

WORK CONDITIONS

DETAINEES OBSERVED WORKING: Y N

IF YES: CLOTHING/PROTECTIVE EQUIPMENT APPROPRIATE: Y N

WET BULB MONITORED BY: UNIT PVNTMED METEOROLOGICAL

SERVICE

WORK/REST CYCLES FOLLOWED: Y N

COMMENTS: _____

QUARTERS (INTERIOR & EXTERIOR)

ADEQUATE SPACE, LIGHTING, CLIMATE CONTROL: Y N

ADEQUATE LIGHTING: Y N

ADEQUATE CLIMATE CONTROL: Y N

EVIDENCE OF RODENTS: Y N

FOOD DEBRIS/TRASH PRESENT: Y N

STANDING WATER PRESENT: Y N

VEGETATION WITHIN XX FT OF QUARTERS: Y N

CLEANLINESS: POOR FAIR GOOD

EXCELLENT

FREQUENCY OF INSPECTION: DAILY WEEKLY MONTHLY

COMMENTS: _____

FIELD SANITATION TEAM

APPOINTED: Y N TRAINED: Y N

SUPPLIES: Y N PERFORMING DUTIES: Y N

COLLECT COPIES OF (MOST RECENT? LAST 3?) PVNTMED INSPECTION REPORTS, INCLUDING SITE SURVEYS, FOOD SERVICE SANITATION INSPECTIONS, WATER ANALYSIS, PEST SURVEYS

e. **COMBAT / OPERATIONAL STRESS QUESTIONNAIRE**

Please answer all questions completely and honestly. Your responses will remain anonymous.

1. Rank: E1-4 E5-6 E7-9 O1-3 O4-6

2. Type of Unit: PLT CO BN BDE Other

Rate the following statements regarding morale and unit cohesion (1 = strongly disagree, 5 = strongly agree):

- | | |
|--|-----------|
| 3. The members of my unit know that they can depend on each other | 1 2 3 4 5 |
| 4. The members of my unit are cooperative with each other | 1 2 3 4 5 |
| 5. The members of my unit stand up for each other | 1 2 3 4 5 |
| 6. The members of my unit were adequately trained for this mission | 1 2 3 4 5 |

Rate the following statements regarding your unit's leadership (1 = never, 5 = always):

- | | |
|--|-----------|
| 7. In your unit, how often do NCOs/officers tell soldiers when they have done a good job? | 1 2 3 4 5 |
| 8. In your unit, how often do NCOs/officers embarrass soldiers in front of other soldiers? | 1 2 3 4 5 |
| 9. In your unit, how often do NCOs/officers try to look good to higher-ups by assigning extra missions or details to soldiers? | 1 2 3 4 5 |
| 10. In your unit, how often do NCOs/officers exhibit clear thinking and reasonable action under stress? | 1 2 3 4 5 |

Rate the following statements regarding access to mental health care (1 = strongly disagree, 5 = strongly agree):

- | | |
|---|-----------|
| 11. I don't know where to get help | 1 2 3 4 5 |
| 12. It is difficult to get an appointment | 1 2 3 4 5 |
| 13. It's too difficult to get to the location where the mental health specialist is | 1 2 3 4 5 |
| 14. I don't trust mental health professionals | 1 2 3 4 5 |
| 15. My leadership would treat me differently | 1 2 3 4 5 |
| 16. My leaders would blame me for the problem | 1 2 3 4 5 |
| 17. I would be seen as weak | 1 2 3 4 5 |

Rate the following statements regarding personal issues at home (1 = strongly disagree, 5 = strongly agree):

- | | |
|--|-----------|
| 18. My relationship with my spouse is very stable | 1 2 3 4 5 |
| 19. My relationship with my spouse makes me happy | 1 2 3 4 5 |
| 20. Do you and/or your spouse have any plans to separate or divorce? | Y N |
| 21. My unit's rear detachment supports my family | 1 2 3 4 5 |
| 22. My unit's family readiness group supports my family | 1 2 3 4 5 |

Combat exposure:

- | | | | |
|---|-------|-----------|------------|
| 23. How many times have you been attacked or ambushed? | Never | 1-5 times | 6-10 times |
| >10 times | | | |
| 24. How many times have you received small arms fire? | Never | 1-5 times | 6-10 times |
| >10 times | | | |
| 25. How many times have you seen dead bodies or human remains? | Never | 1-5 times | |
| 6-10 times >10 times | | | |
| 26. How many times have you cleared/searched buildings or homes? | Never | 1-5 times | |
| 6-10 times >10 times | | | |
| 27. How many times have you been responsible for the death of an enemy combatant? | Never | | |
| 1-5 times 6-10 times >10 times | | | |

Rate the level of concern you have regarding the following (1 = not concerned at all, 5 = very concerned):

- | | | | | | |
|---------------------------------|---|---|---|---|---|
| 28. Being separated from family | 1 | 2 | 3 | 4 | 5 |
| 29. Uncertain redeployment date | 1 | 2 | 3 | 4 | 5 |
| 30. Duration of deployment | 1 | 2 | 3 | 4 | 5 |
| 31. Lack of privacy | 1 | 2 | 3 | 4 | 5 |
| 32. Boring and repetitive work | 1 | 2 | 3 | 4 | 5 |
| 33. Living conditions | 1 | 2 | 3 | 4 | 5 |

Rate the following statements regarding stress management training (1 = strongly disagree, 5 = strongly agree):

- | | | | | | |
|--|---|---|---|---|---|
| 34. My training in handling the stresses of deployment was adequate | 1 | 2 | 3 | 4 | 5 |
| 35. My training in recognizing stress in other soldiers was adequate | 1 | 2 | 3 | 4 | 5 |

Thank you for your honest responses.

Appendix E

Standards

a. Finding 1:

(1) Finding: All interviewed and observed commanders, leaders, and Soldiers treated detainees humanely and emphasized the importance of the humane treatment of detainees.

(2) Standard: Standard of treatment for detainees in OPERATION ENDURING FREEDOM (OEF): Chairman, Joint Chiefs of Staff (CJCS) message dated 211933Z JAN 02 states that members of the Taliban militia and members of Al Qaida under the control of US Forces would be treated humanely and, to the extent appropriate and consistent with military necessity, in a manner consistent with the principles of the Geneva Conventions of 1949. The DAIG has therefore used the provisions of the Geneva Conventions as a benchmark against which to measure the treatment provided to detainees by U.S. Forces to determine if detainees were treated humanely. The use of these standards as benchmarks does not state or imply a position for the United States or U.S. Army on the legal status of its operations in OEF.

The DAIG refers to 3 key documents in this report. CJCS Message dated 211933Z JAN 02, provides the determination regarding the humane treatment of Al Qaida and Taliban detainees. Convention Relative to the Treatment of Prisoners of War of August 12, 1949 (GPW) is the international treaty that governs the treatment of prisoners of war, and Geneva Convention Relative to the Protection of Civilian Persons in Time of War (GC), 12 August 1949, is the international treaty that governs the treatment of civilian persons in time of war.

As the guidance did not define "humane treatment" but did state that the US would treat members of the Taliban militia and Al Qaida in a manner consistent with the Geneva Conventions, the DAIG determined that it would use Common Article 3 of the GCs as its floor measure of humane treatment, but would also include provisions of the Geneva Convention on the Treatment of Prisoners of War (GPW) and Geneva Convention Relative to the Protection of Civilian Persons in Time of War (GC) as other relevant indicia of "humane treatment." The use of this standard does not state or imply a position for the United States or U.S. Army on the legal status of its operations in OEF.

Standard of treatment for detainees in OPERATION IRAQI FREEDOM (OIF): OIF was an international armed conflict and therefore the provisions of the Geneva Conventions applied. Additionally, the United States was an occupying power and has acted in accordance with the obligations of an occupying power described in the Hague Convention No. IV Respecting the Laws and Customs of War on Land (H.IV), 18 October 1907, including, but not limited to, Articles 43-46 and 50; Geneva Convention Relative to the Treatment of Prisoners of War of August 12, 1949 (GPW), Geneva Convention Relative to the Protection of Civilian Persons in Time of War (GC), 12 August 1949. The GC supplements H.IV, providing the general standard of treatment at Article 27 and specific standards in subsequent Articles.

