

## *S-012 Impartial Rapid Reporting to the Sec Def*

### **(U) RECOMMENDATION/OBSERVATION**

- The Secretary of Defense should ensure the effective functioning of rapid reporting channels for communicating bad news to senior Department of Defense leadership

### **(U) CURRENT ASSESSMENT:**

- Proposal to fast-track information to the Secretary was approved 13 Dec 04.
- In addition – detainee affairs provides metric to key officials monthly.
- Routine briefings by ODA/DASD as required/appropriate.

**OPR: USD (P&R)**

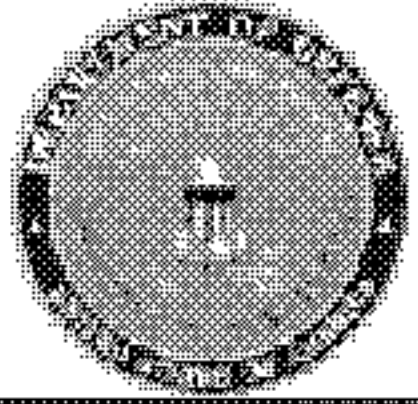
**OCR: USD (P)**

### **(U) FIX/ACTION/CHANGE:**

**Fix:** Joint adaptation of procedures such as the Air Force special notification process.

**Action:** Office to fast-track has been “stood up” – headed by Richard McGraw; still working space and employment/resource issues, but, office is functioning.

**Change:** No change from last meeting



## *S-014 Additional Training of Medical Personnel*

### (U) RECOMMENDATION/OBSERVATION

- Need training for medical personnel on reporting abuse. Medical personnel need to be trained with better field treatment techniques

### (U) CURRENT ASSESSMENT:

- Medical ethics policy in final stages of promulgation. Directly addresses reporting violations.
- Currently discussing with ASD(HA) development tracks regarding treatment and non-treatment medical ops. (ODA/USD(I)/OGC/HA)

OPR: USD (HA)  
OCR: USD (P)

### **(x) FIX/ACTION/CHANGE:**

**Fix:** Provide structured training to Medical Personnel on Detainees matters

**Action:** USD(P) working with ASD(HA) in development of medical training policy.

**Change:** Detainees are given excellent medical care and doctors have clear methods for carrying out their obligations.



## *GS-001 Law of War Treaties*

### (U) RECOMMENDATION/OBSERVATION

- Harmonizing policies and treaties with allies

### (U) CURRENT ASSESSMENT:

- ODA's assessment is that no policy is in conflict with our international or treaty obligations. All policies that have been issued since the beginning of GWOT were thoroughly examined by the DoDGC, the Justice Department, and the White House Council before issuance.
- International perceptions and analysis of the choices made at the SECDEF and POTUS level have created disagreements where the law is silent or has contradictory guidance.
- NSC has developed PCC on "public diplomacy" to address gaps in understanding about applicability of LOAC to GWOT.

OPR: USD (P)

OCR: USD (P)

### (U) FIX/ACTION/CHANGE:

**Fix:** Review all current policies and regulations w/ regard to allies

**Action:** ODA is currently revising all DoDD and policies and will assist ARMY in the revisions of AR 190-8 and other documents as requested.

**Change:** Revision of Detainee Operations Policy as well as issuance of larger "covering" policies will demonstrate how DoD operations satisfy international treaty obligations.



## *GS-005 Review of JCS activity under Goldwater-Nichols*

**(U) RECOMMENDATION/OBSERVATION**

- Review for adequacy with respect to detainee abuse (similar to post-Aberdeen)

**(U) CURRENT ASSESSMENT:**

- ????

**OPR: Do not believe USD(P) has authority.**

**OCR: Do not believe USD(P) has oversight.**

**(U) FIX/ACTION/CHANGE:**

**None at this time.**

**2003**



## *GS-011 Congress Questions on “Ghost Detainees”*

(U) RECOMMENDATION/OBSERVATION

- Congress question: “What is a *Ghost Detainee* and how many have there been?”

(U) CURRENT ASSESSMENT:

- ODA has addressed this issue with the SECDEF as well as USD(I) and OGA’s.
- The SECDEF has briefed this issue publicly regarding the *one* detainee who was held without prompt registration with the ICRC.
- It is DoD policy to promptly register all detainees.
- ODA & USD(P) officials have briefed Congress on this issue – we are preparing for upcoming hearings on issue.
- To the extent required, ODA will work with OGC and USD(I) to resolve any remaining issues on this sensitive matter.

