

*C-035 – 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)**

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Change: In progress

OPR: OUSD(P)

OCR: OUSD(P)

C-037 – 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-038– 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-039 – 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)



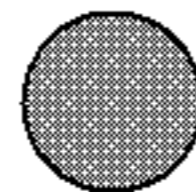
Church: Detainee Operations/ Interrogation Techniques

C-040

(x) RECOMMENDATION/OBSERVATION

- AFG-Medical personnel were not equipped to fully comply with all doctrinal requirements for detainee medical care. For example, there was no mention of monthly medical assessments or weight recordings, as required by AR 190-8, and it seems unlikely these would be feasible under the broader conditions described.
- HQDA DODOIP Task: D7, T7, M3.1

(x) CURRENT ASSESSMENT:



OPR: Army
OCR: J4, J5

(x) FIX/ACTION/CHANGE:

Fix: Equipping for medical personnel ISO detainee operations

Action: Align equipping with doctrinal requirements and update/develop TOE/equipment sets

Change: Medical units or facilities provided organic equipment or standard equipment sets to meet all medical requirements ISO detainee operations

MAR

JUN

2004

2005

MEDCOM, completed assessment and developed required force template for MED support

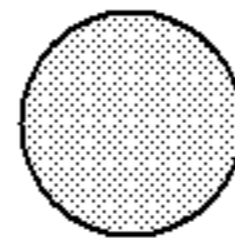
All deploying medical units use force template and are equipped to provide Level-4 (long-term) care

C-042 “Documentation System for Detainee Medical Care”

(x) RECOMMENDATION/OBSERVATION

- (U) Inferred: Develop and implement a standardized and rigorous documentation system for detainee medical care. [Records maintenance and standardization. See also p. 358]

(x) CURRENT ASSESSMENT:



OPR: OSD (ASD-HA)

OCR:

(x) FIX/ACTION/CHANGE:

Fix:

Action:

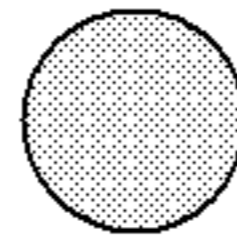
Change:

2005

(x) RECOMMENDATION/OBSERVATION

- Concerns that medical personnel may have misrepresented detainee injuries
- HQDA DODOIP Task:

(x) CURRENT ASSESSMENT:



OPR: Army

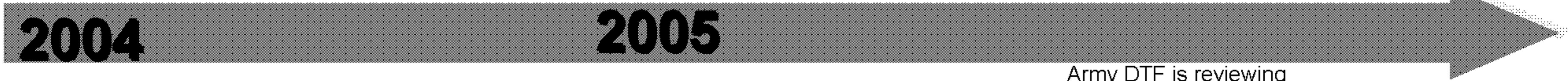
OCR: None

(x) FIX/ACTION/CHANGE:

Fix: Personal Accountability

Action: The Army conducted a thorough assessment of abuse

Change: Final Disposition



AUG

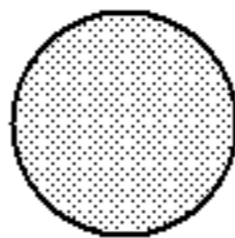
Army DTF is reviewing the OTSG/MEDCOM report and trip reports for corroborating evidence

C-044 “Feedback on Punishments for Detainee Abuses”

(x) RECOMMENDATION/OBSERVATION

- (U) Therefore, I recommend that the Military Department OGCs and JAGs be engaged to examine and provide feedback on the punishments for detainee abuses to date. Though sentencing and non-judicial punishment are the prerogative of the appropriate judicial and command authorities, such a review would enable DoD to more effectively respond to inquiries related to the release of investigative records pursuant to FOIA Requests.”