The minimum treatment provided by Common Article 3 of the Geneva Conventions is:
1) No adverse distinction based upon race, religion, sex, etc.; 2) No violence to life or person; 3) No taking hostages; 4) No degrading treatment; 5) No passing of sentences in absence of fair trial, and; 6) The wounded and sick must be cared for.

The specific language in the CJCS Message for OEF and the GPW/GC and H.IV follows:

CJCS Message dated 211933Z JAN 02, "Paragraph 3. The combatant commanders shall, in detaining Al Qaida and Taliban individuals under the control of the Department of Defense, treat them humanely and, to the extent appropriate and consistent with military necessity, in a manner consistent with the principles of the Geneva Conventions of 1949."

GPW/GC, Article 3 (Common Article 3) – "In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each party to the conflict shall be bound to apply, as a minimum, the following provisions:

1. Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, color, religion or faith, sex, birth or wealth, or any other similar criteria.

To this end the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons:

- (a) Violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;
- (b) Taking of hostages;
- (c) Outrages upon personal dignity, in particular, humiliating and degrading treatment;
- (d) The passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court affording all the judicial guarantees which are recognized as indispensable by civilized peoples.

2. The wounded and sick shall be collected and cared for. An impartial humanitarian body, such as the International Committee of the Red Cross, may offer its services to the Parties to the conflict. The Parties to the conflict should further endeavour to bring into force, by means of special agreements, all or part of the other provisions of the present Convention. The application of the preceding provisions shall not affect the legal status of the Parties to the conflict."

H.IV, Article 43 – "The authority of the legitimate power having in fact passed into the hands of the occupant, the latter shall take all the measures in his power to restore, and ensure, as far as possible, public order and safety, while respecting, unless absolutely prevented, the laws in force in the country.

H.IV, Article 44 – A belligerent is forbidden to force the inhabitants of territory occupied by it to furnish information about the army of the other belligerent, or about its means of defense.

H.IV, Article 45 – It is forbidden to compel the inhabitants of occupied territory to swear allegiance to the hostile Power.

H.IV, Article 46 – Family honour and rights, the lives of persons, and private property, as well as religious convictions and practice, must be respected. Private property cannot be confiscated.

H.IV, Article 47 – Pillage is formally forbidden."

H.IV, Article 50 – "No general penalty, pecuniary or otherwise, shall be inflicted upon the population on account of the acts of individuals for which they cannot be regarded as jointly and severally responsible."

GPW, Article 13 – "Prisoners of war must at all times be humanely treated. Any unlawful act or omission by the Detaining Power causing death or seriously endangering the health of a prisoner of war in its custody is prohibited, and will be regarded as a serious breach of the present Convention. In particular, no prisoner of war may be subjected to physical mutilation or to medical or scientific experiments of any kind which are not justified by the medical, dental or hospital treatment of the prisoner concerned and carried out in his interest. Likewise, prisoners of war must at all times be protected, particularly against acts of violence or intimidation and against insults and public curiosity.

GPW, Article 14 – Prisoners of war are entitled in all circumstances to respect for their persons and their honour. Women shall be treated with all the regard due to their sex and shall in all cases benefit by treatment as favourable as that granted to men. Prisoners of war shall retain the full civil capacity which they enjoyed at the time of their capture. The Detaining Power may not restrict the exercise, either within or without its own territory, of the rights such capacity confers except in so far as the captivity requires.

GPW, Article 15 – The Power detaining prisoners of war shall be bound to provide free of charge for their maintenance and for the medical attention required by their state of health.

GPW, Article 16 – Taking into consideration the provisions of the present Convention relating to rank and sex, and subject to any privileged treatment which may be accorded to them by reason of their state of health, age or professional qualifications, all prisoners of war shall be treated alike by the Detaining Power, without any adverse distinction based on race, nationality, religious belief or political opinions, or any other distinction founded on similar criteria."

GPW, Article 39 – "Every prisoner of war camp shall be put under the immediate authority of a responsible commissioned officer belonging to the regular armed forces of the Detaining Power. Such officer shall have in his possession a copy of the present Convention; he shall ensure that its provisions are known to the camp staff and the guard and shall be responsible, under the direction of his government, for its application. Prisoners of war, with the exception of officers, must salute and show to all officers of the Detaining Power the external marks of respect provided for by the regulations applying in their own forces. Officer prisoners of war are bound to salute only officers of a higher rank of the Detaining Power; they must, however, salute the camp commander regardless of his rank."

GPW, Article 41 – "In every camp the text of the present Convention and its Annexes and the contents of any special agreement provided for in Article 6, shall be posted, in the prisoners' own language, at places where all may read them. Copies shall be supplied, on request, to the prisoners who cannot have access to the copy which has been posted. Regulations, orders, notices and publications of every kind relating to the conduct of prisoners of war shall be issued to them in a language which they understand. Such regulations, orders and publications shall be posted in the manner described above and copies shall be handed to

the prisoners' representative. Every order and command addressed to prisoners of war individually must likewise be given in a language which they understand."

GC, Article 27 – "Protected persons are entitled, in all circumstances, to respect for their persons, their honour, their family rights, their religious convictions and practices, and their manners and customs. They shall at all times be humanely treated, and shall be protected especially against all acts of violence or threats thereof and against insults and public curiosity. Women shall be especially protected against any attack on their honour, in particular against rape, enforced prostitution, or any form of indecent assault. Without prejudice to the provisions relating to their state of health, age and sex, all protected persons shall be treated with the same consideration by the Party to the conflict in whose power they are, without any adverse distinction based, in particular, on race, religion or political opinion. However, the Parties to the conflict may take such measures of control and security in regard to protected persons as may be necessary as a result of the war."

GC, Article 31 – "No physical or moral coercion shall be exercised against protected persons, in particular to obtain information from them or from third parties."

GC, Article 32 – "The High Contracting Parties specifically agree that each of them is prohibited from taking any measure of such a character as to cause the physical suffering or extermination of protected persons in their hands. This prohibition applies not only to murder, torture, corporal punishments, mutilation and medical or scientific experiments not necessitated by the medical treatment of a protected person, but also to any other measures of brutality whether applied by civilian or military agents."

GC, Article 37 – "Protected persons who are confined pending proceedings or subject to a sentence involving loss of liberty, shall during their confinement be humanely treated."

GC, Article 41 – "Should the Power, in whose hands protected persons may be, consider the measures of control mentioned in the present Convention to be inadequate, it may not have recourse to any other measure of control more severe than that of assigned residence or internment, in accordance with the provisions of Articles 42 and 43. In applying the provisions of Article 39, second paragraph, to the cases of persons required to leave their usual places of residence by virtue of a decision placing them in assigned residence, by virtue of a decision placing them in assigned residence, elsewhere, the Detaining Power shall be guided as closely as possible by the standards of welfare set forth in Part III, Section IV of this Convention."

GC, Article 42 – "The internment or placing in assigned residence of protected persons may be ordered only if the security of the Detaining Power makes it absolutely necessary. If any person, acting through the representatives of the Protecting Power, voluntarily demands internment, and if his situation renders this step necessary, he shall be interned by the Power in whose hands he may be."

GC, Article 43 – "Any protected person who has been interned or placed in assigned residence shall be entitled to have such action reconsidered as soon as possible by an appropriate court or administrative board designated by the Detaining Power for that purpose. If the internment or placing in assigned residence is maintained, the court or administrative board shall periodically, and at least twice yearly, give consideration to his or her case, with a view to the favorable amendment of the initial decision, if circumstances permit. Unless the protected persons concerned object, the Detaining Power shall, as rapidly as possible, give the Protecting Power the names of any protected persons who have been interned or subjected to assigned residence."

residence, or who have been released from internment or assigned residence. The decisions of the courts or boards mentioned in the first paragraph of the present Article shall also, subject to the same conditions, be notified as rapidly as possible to the Protecting Power."