OPR: USD (P)

OCR: USD (P)

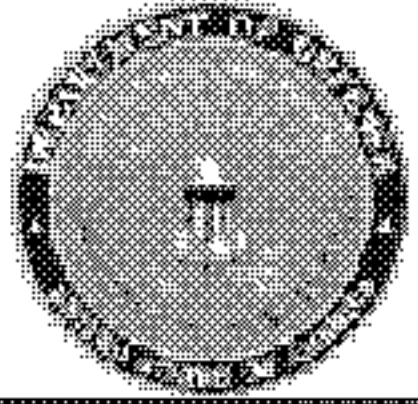
(U) FIX/ACTION/CHANGE:

**Fix: Adequately brief Congress regarding “Ghost Detainee” issue.**

**Action: Classified briefings with Congress.**

**Change: Congress question answered.**





## *GS-016 Develop Policy for Joint Interagency Detainee Ops*

### **(U) RECOMMENDATION/OBSERVATION**

- Common guidance is required where multiple agencies (e.g. DoD, FBI, CIA) perform joint/combined interrogations, common guidance is required.

### **(U) CURRENT ASSESSMENT:**

- USDI is addressing Joint Interagency roles in the DoD Interrogation process.
- Their policy is being drafted – but do not have date yet.

**OPR: USD (I)**

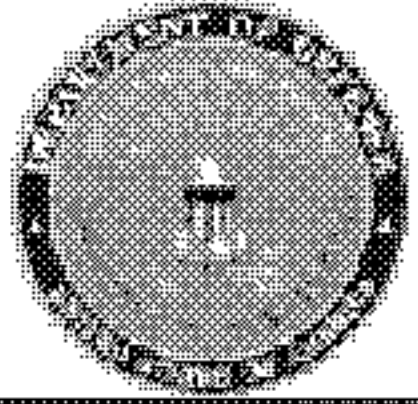
**OCR: USD (P)**

### **(U) FIX/ACTION/CHANGE:**

**Fix: Issue common guidance.**

**Action: Interagency coordination of interrogation policy.**

**Change: Common practices for all engaged in intelligence gathering.**



## *GC-003P Inter-agency Process on Detainee Movement*

### **(U) RECOMMENDATION/OBSERVATION**

Examine inter-agency process for Detainee Movement Orders with a goal of simplifying and streamlining the process.

### **(U) CURRENT ASSESSMENT:**

- DC has directed the PCC develop a process to streamline the IA process for releases.
- DoD working with State to develop a streamline transfer program for assurances and humane treatment qualifications.

**OPR: OUSD(P)**

**OCR: OUSD (P)**

### **(U) FIX/ACTION/CHANGE:**

**Fix: Simplify and streamline the Detainee movement process.**

**Action: Coordination with IA.**

**Change:**



## *C-001P -- Standardization of Interrogation Policy Guidance*

### **(U) RECOMMENDATION/OBSERVATION**

Lack of specific guidance, clarity, and consistency on interrogation techniques among Afghanistan, Iraq, and GTMO interrogation operations. Standardize interrogation guidance under a single policy (specific and unambiguous) for all areas of operations.

### **(U) CURRENT ASSESSMENT:**

- USD(I) has issued a draft of a HUMINT collection DoDD. Draft is in formal coordination.
- Meetings have taken place to resolve issues between USD(P) and USD(I). SD 106 coordination to be completed in near term.

### **(U) FIX/ACTION/CHANGE:**

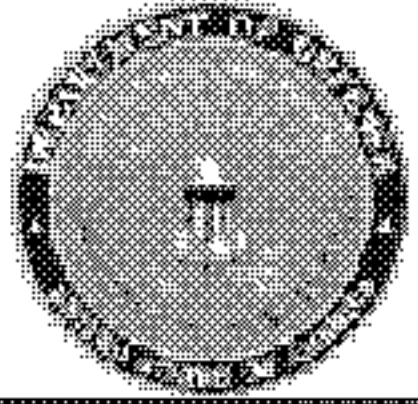
**Fix: Issue common guidance.**

**Action: OUSD(P) and USD(I) coordination of policy**

**Change:**

**OPR: USD (I)  
OCR: USD (P)**





## *C-006P -- Standardization of Interrogation Policy re: OGA's*

### **(U) RECOMMENDATION/OBSERVATION**

Coalition and IA policies governing interrogation needs developing. Policies need specificity as to whom applicable, approved methods, with approved standards of supervision and enforcement.