• (x) CURRENT ASSESSMENT:



OPR: Joint UCMJ Working Grp
OCR:

(x) FIX/ACTION/CHANGE:

Fix:

Action:

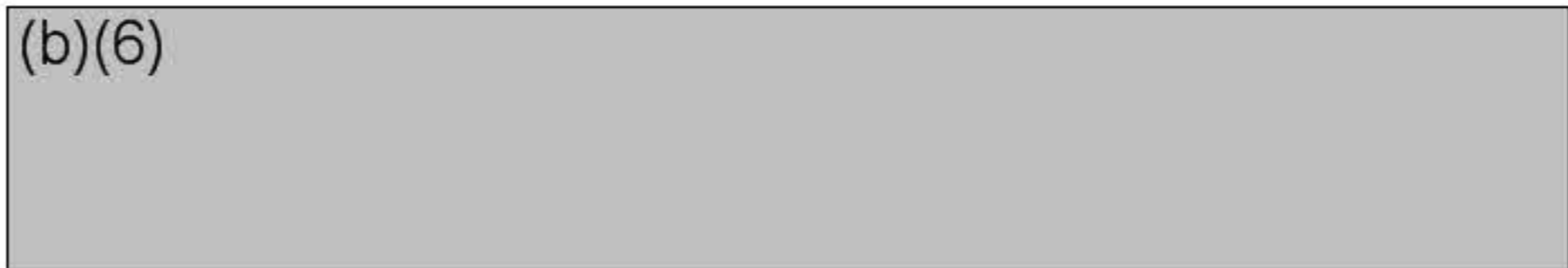
Change:

2005


CDR USSOUTHCOM Directed AR 15-6
Investigation into FBI Allegations of
Detainee Abuse at Guantanamo Bay,
Cuba Detention Facility

Investigated by Lt Gen Schmidt & BG Furlow
Overview Briefing

By

LTC ^{(b)(6)} 

SOUTHCOM

- 
- Background- FBI Emails/ACLU FOIA release**
 - 29 Dec 04 CDR USSOUTHCOM appoints BG Furlow to investigate; LtGen Schmidt appointed on 28 Feb 05**
 - Investigated 9 specific FBI allegations as well as other non-FBI allegations**
 - Findings and Recommendations**
 - Allegations from FBI and other sources**
 - High value detainees**



Lt Gen Schmidt & BG Furlow Report

27 Findings

(Provisional Recommendations)

SF-01 “Impersonation of FBI Special Agent”

PROBLEM

(U) "That DoD interrogators improperly impersonated FBI agents or Department of State officers during the interrogation of detainees."

RECOMMENDATION

(U) The allegation should be closed. The technique, while authorized, was undermining the inter-agency working relationship. No additional corrective action is necessary or appropriate.

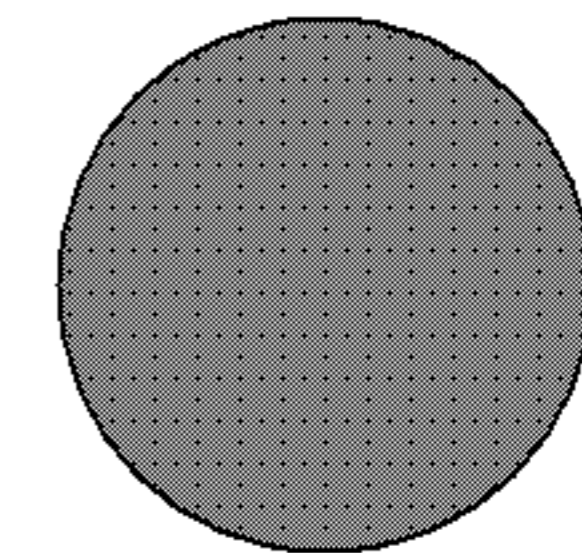
OPR: SOUTHCOM
OCR: USD(I)

FIX/ACTION/CHANGE:

Fix:

Action:

Change:



SF-02 "Lap Dance"

PROBLEM

(U) "That a female military interrogator performed a "lap dance" on a detainee during an interrogation. I have expanded this allegation to "That female military interrogators performed acts designed to take advantage of their gender in relation to Muslim males."

RECOMMENDATION

(U) Command action was effective and sufficient with respect to the individual interrogators. AR 15-6 recommends that the approval authority for the use of gender coercion as futility technique be withheld to the JTF GTMO-CG.