GC, Article 68 – "Protected persons who commit an offence which is solely intended to harm the Occupying Power, but which does not constitute an attempt on the life or limb of members of the occupying forces or administration, nor a grave collective danger, nor seriously damage the property of the occupying forces or administration or the installations used by them, shall be liable to internment or simple imprisonment, provided the duration of such internment or imprisonment is proportionate to the offence committed. Furthermore, internment or imprisonment shall, for such offences, be the only measure adopted for depriving protected persons of liberty. The courts provided for under Article 66 of the present Convention may at their discretion convert a sentence of imprisonment to one of internment for the same period.

The penal provisions promulgated by the Occupying Power in accordance with Articles 64 and 65 may impose the death penalty on a protected person only in cases where the person is guilty of espionage, of serious acts of sabotage against the military installations of the Occupying Power or of intentional offences which have caused the death of one or more persons, provided that such offences were punishable by death under the law of the occupied territory in force before the occupation began.

The death penalty may not be pronounced on a protected person unless the attention of the court has been particularly called to the fact that since the accused is not a national of the Occupying Power, he is not bound to it by any duty of allegiance.

In any case, the death penalty may not be pronounced on a protected person who was under eighteen years of age at the time of the offence."

GC, Article 78 – "If the Occupying Power considers it necessary, for imperative reasons of security, to take safety measures concerning protected persons, it may, at the most, subject them to assigned residence or to internment. Decisions regarding such assigned residence or internment shall be made according to a regular procedure to be prescribed by the Occupying Power in accordance with the provisions of the present Convention. This procedure shall include the right of appeal for the parties concerned. Appeals shall be decided with the least possible delay. In the event of the decision being upheld, it shall be subject to periodical review, if possible every six months, by a competent body set up by the said Power. Protected persons made subject to assigned residence and thus required to leave their homes shall enjoy the full benefit of Article 39 of the present Convention.

GC, Article 79 – The Parties to the conflict shall not intern protected persons, except in accordance with the provisions of Articles 41, 42, 43, 68 and 78.

GC, Article 80 – Internees shall retain their full civil capacity and shall exercise such attendant rights as may be compatible with their status."

GC, Article 82 – "The Detaining Power shall, as far as possible, accommodate the internees according to their nationality, language and customs. Internees who are nationals of the same country shall not be separated merely because they have different languages. Throughout the duration of their internment, members of the same family, and in particular parents and children, shall be lodged together in the same place of internment, except when separation of a temporary nature is necessitated for reasons of employment or health or for the

purposes of enforcement of the provisions of Chapter IX of the present Section. Internees may request that their children who are left at liberty without parental care shall be interned with them. Wherever possible, interned members of the same family shall be housed in the same premises and given separate accommodation from other internees, together with facilities for leading a proper family life.

GC, Article 83 – The Detaining Power shall not set up places of internment in areas particularly exposed to the dangers of war. The Detaining Power shall give the enemy Powers, through the intermediary of the Protecting Powers, all useful information regarding the geographical location of places of internment. Whenever military considerations permit, internment camps shall be indicated by the letters IC, placed so as to be clearly visible in the daytime from the air. The Powers concerned may, however, agree upon any other system of marking. No place other than an internment camp shall be marked as such.

GC, Article 84 – Internees shall be accommodated and administered separately from prisoners of war and from persons deprived of liberty for any other reason.

GC, Article 85 – The Detaining Power is bound to take all necessary and possible measures to ensure that protected persons shall, from the outset of their internment, be accommodated in buildings or quarters which afford every possible safeguard as regards hygiene and health, and provide efficient protection against the rigours of the climate and the effects of the war. In no case shall permanent places of internment be situated in unhealthy areas or in districts, the climate of which is injurious to the internees. In all cases where the district, in which a protected person is temporarily interned, is an unhealthy area or has a climate which is harmful to his health, he shall be removed to a more suitable place of internment as rapidly as circumstances permit. The premises shall be fully protected from dampness, adequately heated and lighted, in particular between dusk and lights out. The sleeping quarters shall be sufficiently spacious and well ventilated, and the internees shall have suitable bedding and sufficient blankets, account being taken of the climate, and the age, sex, and state of health of the internees. Internees shall have for their use, day and night, sanitary conveniences which conform to the rules of hygiene, and are constantly maintained in a state of cleanliness. They shall be provided with sufficient water and soap for their daily personal toilet and for washing their personal laundry; installations and facilities necessary for this purpose shall be granted to them. Showers or baths shall also be available. The necessary time shall be set aside for washing and for cleaning. Whenever it is necessary, as an exceptional and temporary measure, to accommodate women internees who are not members of a family unit in the same place of internment as men, the provision of separate sleeping quarters and sanitary conveniences for the use of such women internees shall be obligatory.

GC, Article 86 – The Detaining Power shall place at the disposal of interned persons, of whatever denomination, premises suitable for the holding of their religious services."

GC, Article 88 – "In all places of internment exposed to air raids and other hazards of war, shelters adequate in number and structure to ensure the necessary protection shall be installed. In case of alarms, the internees shall be free to enter such shelters as quickly as possible, excepting those who remain for the protection of their quarters against the aforesaid hazards. Any protective measures taken in favour of the population shall also apply to them. All due precautions must be taken in places of internment against the danger of fire.

GC, Article 89 – Daily food rations for internees shall be sufficient in quantity, quality and variety to keep internees in a good state of health and prevent the development of nutritional

deficiencies. Account shall also be taken of the customary diet of the internees. Internees shall also be given the means by which they can prepare for themselves any additional food in their possession. Sufficient drinking water shall be supplied to internees. The use of tobacco shall be permitted. Internees who work shall receive additional rations in proportion to the kind of labour which they perform. Expectant and nursing mothers and children under fifteen years of age, shall be given additional food, in proportion to their physiological needs.

GC, Article 90 – When taken into custody, internees shall be given all facilities to provide themselves with the necessary clothing, footwear and change of underwear, and later on, to procure further supplies if required. Should any internees not have sufficient clothing, account being taken of the climate, and be unable to procure any, it shall be provided free of charge to them by the Detaining Power. The clothing supplied by the Detaining Power to internees and the outward markings placed on their own clothes shall not be ignominious nor expose them to ridicule. Workers shall receive suitable working outfits, including protective clothing, whenever the nature of their work so requires."

GC, Article 93 – "Internees shall enjoy complete latitude in the exercise of their religious duties, including attendance at the services of their faith, on condition that they comply with the disciplinary routine prescribed by the detaining authorities."

GC, Article 97 – "Internees shall be permitted to retain articles of personal use. Monies, cheques, bonds, etc., and valuables in their possession may not be taken from them except in accordance with established procedure. Detailed receipts shall be given therefor. The amounts shall be paid into the account of every internee as provided for in Article 98. Such amounts may not be converted into any other currency unless legislation in force in the territory in which the owner is interned so requires or the internee gives his consent. Articles which have above all a personal or sentimental value may not be taken away. A woman internee shall not be searched except by a woman. On release or repatriation, internees shall be given all articles, monies or other valuables taken from them during internment and shall receive in currency the balance of any credit to their accounts kept in accordance with Article 98, with the exception of any articles or amounts withheld by the Detaining Power by virtue of its legislation in force. If the property of an internee is so withheld, the owner shall receive a detailed receipt. Family or identity documents in the possession of internees may not be taken away without a receipt being given. At no time shall internees be left without identity documents. If they have none, they shall be issued with special documents drawn up by the detaining authorities, which will serve as their identity papers until the end of their internment. Internees may keep on their persons a certain amount of money, in cash or in the shape of purchase coupons, to enable them to make purchases."

GC, Article 99 – "Every place of internment shall be put under the authority of a responsible officer, chosen from the regular military forces or the regular civil administration of the Detaining Power. The officer in charge of the place of internment must have in his possession a copy of the present Convention in the official language, or one of the official languages, of his country and shall be responsible for its application. The staff in control of internees shall be instructed in the provisions of the present Convention and of the administrative measures adopted to ensure its application. The text of the present Convention and the texts of special agreements concluded under the said Convention shall be posted inside the place of internment, in a language which the internees understand, or shall be in the possession of the Internee Committee. Regulations, orders, notices and publications of every kind shall be communicated to the internees and posted inside the places of internment in a

language which they understand. Every order and command addressed to internees individually must, likewise, be given in a language which they understand."