### **(U) CURRENT ASSESSMENT:**

- USD(I) has issued a draft of a HUMINT collection DoDD addressing OGA's and all interrogation policy matters. Draft is in formal coordination.
- Meetings have taken place to resolve issues between USD(P) and USD(I). SD 106 coordination to be completed in near term.

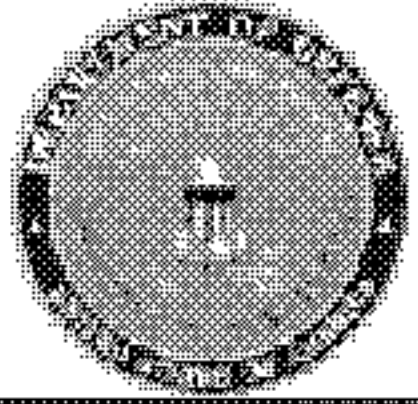
### **(U) FIX/ACTION/CHANGE:**

**Fix: Issue more specific guidance for OGA's involved in interrogation.**

**Action: OUSD(P) and USD(I) coordination of policy**

**Change:**

**OPR: USD (I)  
OCR: USD (P)**



## *C-009P -- Participation of Medical Personnel re: Interrogations*

### **(U) RECOMMENDATION/OBSERVATION**

DoD Policy-level review needed to ensure that medical personnel are practicing with proper safeguards, including clarifying the status of medical personnel (i.e., behavioral scientists supporting interrogators) who do not participate in patient care.

### **(U) CURRENT ASSESSMENT:**

- ASDHA has issued a policy directly on this issue. Problem addressed, recommend closure.

OPR: OUSD(P)  
OCR: OUSD(P)

### **(U) FIX/ACTION/CHANGE:**

**Fix: Issue policy for medical personnel clarifying roles of those providing medical care, and those serving as behavioral scientists.**

**Action: ASDHA and Policy to coordinate.**

**Change:**



## *C-010P -- Interrogators Access to Detainee's Medical Files*

### **(U) RECOMMENDATION/OBSERVATION**

DoD policy-level review necessary in order to properly balance competing concerns.

### **(U) CURRENT ASSESSMENT:**

- ASDHA has issued a policy directly on this issue. Problem addressed, recommend closure.

OPR: OUSD(P)  
OCR: OUSD(P)

### **(U) FIX/ACTION/CHANGE:**

**Fix:** Issue policy clarifying roles of those providing medical care, those serving as behavioral scientists, and those serving as interrogators.

**Action:** ASDHA and Policy to coordinate.

**Change:**



## *C-011P -- DoD Detention and Interrogation Policy/Doctrine*

### **(U) RECOMMENDATION/OBSERVATION**

Develop master DoD-level detention and interrogation policy and doctrine, including approved interrogation techniques.

### **(U) CURRENT ASSESSMENT:**

- USD(I) has issued a draft of HUMINT collection DoDD. Draft in formal coordination.
- Meetings have taken place to resolve issues between USD(P) and USD(I). SD 106 coordination to be completed in near term.

**OPR: OUSD(P)**

**OCR: OUSD(P)**

### **(U) FIX/ACTION/CHANGE:**

**Fix: Develop master DoD-level detention/interrogation policy and doctrine, including approved interrogation techniques.**

**Action: USD(I) handling.**

**Change:**



## *C-013P -- DoD Developed Definitions for Providing Humane Treatment*

### **(U) RECOMMENDATION/OBSERVATION**

Develop DoD level definitions for providing humane treatment of all detainees.

### **(U) CURRENT ASSESSMENT:**

- OGC is working with ODA/USD(P) to develop a standard of care that would be the minimum requirement for “humane treatment.”
- Also working with 2310.1 DoDD coordination to develop definition for inclusion in the DoDD.