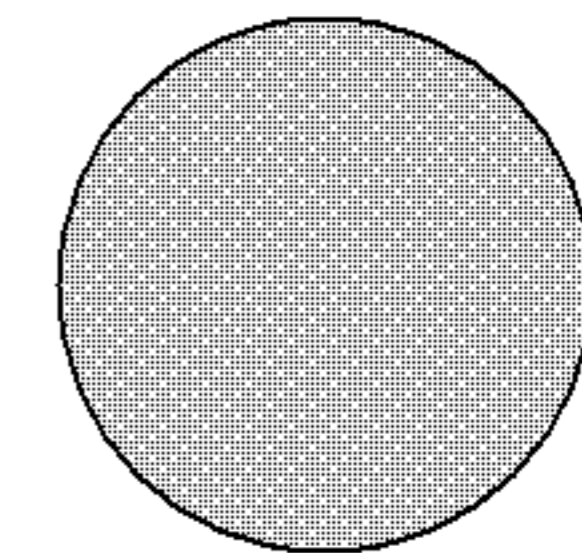
OPR: SOUTHCOM
OCR: USD(I)

FIX/ACTION/CHANGE:

Fix:

Action:

Change:



SF-03 "Menstrual Blood"

PROBLEM

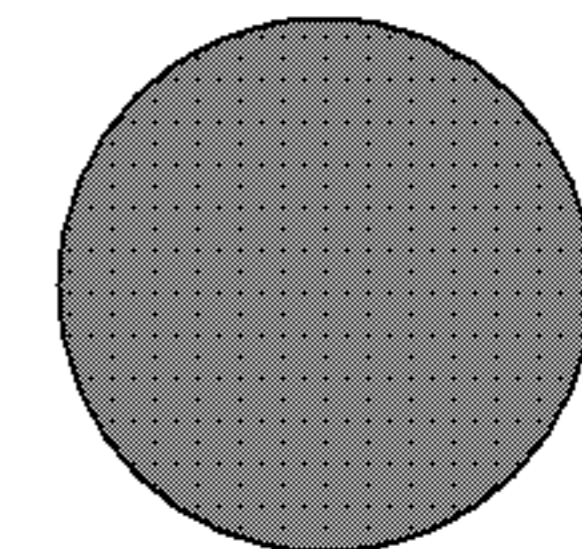
(U) "That a female military interrogator wiped "menstrual blood" on a detainee during an interrogation."

RECOMMENDATION

(U) Command action was inadequate with respect to the individual interrogator. The interrogator should have been formally admonished or reprimanded for using a technique that was not approved in advance. Advance approval ensures that retaliatory techniques are not employed on impulse. Considering the lapse in time, recommend this allegation be closed.

OPR: SOUTHCOM
OCR:

<p><u>FIX/ACTION/CHANGE:</u></p> <p><u>Fix:</u></p> <p><u>Action:</u></p> <p><u>Change:</u></p>



SF-04 "Loud Music"

PROBLEM

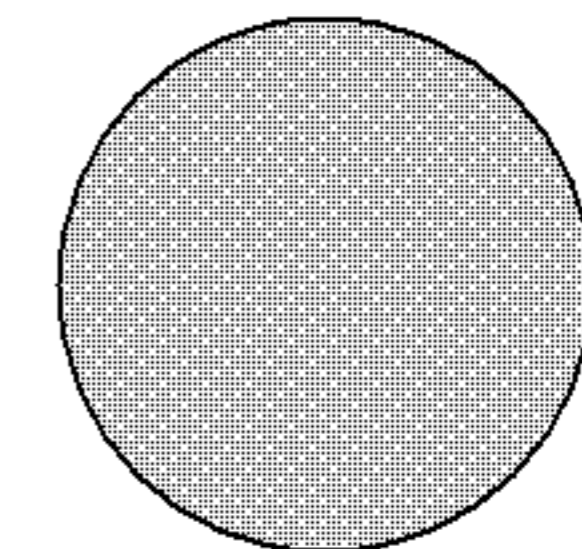
(U) "That DoD interrogators improperly played loud music and yelled at detainees."