GC, Article 100 – "The disciplinary regime in places of internment shall be consistent with humanitarian principles, and shall in no circumstances include regulations imposing on internees any physical exertion dangerous to their health or involving physical or moral victimization. Identification by tattooing or imprinting signs or markings on the body, is prohibited. In particular, prolonged standing and roll-calls, punishment drill, military drill and manoeuvres, or the reduction of food rations, are prohibited."

Army Regulation 190-8, Enemy Prisoners of War, Retained Personnel, Civilian Internees and Other Detainees, 1 October 1997, Chapter 1, paragraph 1-1, subparagraphs a and b. This regulation is a multi-service regulation implementing DOD Directive 2310.1 and incorporates Army Regulation 190-8 and 190-57 and SECNAV Instruction 3461.3, and Air Force Joint Instruction 31-304 and outlines policies, procedures, and responsibilities for treatment of enemy prisoners of war (EPW), retained personnel (RP), civilian internees (CI), and other detainees (OD) and implements international law for all military operations. The specific language in the regulation follows:

"1-1. Purpose

a. This regulation provides policy, procedures, and responsibilities for the administration, treatment, employment, and compensation of enemy prisoners of war (EPW), retained personnel (RP), civilian internees (CI) and other detainees (OD) in the custody of U.S. Armed Forces. This regulation also establishes procedures for transfer of custody from the United States to another detaining power.

b. This regulation implements international law, both customary and codified, relating to EPW, RP, CI, and ODs which includes those persons held during military operations other than war."

b. Finding 2:

(1) Finding: In the cases the DAIG reviewed, all detainee abuse occurred when one or more individuals failed to adhere to basic standards of discipline, training, or Army Values; in some cases abuse was accompanied by leadership failure at the tactical level.

(2) Standard: Standard of treatment for detainees in OPERATION ENDURING FREEDOM (OEF): Guidance was provided stating that members of the Taliban militia and members of Al Qaida under the control of U.S. Forces would be treated humanely and, to the extent appropriate and consistent with military necessity, in a manner consistent with the principles of the Geneva Conventions of 1949. The DAIG has therefore used the provisions of the Geneva Conventions as a benchmark against which to measure the treatment provided to detainees by U.S. Forces to determine if detainees were treated humanely. The use of these standards as benchmarks does not state or imply a position for the United States or U.S. Army on the legal status of its operations in OEF.

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To this end the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons:

- (a) Violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;
- (b) Taking of hostages;

(c) Outrages upon personal dignity, in particular, humiliating and degrading treatment;
(d) The passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court affording all the judicial guarantees which are recognized as indispensable by civilized peoples.

2. The wounded and sick shall be collected and cared for. An impartial humanitarian body, such as the International Committee of the Red Cross, may offer its services to the Parties to the conflict. The Parties to the conflict should further endeavour to bring into force, by means of special agreements, all or part of the other provisions of the present Convention. The application of the preceding provisions shall not affect the legal status of the Parties to the conflict."

GPW, Article 13 – "Prisoners of war must at all times be humanely treated. Any unlawful act or omission by the Detaining Power causing death or seriously endangering the health of a prisoner of war in its custody is prohibited, and will be regarded as a serious breach of the present Convention. In particular, no prisoner of war may be subjected to physical mutilation or to medical or scientific experiments of any kind which are not justified by the medical, dental or hospital treatment of the prisoner concerned and carried out in his interest. Likewise, prisoners of war must at all times be protected, particularly against acts of violence or intimidation and against insults and public curiosity."

GPW, Article 14 – Prisoners of war are entitled in all circumstances to respect for their persons and their honour. Women shall be treated with all the regard due to their sex and shall in all cases benefit by treatment as favourable as that granted to men. Prisoners of war shall retain the full civil capacity which they enjoyed at the time of their capture. The Detaining Power may not restrict the exercise, either within or without its own territory, of the rights such capacity confers except in so far as the captivity requires.

GPW, Article 15 – The Power detaining prisoners of war shall be bound to provide free of charge for their maintenance and for the medical attention required by their state of health.

GPW, Article 16 – Taking into consideration the provisions of the present Convention relating to rank and sex, and subject to any privileged treatment which may be accorded to them by reason of their state of health, age or professional qualifications, all prisoners of war shall be treated alike by the Detaining Power, without any adverse distinction based on race, nationality, religious belief or political opinions, or any other distinction founded on similar criteria."

GPW, Article 39 – "Every prisoner of war camp shall be put under the immediate authority of a responsible commissioned officer belonging to the regular armed forces of the Detaining Power. Such officer shall have in his possession a copy of the present Convention; he shall ensure that its provisions are known to the camp staff and the guard and shall be responsible, under the direction of his government, for its application. Prisoners of war, with the exception of officers, must salute and show to all officers of the Detaining Power the external marks of respect provided for by the regulations applying in their own forces. Officer prisoners of war are bound to salute only officers of a higher rank of the Detaining Power; they must, however, salute the camp commander regardless of his rank."

GPW, Article 41 – "In every camp the text of the present Convention and its Annexes and the contents of any special agreement provided for in Article 6, shall be posted, in the prisoners' own language, at places where all may read them. Copies shall be supplied, on request, to the prisoners who cannot have access to the copy which has been posted.

Regulations, orders, notices and publications of every kind relating to the conduct of prisoners of war shall be issued to them in a language which they understand. Such regulations, orders and publications shall be posted in the manner described above and copies shall be handed to the prisoners' representative. Every order and command addressed to prisoners of war individually must likewise be given in a language which they understand."

GC, Article 27 – "Protected persons are entitled, in all circumstances, to respect for their persons, their honour, their family rights, their religious convictions and practices, and their manners and customs. They shall at all times be humanely treated, and shall be protected especially against all acts of violence or threats thereof and against insults and public curiosity. Women shall be especially protected against any attack on their honour, in particular against rape, enforced prostitution, or any form of indecent assault. Without prejudice to the provisions relating to their state of health, age and sex, all protected persons shall be treated with the same consideration by the Party to the conflict in whose power they are, without any adverse distinction based, in particular, on race, religion or political opinion. However, the Parties to the conflict may take such measures of control and security in regard to protected persons as may be necessary as a result of the war."

GC, Article 31 – "No physical or moral coercion shall be exercised against protected persons, in particular to obtain information from them or from third parties.

GC, Article 32 – The High Contracting Parties specifically agree that each of them is prohibited from taking any measure of such a character as to cause the physical suffering or extermination of protected persons in their hands. This prohibition applies not only to murder, torture, corporal punishments, mutilation and medical or scientific experiments not necessitated by the medical treatment of a protected person, but also to any other measures of brutality whether applied by civilian or military agents."

GC, Article 37 – "Protected persons who are confined pending proceedings or subject to a sentence involving loss of liberty, shall during their confinement be humanely treated."

GC, Article 41 – "Should the Power, in whose hands protected persons may be, consider the measures of control mentioned in the present Convention to be inadequate, it may not have recourse to any other measure of control more severe than that of assigned residence or internment, in accordance with the provisions of Articles 42 and 43. In applying the provisions of Article 39, second paragraph, to the cases of persons required to leave their usual places of residence by virtue of a decision placing them in assigned residence, by virtue of a decision placing them in assigned residence, elsewhere, the Detaining Power shall be guided as closely as possible by the standards of welfare set forth in Part III, Section IV of this Convention.

GC, Article 42 – The internment or placing in assigned residence of protected persons may be ordered only if the security of the Detaining Power makes it absolutely necessary. If any person, acting through the representatives of the Protecting Power, voluntarily demands internment, and if his situation renders this step necessary, he shall be interned by the Power in whose hands he may be.