**OPR: OUSD(P)**

**OCR: OUSD(P)**

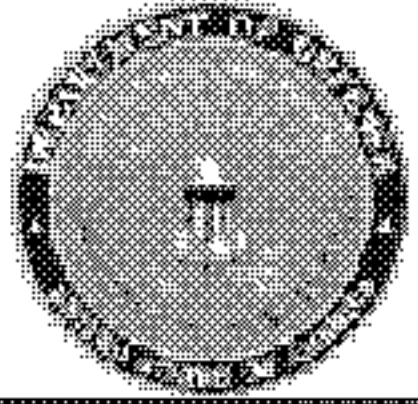
### **(U) FIX/ACTION/CHANGE:**

**Fix: Develop higher level definition of “humane treatment” to decrease confusion in the field.**

**Action: OGC handling and 2310.1 DoDD being coordinated in near term.**

**Change:**





## *C-027P -- Common Guidance to Military and DoD Agencies*

### **(U) RECOMMENDATION/OBSERVATION**

Common guidance is needed for use by all military departments and all DoD agencies regarding the practical effects of the President's 7 Feb 02 determination of "military necessity" and its impact in handling detainees under GPW.

### **(U) CURRENT ASSESSMENT:**

- This matter, and other broader government issues impacting the war on Islamic extremism, have been brought to the Deputy, NSA.

**OPR: OUSD(P)**

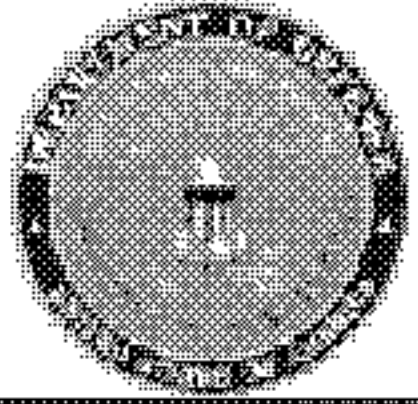
**OCR: OUSD(P)**

### **(U) FIX/ACTION/CHANGE:**

**Fix: Provide common guidance to all military developments and DoD agencies.**

**Action: OUSD(P) has reached out to Deputy, NSA on this and other related matters.**

**Change:**



## *C-028P -- Standard Reporting/Investigating of Claims of Detainee Abuse*

### **(U) RECOMMENDATION/OBSERVATION**

Establish standard reporting and investigating procedures for handling claims of detainee abuse.

### **(U) CURRENT ASSESSMENT:**

- DoDD 5100.77 and USD(I) directives reiterate the need to report, and “how” to report abuses.
- CENTCOM issued FRAGO dealing with a set standard manner for reporting any abuse against a detainee (Coalition on Detainee, or ISF on Detainee) in theater.
- Doctrine and Training also reiterates a need to report suspected abuses.

**OPR: OUSD(P)**

**OCR: OUSD(P)**

### **(U) FIX/ACTION/CHANGE:**

**Fix: Need for standard procedures for identifying and reporting detainee abuse and investigating allegations that are legitimate.**

**Action: DoDD directives, training, doctrine, CENTCOM FRAGO’s all address mandatory reporting and identification of legitimate abuse allegations.**

**Change: Completed**



## *C-031P -- Clarifying Roles/Limits of Interpreters in Interrogations*

### **(U) RECOMMENDATION/OBSERVATION**

Doctrine should more clearly define the roles and limits of interpreters in interrogations (i.e., contract interpreters).

### **(U) CURRENT ASSESSMENT:**

- USD(I) has in coordination a policy document to define doctrine and roles of interrogators.
- OUSD(P) assisting as needed.

OPR: OUSD(P)

OCR: OUSD(P)

### **(U) FIX/ACTION/CHANGE:**

**Fix: Need for clear definition of roles and limits of interpreters in the conduct of interrogations.**

**Action: USD(I) addressing with specific policy document.**

**Change: Completed**



## *C-032P – Dissemination and Applicability of US Guidance to Coalition*

### **(U) RECOMMENDATION/OBSERVATION**

Need to clarify the applicability, coordination, dissemination, implementation of, and compliance with USG interrogation policy in Multi-National and Coalition Force operations.

### **(U) CURRENT ASSESSMENT:**

- USD(I) has in coordination a policy document that addresses reporting and doctrine conditions regarding HUMINT collection DoDD.
- OUSD(P) assisting as needed.