RECOMMENDATION

(U) The allegation should be closed. Recommend JTF-GTMO develop specific guidance on the length of time that a detainee may be subjected to futility music. Placement of a detainee in the interrogation booth and subjecting him to loud music and strobe lights should be limited and conducted within clearly prescribed limits.

OPR: SOUTHCOM
OCR: USD(I)

<p><u>FIX/ACTION/CHANGE:</u></p> <p><i><u>Fix:</u></i></p> <p><i><u>Action:</u></i></p> <p><i><u>Change:</u></i></p>



SF-05 "Heat & Cold"

PROBLEM

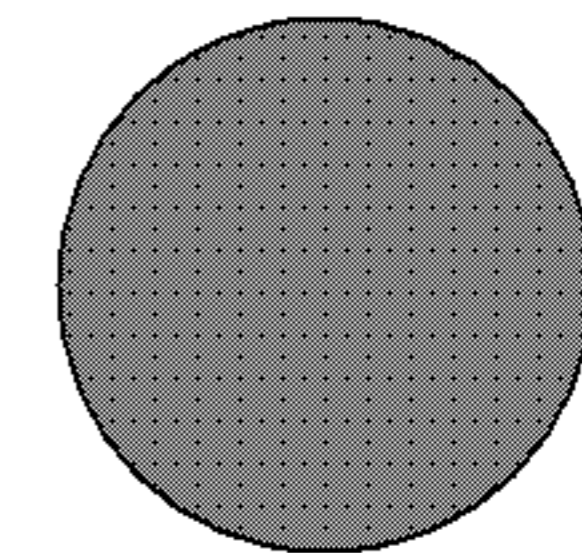
(U) "That military interrogators improperly used extremes of heat and cold during their interrogation of detainees."

RECOMMENDATION

(U) The allegation should be closed.

OPR: SOUTHCOM
OCR: USD(I)

<p><u>FIX/ACTION/CHANGE:</u></p> <p><i><u>Fix:</u></i></p> <p><i><u>Action:</u></i></p> <p><i><u>Change:</u></i></p>



SF-06 "Sleep Deprivation"

PROBLEM

(U) "That military interrogators improperly used sleep deprivation against detainees."

RECOMMENDATION

(U) The allegation should be closed. Recommend USSOUTHCOM clarify policy on sleep deprivation.

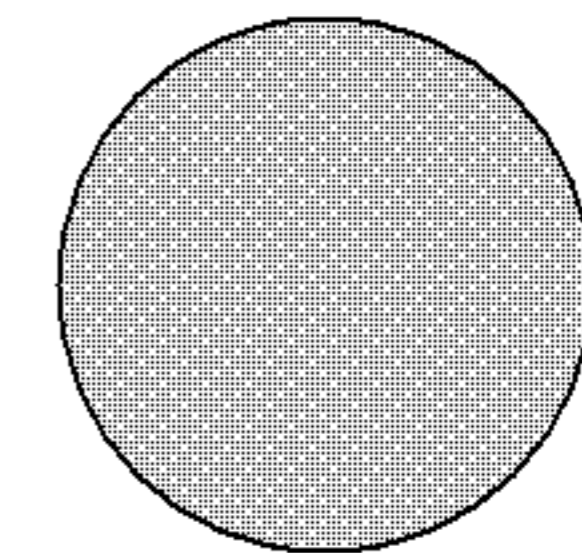
OPR: SOUTHCOM
OCR: USD(I)

FIX/ACTION/CHANGE:

Fix:

Action:

Change:



SF-07 "Duct Tape"

PROBLEM

(U) "That military interrogators used duct tape to cover a detainee's mouth and head."