GC, Article 43 – Any protected person who has been interned or placed in assigned residence shall be entitled to have such action reconsidered as soon as possible by an appropriate court or administrative board designated by the Detaining Power for that purpose. If the internment or placing in assigned residence is maintained, the court or administrative board shall periodically, and at least twice yearly, give consideration to his or her case, with a view to

the favorable amendment of the initial decision, if circumstances permit. Unless the protected persons concerned object, the Detaining Power shall, as rapidly as possible, give the Protecting Power the names of any protected persons who have been interned or subjected to assigned residence, or who have been released from internment or assigned residence. The decisions of the courts or boards mentioned in the first paragraph of the present Article shall also, subject to the same conditions, be notified as rapidly as possible to the Protecting Power."

GC, Article 68 – "Protected persons who commit an offence which is solely intended to harm the Occupying Power, but which does not constitute an attempt on the life or limb of members of the occupying forces or administration, nor a grave collective danger, nor seriously damage the property of the occupying forces or administration or the installations used by them, shall be liable to internment or simple imprisonment, provided the duration of such internment or imprisonment is proportionate to the offence committed. Furthermore, internment or imprisonment shall, for such offences, be the only measure adopted for depriving protected persons of liberty. The courts provided for under Article 66 of the present Convention may at their discretion convert a sentence of imprisonment to one of internment for the same period.

The penal provisions promulgated by the Occupying Power in accordance with Articles 64 and 65 may impose the death penalty on a protected person only in cases where the person is guilty of espionage, of serious acts of sabotage against the military installations of the Occupying Power or of intentional offences which have caused the death of one or more persons, provided that such offences were punishable by death under the law of the occupied territory in force before the occupation began.

The death penalty may not be pronounced on a protected person unless the attention of the court has been particularly called to the fact that since the accused is not a national of the Occupying Power, he is not bound to it by any duty of allegiance.

In any case, the death penalty may not be pronounced on a protected person who was under eighteen years of age at the time of the offence."

GC, Article 78 – "If the Occupying Power considers it necessary, for imperative reasons of security, to take safety measures concerning protected persons, it may, at the most, subject them to assigned residence or to internment. Decisions regarding such assigned residence or internment shall be made according to a regular procedure to be prescribed by the Occupying Power in accordance with the provisions of the present Convention. This procedure shall include the right of appeal for the parties concerned. Appeals shall be decided with the least possible delay. In the event of the decision being upheld, it shall be subject to periodical review, if possible every six months, by a competent body set up by the said Power. Protected persons made subject to assigned residence and thus required to leave their homes shall enjoy the full benefit of Article 39 of the present Convention.

GC, Article 79 – The Parties to the conflict shall not intern protected persons, except in accordance with the provisions of Articles 41, 42, 43, 68 and 78.

GC, Article 80 – Internees shall retain their full civil capacity and shall exercise such attendant rights as may be compatible with their status."

GC, Article 82 – "The Detaining Power shall, as far as possible, accommodate the internees according to their nationality, language and customs. Internees who are nationals of the same country shall not be separated merely because they have different languages.

Throughout the duration of their internment, members of the same family, and in particular parents and children, shall be lodged together in the same place of internment, except when separation of a temporary nature is necessitated for reasons of employment or health or for the purposes of enforcement of the provisions of Chapter IX of the present Section. Internees may request that their children who are left at liberty without parental care shall be interned with them. Wherever possible, interned members of the same family shall be housed in the same premises and given separate accommodation from other internees, together with facilities for leading a proper family life.

GC, Article 83 – The Detaining Power shall not set up places of internment in areas particularly exposed to the dangers of war. The Detaining Power shall give the enemy Powers, through the intermediary of the Protecting Powers, all useful information regarding the geographical location of places of internment. Whenever military considerations permit, internment camps shall be indicated by the letters IC, placed so as to be clearly visible in the daytime from the air. The Powers concerned may, however, agree upon any other system of marking. No place other than an internment camp shall be marked as such.

GC, Article 84 – Internees shall be accommodated and administered separately from prisoners of war and from persons deprived of liberty for any other reason.

GC, Article 85 – The Detaining Power is bound to take all necessary and possible measures to ensure that protected persons shall, from the outset of their internment, be accommodated in buildings or quarters which afford every possible safeguard as regards hygiene and health, and provide efficient protection against the rigours of the climate and the effects of the war. In no case shall permanent places of internment be situated in unhealthy areas or in districts, the climate of which is injurious to the internees. In all cases where the district, in which a protected person is temporarily interned, is an unhealthy area or has a climate which is harmful to his health, he shall be removed to a more suitable place of internment as rapidly as circumstances permit. The premises shall be fully protected from dampness, adequately heated and lighted, in particular between dusk and lights out. The sleeping quarters shall be sufficiently spacious and well ventilated, and the internees shall have suitable bedding and sufficient blankets, account being taken of the climate, and the age, sex, and state of health of the internees. Internees shall have for their use, day and night, sanitary conveniences which conform to the rules of hygiene, and are constantly maintained in a state of cleanliness. They shall be provided with sufficient water and soap for their daily personal toilet and for washing their personal laundry; installations and facilities necessary for this purpose shall be granted to them. Showers or baths shall also be available. The necessary time shall be set aside for washing and for cleaning. Whenever it is necessary, as an exceptional and temporary measure, to accommodate women internees who are not members of a family unit in the same place of internment as men, the provision of separate sleeping quarters and sanitary conveniences for the use of such women internees shall be obligatory.

GC, Article 86 – The Detaining Power shall place at the disposal of interned persons, of whatever denomination, premises suitable for the holding of their religious services."

GC, Article 88 – "In all places of internment exposed to air raids and other hazards of war, shelters adequate in number and structure to ensure the necessary protection shall be installed. In case of alarms, the measures internees shall be free to enter such shelters as quickly as possible, excepting those who remain for the protection of their quarters against the aforesaid hazards. Any protective measures taken in favour of the population shall also apply to them. All due precautions must be taken in places of internment against the danger of fire.

GC, Article 89 – Daily food rations for internees shall be sufficient in quantity, quality and variety to keep internees in a good state of health and prevent the development of nutritional deficiencies. Account shall also be taken of the customary diet of the internees. Internees shall also be given the means by which they can prepare for themselves any additional food in their possession. Sufficient drinking water shall be supplied to internees. The use of tobacco shall be permitted. Internees who work shall receive additional rations in proportion to the kind of labour which they perform. Expectant and nursing mothers and children under fifteen years of age, shall be given additional food, in proportion to their physiological needs.

GC, Article 90 – When taken into custody, internees shall be given all facilities to provide themselves with the necessary clothing, footwear and change of underwear, and later on, to procure further supplies if required. Should any internees not have sufficient clothing, account being taken of the climate, and be unable to procure any, it shall be provided free of charge to them by the Detaining Power. The clothing supplied by the Detaining Power to internees and the outward markings placed on their own clothes shall not be ignominious nor expose them to ridicule. Workers shall receive suitable working outfits, including protective clothing, whenever the nature of their work so requires."

GC, Article 93 – "Internees shall enjoy complete latitude in the exercise of their religious duties, including attendance at the services of their faith, on condition that they comply with the disciplinary routine prescribed by the detaining authorities."

GC, Article 97 – "Internees shall be permitted to retain articles of personal use. Monies, cheques, bonds, etc., and valuables in their possession may not be taken from them except in accordance with established procedure. Detailed receipts shall be given therefor. The amounts shall be paid into the account of every internee as provided for in Article 98. Such amounts may not be converted into any other currency unless legislation in force in the territory in which the owner is interned so requires or the internee gives his consent. Articles which have above all a personal or sentimental value may not be taken away. A woman internee shall not be searched except by a woman. On release or repatriation, internees shall be given all articles, monies or other valuables taken from them during internment and shall receive in currency the balance of any credit to their accounts kept in accordance with Article 98, with the exception of any articles or amounts withheld by the Detaining Power by virtue of its legislation in force. If the property of an internee is so withheld, the owner shall receive a detailed receipt. Family or identity documents in the possession of internees may not be taken away without a receipt being given. At no time shall internees be left without identity documents. If they have none, they shall be issued with special documents drawn up by the detaining authorities, which will serve as their identity papers until the end of their internment. Internees may keep on their persons a certain amount of money, in cash or in the shape of purchase coupons, to enable them to make purchases."