**OPR: OUSD(P)**  
**OCR: OUSD(P)**

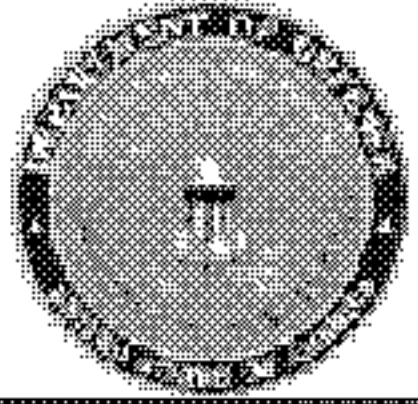
### **(U) FIX/ACTION/CHANGE:**

**Fix: Need for clarity, coordination, dissemination, and compliance by all Multi-National and Coalition Forces.**

**Action: USD(I) addressing with specific policy document.**

**Change: In progress**





# C-034P – Training Contractors in DoD Interrogation/Detention Operations

## **(U) RECOMMENDATION/OBSERVATION**

Establish DoD policy detailing minimum training requirements and standards for contractors supporting DoD interrogation and detention operations, including theater-specific knowledge, GC, and Law of Armed Conflict.

## **(U) CURRENT ASSESSMENT:**

- • OSD disagrees with task to Policy as OPR.
- Training for contractors in theater is operational.
- Policy discussed with LC, JS, and contractors arguably fall under Title 18 USCriminal Code) and UCMJ if offenses committed against detainees.
- Recommend Army as lead agency (Det Ops) with LC, JS input on legal matters.
- Training matters may also be addressed through dissemination of DoDD 2310.1.

## **(U) FIX/ACTION/CHANGE:**

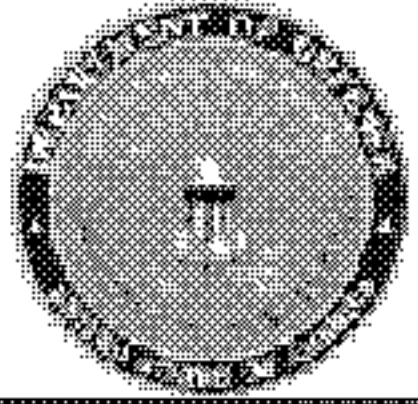
**Fix: Need for DoD policy regarding Training for contractors supporting DoD interrogations and detention operations.**

**Action: Review assignment of OUSD(P) as lead OPR, suggest matter is operational and legal concern not best addressed through policy alone.**

**Change: In progress**

**OPR: OUSD(P)  
OCR: OUSD(P)**





## *C-035P – Prosecution Loopholes for DoD Contractors*

### **(U) RECOMMENDATION/OBSERVATION**

Possible loopholes exist for foreign contractors employed by non-DoD agencies that do not appear to fall under USG criminal jurisdiction purposes where it may be necessary to investigate and prosecute them for detainee abuse.

### **(U) CURRENT ASSESSMENT:**

- OSD disagrees with task to Policy as OPR and does not believe loopholes exist.
- Training for contractors in theater is operational.
- Policy discussed with LC, JS, and contractors arguably fall under Title 18 USCriminal Code) and UCMJ if offenses committed against detainees.
- Recommend Army as lead agency (Det Ops) with LC, JS input on legal matters.

### **(U) FIX/ACTION/CHANGE:**

**Fix: Need for close alleged loopholes for foreign contractors employed by non-DoD agencies that may not fall under USG criminal jurisdiction.**

**Action: Review assignment of OUSD(P) as lead OPR, suggest matter is operational and legal concern.**

**Change: In progress**

**OPR: OUSD(P)  
OCR: OUSD(P)**



## *C-036P – Prosecution Loopholes for DoD Contractors*

### **(U) RECOMMENDATION/OBSERVATION**

Possible loopholes exist for foreign contractors employed by non-DoD agencies that do not appear to fall under USG criminal jurisdiction purposes where it may be necessary to investigate and prosecute them for detainee abuse.

### **(U) CURRENT ASSESSMENT:**

- OSD disagrees with assigned task to Policy as OPR and does not believe loopholes exist.
- Training for contractors in theater is operational.
- Policy discussed with LC, JS, and contractors arguably fall under Title 18 USCriminal Code) and UCMJ if offenses committed against detainees.
- Recommend Army as lead agency (Det Ops) with LC, JS input on legal matters.

### **(U) FIX/ACTION/CHANGE:**

**Fix: Need for close alleged loopholes for foreign contractors employed by non-DoD agencies that may not fall under USG criminal jurisdiction.**

**Action: Review assignment of OUSD(P) as lead OPR, suggest matter is operational and legal concern.**

**Change: In progress**

**OPR: OUSD(P)  
OCR: OUSD(P)**



## *C-037P – Standard Contract Clauses for Detention-Related Operations*

### **(U) RECOMMENDATION/OBSERVATION**

DoD directed development of an appropriate standard clause (or set of clauses) for detention related contracts needed to ensure widespread understanding of exactly “how” DoD must exercise control over contractors in order to prevent potential detainee abuse.