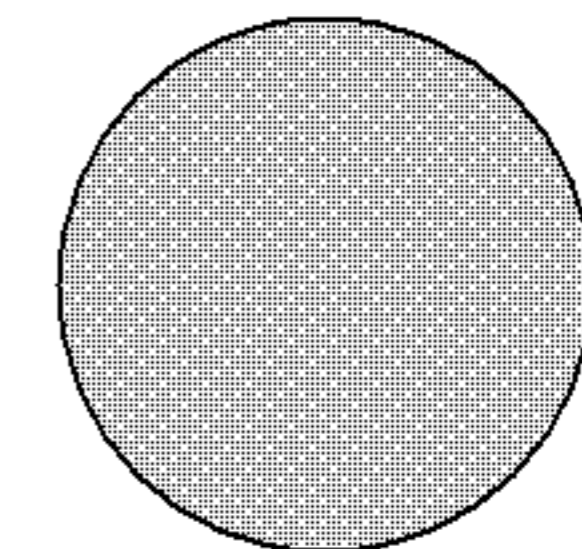
RECOMMENDATION

(U) Command action was inadequate with respect to the ICE Chief. He should be formally admonished or reprimanded for directing an inappropriate restraint to be used on a detainee.

OPR: SOUTHCOM

OCR:

<p><u>FIX/ACTION/CHANGE:</u></p> <p><i><u>Fix:</u></i></p> <p><i><u>Action:</u></i></p> <p><i><u>Change:</u></i></p>



SF-08 "Chaining"

PROBLEM

(U) "That military interrogators improperly chained detainees and placed them in a fetal position on the floor."

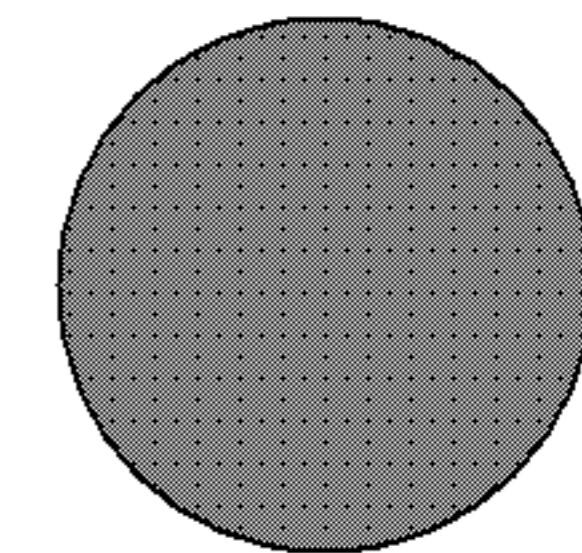
RECOMMENDATION

(U) The allegation should be closed. The AR 15-6 was not able to find any evidence to adequately assign responsibility for these actions. This practice is now specifically prohibited by current GTMO interrogation policy.

OPR: SOUTHCOM

OCR:

<p><u>FIX/ACTION/CHANGE:</u></p> <p><i><u>Fix:</u></i></p> <p><i><u>Action:</u></i></p> <p><i><u>Change:</u></i></p>



SF-09 “Interrogation Interference”

PROBLEM

(U) "That military personnel improperly interfered with FBI interrogators in the performance of their FBI duties."

RECOMMENDATION

(U) The allegation should be closed.

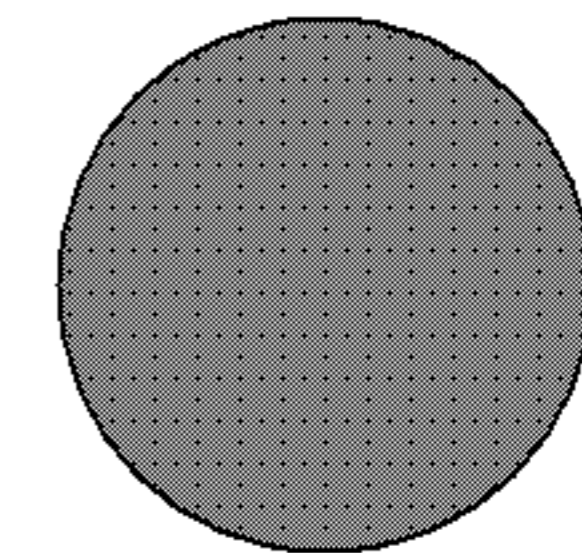
OPR: SOUTHCOM
OCR:

FIX/ACTION/CHANGE:

Fix:

Action:

Change:



SF-10 "Food & Water"

PROBLEM

(U) "That military interrogators denied detainees food and water for long periods of time."