GC, Article 99 – "Every place of internment shall be put under the authority of a responsible officer, chosen from the regular military forces or the regular civil administration of the Detaining Power. The officer in charge of the place of internment must have in his possession a copy of the present Convention in the official language, or one of the official languages, of his country and shall be responsible for its application. The staff in control of internees shall be instructed in the provisions of the present Convention and of the administrative measures adopted to ensure its application. The text of the present Convention and the texts of special agreements concluded under the said Convention shall be posted inside the place of internment, in a language which the internees understand, or shall be in the

possession of the Internee Committee. Regulations, orders, notices and publications of every kind shall be communicated to the internees and posted inside the places of internment in a language which they understand. Every order and command addressed to internees individually must, likewise, be given in a language which they understand."

GC, Article 100 – "The disciplinary regime in places of internment shall be consistent with humanitarian principles, and shall in no circumstances include regulations imposing on internees any physical exertion dangerous to their health or involving physical or moral victimization. Identification by tattooing or imprinting signs or markings on the body, is prohibited. In particular, prolonged standing and roll-calls, punishment drill, military drill and manoeuvres, or the reduction of food rations, are prohibited."

H.IV, Article 43 – "The authority of the legitimate power having in fact passed into the hands of the occupant, the latter shall take all the measures in his power to restore, and ensure, as far as possible, public order and safety, while respecting, unless absolutely prevented, the laws in force in the country.

H.IV, Article 44 – A belligerent is forbidden to force the inhabitants of territory occupied by it to furnish information about the army of the other belligerent, or about its means of defense.

H.IV, Article 45 – It is forbidden to compel the inhabitants of occupied territory to swear allegiance to the hostile Power.

H.IV, Article 46 – Family honour and rights, the lives of persons, and private property, as well as religious convictions and practice, must be respected. Private property cannot be confiscated.

H.IV, Article 47 – Pillage is formally forbidden."

H.IV, Article 50 – "No general penalty, pecuniary or otherwise, shall be inflicted upon the population on account of the acts of individuals for which they cannot be regarded as jointly and severally responsible."

Army Regulation (AR) 190-8, Enemy Prisoners of War, Retained Personnel, Civilian Internees and Other Detainees, 1 October 1997, Chapter 1, paragraphs 1-5, subparagraphs a, b, and c; paragraph 2-1, subparagraph a (1)(d); and paragraph 5-1, subparagraph (6), provides instruction on the overall treatment of detainees. This regulation is a multi-service regulation implementing DOD Directive 2310.1 and incorporates Army Regulation 190-8 and 190-57 and SECNAV Instruction 3461.3, and Air Force Joint Instruction 31-304 and outlines policies, procedures, and responsibilities for treatment of enemy prisoners of war (EPW), retained personnel (RP), civilian internees (CI), and other detainees (OD) and implements international law for all military operations. The specific language in the regulation follows:

*1-5. General protection policy

a. U.S. policy, relative to the treatment of EPW, CI and RP in the custody of the U.S. Armed Forces, is as follows:

(1) All persons captured, detained, interned, or otherwise held in U.S. Armed Forces custody during the course of conflict will be given humanitarian care and treatment from the moment they fall into the hands of U.S. forces until final release or repatriation."

"(4) The inhumane treatment of EPW, CI, RP is prohibited and is not justified by the stress of combat or with deep provocation. Inhumane treatment is a serious and punishable violation under international law and the Uniform Code of Military Justice (UCMJ)."

"b. All prisoners will receive humane treatment without regard to race, nationality, religion, political opinion, sex, or other criteria. The following acts are prohibited: murder, torture, corporal punishment, mutilation, the taking of hostages, sensory deprivation, collective punishments, execution without trial by proper authority, and all cruel and degrading treatment.

c. All persons will be respected as human beings. They will be protected against all acts of violence to include rape, forced prostitution, assault and theft, insults, public curiosity, bodily injury, and reprisals of any kind. They will not be subjected to medical or scientific experiments. This list is not exclusive. EPW/RP is to be protected from all threats or acts of violence."

"2-1. a. (1) (d) Prisoners may be interrogated in the combat zone. The use of physical or mental torture or any coercion to compel prisoners to provide information is prohibited.... Prisoners may not be threatened, insulted, or exposed to unpleasant or disparate treatment of any kind because of their refusal to answer questions."

"5-1 (6) The following acts are specifically prohibited:

(a) Any measures of such character as to cause the physical suffering or extermination of the CI. This prohibition applies not only to murder, torture, corporal punishment, mutilation, and medical or scientific experiments, but also to any other measure of brutality.

(b) Punishment of the CI for an offense they did not personally commit.

(c) Collective penalties and all measures of intimidation and terrorism against the CI.

(d) Reprisals against the CI and their property.

(e) The taking and holding of the CI as hostages."

AR 600-20, Army Command Policy, Chapter 1, paragraph 1-5, subparagraph c (1), and (4), prescribes the policies and responsibilities of command. The specific language in the regulation follows:

"c. Characteristics of command leadership.

The commander is responsible for establishing leadership climate of the unit and developing disciplined and cohesive units. This sets the parameters within which command will be exercised and, therefore, sets the tone for social and duty relationships within the command. Commanders are also responsible for the professional development of their soldiers. To this end, they encourage self-study, professional development, and continued growth of their subordinates' military careers.

(1) Commanders and other leaders committed to the professional Army ethic promote a positive environment. If leaders show loyalty to their soldiers, the Army, and the Nation, they

earn the loyalty of their soldiers. If leaders consider their soldiers' needs and care for their well-being, and if they demonstrate genuine concern, these leaders build a positive command climate."

"(4) Professionally competent leaders will develop respect for their authority by-

(a) Striving to develop, maintain, and use the full range of human potential in their organization. This potential is a critical factor in ensuring that the organization is capable of accomplishing its mission.

(b) Giving troops constructive information on the need for and purpose of military discipline. Articles in the UCMJ which require explanation will be presented in such a way to ensure that soldiers are fully aware of the controls and obligations imposed on them by virtue of their military service. (See Art 137, UCMJ.)

(c) Properly training their soldiers and ensuring that both soldiers and equipment are in the proper state of readiness at all times. Commanders should assess the command climate periodically to analyze the human dimension of combat readiness. Soldiers must be committed to accomplishing the mission through the unit cohesion developed as a result of a healthy leadership climate established by the command. Leaders at all levels promote the individual readiness of their soldiers by developing competence and confidence in their subordinates. In addition to being mentally, physically, tactically, and technically competent, soldiers must have confidence in themselves, their equipment, their peers, and their leaders. A leadership climate in which all soldiers are treated with fairness, justice, and equity will be crucial to development of this confidence within soldiers. Commanders are responsible for developing disciplined and cohesive units sustained at the highest readiness level possible."

c. Finding 3:

(1) Finding: Of all facilities inspected, only Abu Ghraib was determined to be undesirable for housing detainees because it is located near an urban population and is under frequent hostile fire, placing Soldiers and detainees at risk.

(2) Standard: Hague Convention No. IV Respecting the Laws and Customs of War on Land (H.IV), Oct. 18, 1907, Articles 43-46 and 50; and Geneva Convention Relative to the Protection of Civilian Persons in Time of War (GC), Aug 12, 1949, Articles 81, 83, 85, 88, 89, and 91 discuss the requirement to accommodate detainees in buildings or quarters which afford every possible safeguard regarding health and hygiene and the effects of war. The specific language in the GC follows:

GC Article 81 – "Parties to the conflict who intern protected persons shall be bound to provide free of charge for their maintenance, and to grant them also the medical attention required by their state of health. No deduction from the allowances, salaries or credits due to the internees shall be made for the repayment of these costs.

GC, Article 83 – "The Detaining Power shall not set up places of internment in areas particularly exposed to the dangers of war. ...