### **(U) CURRENT ASSESSMENT:**

- “Detention-related contract clauses” may be best addressed through LC, OGC, as they are not policy problems per se.
- To extend that standards of conduct are addressed in revised version of DoDD 2310.1, and the proposed USD(I), DoDD on HUMINT, the concerns about policy changes may be alleviated.
- Recommend OGC and LC as lead.

### **(U) FIX/ACTION/CHANGE:**

**Fix: Need for standard contract clauses for contractors involved in detention-related operations in order to prevent potential detainee abuse.**

**Action: Review assignment of OUSD(P) as lead OPR, suggest matter is mainly a legal concern.**

**Change: In progress**

**OPR: OUSD(P)  
OCR: OUSD(P)**



## *C-038P – Formalize Inter-agency Procedures re: DoD Support to OGA’s*

### **(U) RECOMMENDATION/OBSERVATION**

Identify and, as required, develop formal inter-agency procedures to codify or formalize the process of DoD support to OGA’s re: operations overseas.

### **(U) CURRENT ASSESSMENT:**

- Concern has been raised by USD(P) in a memo to Deputy, NSA.

### **(U) FIX/ACTION/CHANGE:**

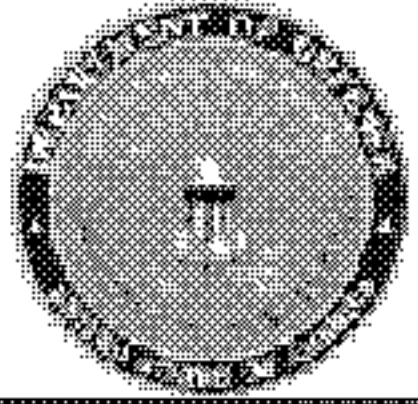
**Fix:** Develop formal inter-agency procedures to formalize DoD support to OGA’s during overseas operations.

**Action:** Inter-agency matter raised with Deputy, NSA.

**Change:** Addressed

**OPR: OUSD(P)  
OCR: OUSD(P)**





## *C-039P – Develop Guidance DoD-CIA Relationship*

### **(U) RECOMMENDATION/OBSERVATION**

Develop guidance and implementing instructions governing the DoD-CIA relationship and cooperative intelligence gathering efforts.

### **(U) CURRENT ASSESSMENT:**

- Concern has been raised by USD(P) in a memo to Deputy, NSA.
- Inter-agency coordination done through NSC-staff.

### **(U) FIX/ACTION/CHANGE:**

**Fix: Develop guidance and implementing instructions governing DoD-CIA relationship and cooperative intelligence gathering efforts.**

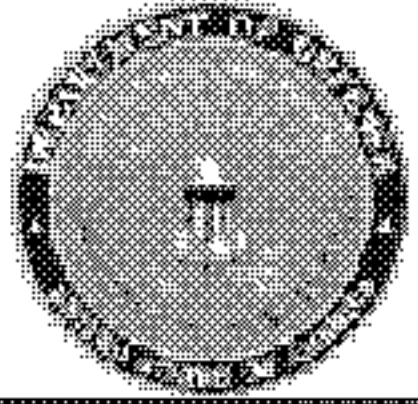
**Action: Inter-agency problem raised with Deputy, NSA.**

**Change: Addressed**

**OPR: OUSD(P)**

**OCR: OUSD(P)**





## *C-040P – Investigating Deaths of Detainees in Armed Forces Control*

### **(U) RECOMMENDATION/OBSERVATION**

Lack of existing clarity for determining the proper procedures for handling examinations and documenting deaths of detainees in Armed Forces' control.

### **(U) CURRENT ASSESSMENT:**

- Last DSLOC classification indicated matter as Green. Suggest closure.

### **(U) FIX/ACTION/CHANGE:**

**Fix:** OAFME has primary jurisdiction within DoD for determining cause/manner of death, and explicitly presumes autopsies will be performed (unless otherwise determined by Armed Forces ME).

**Action:** SECDEF Memo "Proced. for Invest. into Deaths of Detainees in Custody of the Armed Forces of the US" (9 JUN 04), formalizes reporting requirements of detainee deaths.

**OPR: OUSD(P)  
OCR: OUSD(P)**

**Change: Addressed**