally be handed over for safeguarding to U.S. Army MPs as soon as practical.

(U) Army Regulation (AR) 190-8, *Enemy Prisoners of War, Retained Personnel, Civilian Internees, and Other Detainees*, implements the detainee program and policies outlined in DoDD 2310.1. AR 190-8 has been adopted by all four Services, and is applicable with regard to treatment of detainees in the custody of the U.S. armed forces. In addition to describing the administration of the DoD detainee program, AR 190-8 establishes standard DoD terminology for detainee categories, derived from the Geneva Conventions (see figure on the next page). (The current edition

of AR 190-8 was approved in 1997.)

(U) In addition, AR 190-8 sets forth the requirements for "competent tribunals" for the determination of detainee status when such status is in doubt, as mandated by the Geneva Conventions. AR 190-8 requires that tribunals be convened by commanders holding general court-martial authority, be composed of three commissioned officers (at least one of whom must be field grade—a major or equivalent—or higher), and hear the testimony of the detainee, if so requested. Detainees determined not to be EPWs may not, as a matter of DoD policy (subject to other direction by higher authority) be imprisoned or otherwise penalized without further proceedings to determine what act they have committed and what the punishment should be.

(U) Army FM 34-52, *Intelligence Interrogation*, provides further amplification of Geneva Convention obligations pertaining directly to interrogation operations: "[the Geneva Conventions] and US policy expressly prohibit acts of violence or intimidation, including physical or mental torture, threats, insults, or exposure to inhumane treatment as a means of or aid to interrogation." Further, FM 34-52 prohibits physical or mental coercion, defined in the manual as "actions designed to unlawfully induce another...to act against one's will. Such actions would include, for example, committing or threatening torture, or implying that rights accorded by the Geneva Conventions will not be provided unless the detainee cooperates with the interrogator."

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