GC, Article 84 – Internees shall be accommodated and administered separately from prisoners of war and from persons deprived of liberty for any other reason.

GC, Article 85 – The Detaining Power is bound to take all necessary and possible measures to ensure that protected persons shall, from the outset of their internment, be accommodated in buildings or quarters which afford every possible safeguard as regards hygiene and health, and provide efficient protection against the rigors of the climate and the effects of the war. In no case shall permanent places of internment be situated in unhealthy areas or in districts, the climate of which is injurious to the internees. In all cases where the district, in which a protected person is temporarily interned, is an unhealthy area or has a climate which is harmful to his health, he shall be removed to a more suitable place of internment as rapidly as circumstances permit. The premises shall be fully protected from dampness, adequately heated and lighted, in particular between dusk and lights out. The sleeping quarters shall be sufficiently spacious and well ventilated, and the internees shall have suitable bedding and sufficient blankets, account being taken of the climate, and the age, sex, and state of health of the internees. Internees shall have for their use, day and night, sanitary conveniences which conform to the rules of hygiene, and are constantly maintained in a state of cleanliness. They shall be provided with sufficient water and soap for their daily personal toilet and for washing their personal laundry; installations and facilities necessary for this purpose shall be granted to them. Showers or baths shall also be available. The necessary time shall be set aside for washing and for cleaning. Whenever it is necessary, as an exceptional and temporary measure, to accommodate women internees who are not members of a family unit in the same place of internment as men, the provision of separate sleeping quarters and sanitary conveniences for the use of such women internees shall be obligatory."

GC, Article 88 – "In all places of internment exposed to air raids and other hazards of war, shelters adequate in number and structure to ensure the necessary protection shall be installed.

GC, Article 89 – Daily food rations for internees shall be sufficient in quantity, quality and variety to keep internees in a good state of health and prevent the development of nutritional deficiencies. Account shall also be taken of the customary diet of the internees. Internees shall also be given the means by which they can prepare for themselves any additional food in their possession. Sufficient drinking water shall be supplied to internees. ... "

GC Article 91 – "Every place of internment shall have an adequate infirmary, under the direction of a qualified doctor, where internees may have the attention they require, as well as appropriate diet. Isolation wards shall be set aside for cases of contagious or mental diseases. Maternity cases and internees suffering from serious diseases, or whose condition requires special treatment, a surgical operation or hospital care, must be admitted to any institution where adequate treatment can be given and shall receive care not inferior to that provided for the general population. Internees shall, for preference, have the attention of medical personnel of their own nationality. Internees may not be prevented from presenting themselves to the medical authorities for examination. The medical authorities of the Detaining Power shall, upon request, issue to every internee who has undergone treatment an official certificate showing the nature of his illness or injury, and the duration and nature of the treatment given. A duplicate of this certificate shall be forwarded to the Central Agency provided for in Article 140 Treatment, including the provision of any apparatus necessary for the maintenance of internees in good health, particularly dentures and other artificial appliances and spectacles, shall be free of charge to the internee."

Army Regulation 190-8, Enemy Prisoners of War, Retained Personnel, Civilian Internees and Other Detainees, 1 October 1997, Chapter 5, paragraph 5-2, subparagraph a, states that a safety program for civilian internees (CIs) will be established. Chapter 6, paragraph 6-1,

subparagraphs a & b, (1) through (4), states commanders' responsibilities regarding housing, caring for, and safeguarding CIs in facilities. This regulation is a multi-service regulation implementing DOD Directive 2310.1 and incorporates Army Regulation 190-8 and 190-57 and SECNAV Instruction 3461.3, and Air Force Joint Instruction 31-304 and outlines policies, procedures, and responsibilities for treatment of enemy prisoners of war (EPW), retained personnel (RP), civilian internees (CI), and other detainees (OD) and implements international law for all military operations. The specific language in the regulation follows:

"a. Establishment. A safety program for the CI will be established and administered in accordance with the policies prescribed in AR 385-10 and other pertinent safety directives.

"6-1. Internment Facility

a. Location. The theater commander will be responsible for the location of the CI internment facilities within his or her command. The CI retained temporarily in an unhealthy area or where the climate is harmful to their health will be removed to a more suitable place of internment as soon as possible.

b. Quarters. Adequate shelters to ensure protection against air bombardments and other hazards of war will be provided and precautions against fire will be taken at each CI camp and branch camp.

(1) All necessary and possible measures will be taken to ensure that CI shall, from the outset of their internment, be accommodated in buildings or quarters which afford every possible safeguard as regards hygiene and health, and provide efficient protection against the rigors of the climate and the effects of war. In no case shall permanent places of internment be placed in unhealthy areas, or in districts the climate of which is injurious to CI.

(2) The premises shall be fully protected from dampness, adequately heated and lighted, in particular between dusk and lights out. The sleeping quarters shall be sufficiently spacious and well ventilated, and the internees shall have suitable bedding and sufficient blankets, account being taken of the climate, and the age, sex and state of health of the internees.

(3) Internees shall have for their use, day and night, sanitary conveniences which conform to the rules of hygiene and are constantly maintained in a state of cleanliness. They shall be provided with sufficient water and soap for their daily personal hygiene and for washing their personal laundry; installations and facilities necessary for this purpose shall be provided. Showers or baths shall also be available. The necessary time shall be set aside for washing and for cleaning.

(4) CI shall be administered and housed separately from EPW/RP. Except in the case of families, female CI shall be housed in separate quarters and shall be under the direct supervision of women."

Field Manual (FM) 3-19.1, Military Police Operations, 31 January 2002, Chapter 4, paragraph 4-44, describes the capability of a modular internment/resettlement (I/R) Military Police (MP) battalion that is trained and equipped for an I/R mission. The specific language in the field manual follows:

"4-44. Although the CS MP unit initially handles EPWs/CIs, modular MP (I/R) battalions with assigned MP guard companies and supporting MWD teams are equipped and trained to

handle this mission for the long term. A properly configured modular MP (I/R) battalion can support, safeguard, account for, guard, and provide humane treatment for up to 4,000 EPWs/CIs; 8,000 dislocated civilians; or 1,500 US military prisoners."

FM 3-19.40, Military Police Internment/Resettlement Operations, 1 August 2001, Chapter 6, paragraphs 6-2 and 6-3, discuss the considerations of choosing sites for I/R facilities. The specific language in the field manual follows:

"6-2. The MP coordinate the location with engineers, logistical units, higher headquarters, and the HN. The failure to properly consider and correctly evaluate all factors may increase the logistical and personnel efforts required to support operations. If an I/R facility is improperly located, the entire internee population may require movement when resources are scarce. When selecting a site for a facility, consider the following:

- Will the interned population pose a serious threat to logistical operations if the tactical situation becomes critical?
- Is there a threat of guerrilla activity in the area?
- What is the attitude of the local population?
- What classification of internees will be housed at the site?
- What type of terrain surrounds the site, and will it help or hinder escapes?
- What is the distance from the MSR to the source of logistical support?
- What transportation methods are required and available to move internees, supplies, and equipment?

6-3. In addition, consider the—

- METT-TC.
- Proximity to probable target areas.
- Availability of suitable existing facilities (avoids unnecessary construction).
- Presence of swamps, mosquitoes, and other factors (including water drainage) that affect human health.
 - Existence of an adequate, satisfactory source of potable water. The supply should meet the demands for consumption, food sanitation, personal hygiene, and sewage disposal.
 - Availability of electricity. Portable generators can be used as standby and emergency sources of electricity.
 - Distance to work if internees are employed outside the facility.
 - Availability of construction material.
 - Soil drainage."

d. Finding 4:

(1) Finding: Tactical commanders and leaders adapted to the environment and held detainees longer than doctrinally recommended due to the demand for timely, tactical intelligence.