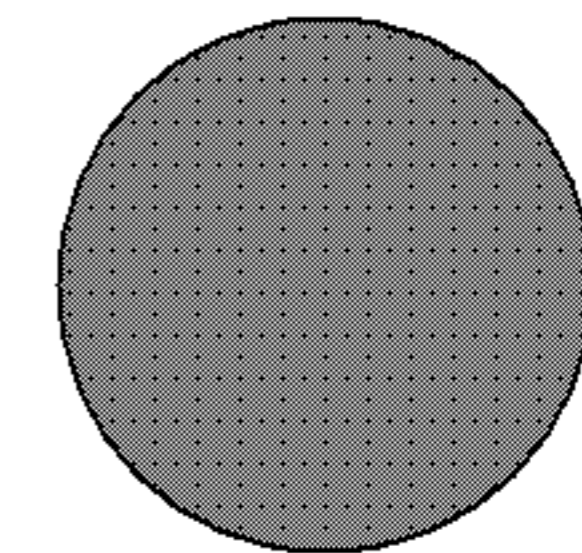
RECOMMENDATION

(U) The allegation should be closed.

OPR: SOUTHCOM

OCR:

<p><u>FIX/ACTION/CHANGE:</u></p> <p><i><u>Fix:</u></i></p> <p><i><u>Action:</u></i></p> <p><i><u>Change:</u></i></p>



SF-11 “Military Working Dogs”

PROBLEM

(U) FIRST SPECIAL INTERROGATION PLAN

"That military interrogators improperly used military working dogs (MWD) during interrogation sessions to threaten detainees, or for some other purpose."

RECOMMENDATION

(U) The allegation should be closed. While the ICE Chief was aware of and condoned the first use of the MWD, additional corrective action is not necessary. The event occurred on two occasions and was expressly approved after the first occasion for this detainee. This practice is now specifically prohibited by current GTMO interrogation policy.

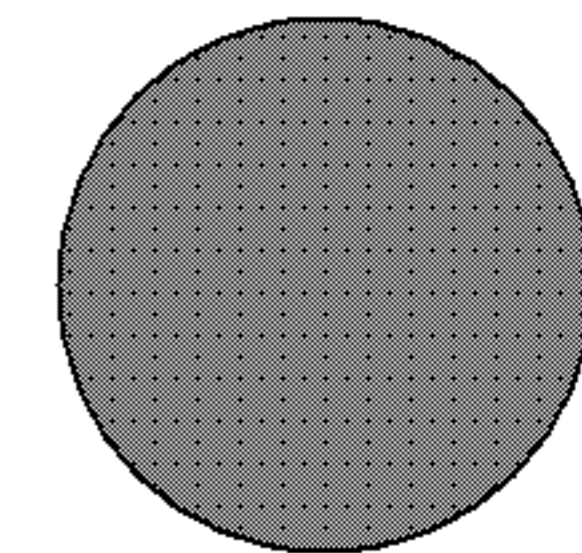
OPR: SOUTHCOM
OCR:

FIX/ACTION/CHANGE:

Fix:

Action:

Change:



SF-12 "Lap Dance"

PROBLEM

(U) FIRST SPECIAL INTERROGATION PLAN "That a female military interrogator performed a "lap dance" on a detainee during an interrogation. I have expanded this allegation to "That female military interrogators performed acts designed to take advantage of their gender in relation to Muslim males."

RECOMMENDATION

(U) The allegation should be closed. No command action is necessary with respect to the individual interrogators. Their supervisor acknowledged that he approved the approach at the time of the interrogation. AR 15-6 recommends that the approval for the use of gender coercion as utility techniques be withheld to the JTF-GTMO CG.

OPR: SOUTHCOM
OCR:

FIX/ACTION/CHANGE:**Fix:****Action:****Change:**