(2) Standard: Army Regulation (AR) 190-8, Enemy Prisoners of War, Retained Personnel, Civilian Internees and Other Detainees, 1 October 1997, Chapter 2, paragraph 2-1, subparagraph a (d), states that prisoners may be interrogated in the combat zone; subparagraph a (e) states that prisoners will be evacuated as quickly as possible from the collecting points (CPs) to the Corps Holding Area (CHA). If evacuation is delayed the detaining

force will increase the level of humanitarian care provided at the CP. Chapter 3, paragraph 3-2, subparagraph b, states that CPs will operate under conditions similar to those prescribed for internment camps; paragraph 3-4, subparagraph e, requires enemy prisoners of war (EPWs) and retained persons (RP) to be housed under the same conditions as U.S. Forces residing in the same area; subparagraph i requires EPW/RP facilities to ensure a clean and healthy environment for detainees. Chapter 6, paragraph 6-1, subparagraph b, requires that internment facilities for CIs provide a safe and sanitary environment; paragraph 6-6, subparagraph g, requires facilities housing Civilian Internees (CI) to provide hygiene and sanitation measures in accordance with AR 40-5, Preventive Medicine. This regulation is a multi-service regulation implementing DOD Directive 2310.1 and incorporates Army Regulation 190-8 and 190-57 and SECNAV Instruction 3461.3, and Air Force Joint Instruction 31-304 and outlines policies, procedures, and responsibilities for treatment of EPW, RP, CI, and other detainees (OD) and implements international law for all military operations. The specific language in the regulation follows:

2-1. a. (d) – "Prisoners may be interrogated in the combat zone.

2-1. a. (e) – "Prisoners will be humanely evacuated from the combat zone and into appropriate channels as quickly as possible. . . . When military necessity requires delay in evacuation beyond a reasonable period of time, health and comfort items will be issued, such as food, potable water, appropriate clothing, shelter, and medical attention.

3-2. b. – ". . . Transit camps or collecting points will operate under conditions similar to those prescribed for permanent prisoner of war camps, and the prisoners will receive the same treatment as in permanent EPW camps.

3-4. e. – "EPW/RP will be quartered under conditions as favorable as those for the force of the detaining power billeted in the same area. The conditions shall make allowance for the habits and customs of the prisoners and shall in no case be prejudicial to their health. The forgoing shall apply in particular to the dormitories of EPW/RP as it regards both total surface and minimum cubic space and the general installation of bedding and blankets. Quarters furnished to EPW/RP must be protected from dampness, must be adequately lit and heated (particularly between dusk and lights-out), and must have adequate precautions taken against the dangers of fire. In camps accommodating both sexes, EPW/RP will be provided with separate facilities for women.

Field Manual (FM) 3-19.40, Military Police Internment/Resettlement Operations, 1 August 2001, Introduction, explains the role of MPs in establishing CPs. Chapter 3, paragraph 3-1, further explains the MP role in establishing CPs and CHAs; paragraph 3-3, states that MPs and MI interrogation teams should work closely at CPs and CHAs to make a determination of the potential intelligence value of detainees; paragraphs 3-37, 3-45 and 3-54, state that divisions will operate forward and central CPs as temporary holding areas until detainees are removed from the battlefield and transferred to the CHA. Doctrine states that detainees should remain at a forward CP no longer than 12 hours, and a central CP no longer than 24 hours. Paragraphs 3-41 to 3-43 identify planning considerations for division forward and central CPs. Doctrine identifies divisions providing minimum medical, preventive medical, logistics, personnel and infrastructure support to hold detainees for 12 hours at forward CPs and for 24 hours at central CPs. Paragraph 3-49 describes the Preventive Medicine (PVNTMED) support to a central CP. Paragraph 3-55 states that CHAs are more permanent than CPs and must be prepared to hold detainees for 72 hours. External support is required if CHAs are required to hold detainees for more than 72 hours. Chapter 5, paragraph 5-52, describes the sanitation

requirements for Civilian Internee (CI) populations. The specific language in the field manual follows:

Introduction -- "A large number of captives on the battlefield hampers maneuver units as they move to engage and destroy an enemy. To assist maneuver units in performing their mission—

- Division MP units operate CPs in the division AO.
- Corps MP units operate holding areas in the corps AO."

"3.1. The MP units accept captives from capturing units as far forward as possible, and captives are held in CPs and CHAs until they are removed from the battlefield. Normally, CPs are operated in the division AO and CHAs are operated in the corps AO; but they can be operated anywhere they are needed. The CPs and CHAs sustain and safeguard captives and ensure a minimum level of field processing and accountability. Wounded and sick captives receive medical treatment, and captives who require lifesaving medical attention are evacuated to the nearest medical facility.

3.3. The MP work closely with military intelligence (MI) interrogation teams at CPs and CHAs to determine if captives, their equipment, and their weapons have intelligence value. This process is accelerated when MI interrogation teams can observe captives during arrival and processing, and interrogators can also be used as interpreters during this phase. Before a captive is interviewed by MI personnel, he must have a Department of Defense (DD) Form 2745 (Figure 3-1) attached to him and be accounted for on DD Form 2708.

3-37. A division operates two types of CPs—forward and central. A division MP company operates forward CPs in each maneuver brigade AO and a central CP in the division rear area. Both CPs are temporary areas designed to hold captives until they are removed from the battlefield. Forward CPs are positioned as far forward as possible to accept captives from maneuver elements. Central CPs accept captives from forward CPs and local units.

3-41. Medical support is provided by the MP company medical section. Additional medical support can be requested through the forward support battalion (FSB) to the brigade medical officer. The brigade OPORD includes specific actions and support (operational requirements) needed from non-MP units.

3-42. When a division MP company commander is tasked with planning and operating a forward CP, he-

- Coordinates with the unit responsible for the area.
- Conducts a recon of the area before selecting a location.
- Locates it far enough from the fighting to avoid minor shifts in the main battle area (MBA) (normally 5 to 10 kilometers).
- Notifies the BSA tactical operations center (TOC) and the PM operations section of the selected location (grid coordinates). The BSA TOC reports the location to the brigade TOC, and the brigade TOC notifies subordinate units.
- Coordinates with MI on co-locating an MI interrogation team at the CP.
- Provides potable water and, if required, food for captives.

3-43. A forward CP is seldom located near the indigenous population to prevent problems caused by the presence of captives in the area. A forward CP is usually a guarded,

roped-off area (concertina or razor tape) or a secure, fixed facility. The capture rate and the captive categories determine the size of forward CP.

3-45. Captives should not remain at a forward CP more than 12 hours before being escorted to the central CP.

3-49. The division PVNTMED section supports the central CP by—

- Monitoring drinking water and advising on disinfection procedures.
- Controlling animals and insects that carry disease.
- Ensuring that captives help prevent illness by—
 - Drinking enough water.
 - Wearing clothing that is suited for the weather and the situation.
 - Handling heating fuels carefully.
 - Avoiding contact of exposed skin to cold metal.
 - Using insect repellent, netting, and insecticides.
 - Taking approved preventive medication.
 - Using purification tablets when water quality is uncertain.
 - Disposing of bodily wastes properly.
 - Practicing personal hygiene.

3-54. Captives should not remain at the central CP more than 24 hours before being evacuated to the CHA.

3-55. A CHA (Figure 3-4) can hold more captives for longer periods of times than a central CP. Depending on the availability of MP units to establish I/R facilities, corps MP units must be prepared to hold captives at the CHA more than 72 hours. If the CHA keeps captives more than 72 hours, MP must plan and coordinate for the increased logistics and personnel required to operate a long-term facility. The decision to hold captives longer is based on METT-TC and the availability of forces. Captives remain in the CHA until they are evacuated to an I/R facility or until hostilities end."

e. Finding 5:

(1) **Finding:** Doctrine does not clearly specify the interdependent, and yet independent, roles, missions, and responsibilities of Military Police and Military Intelligence units in the establishment and operation of interrogation facilities.

(2) **Standard:** Department of Defense Directive (DoDD) 2310.1, DoD Program for Enemy Prisoners of War (EPOW) and Other Detainees, 18 August 1994, Paragraph 3.4, outlines the disposition of persons captured or detained and indicates who should operate collecting points, other holding facilities and installations. The specific language in the directive follows:

"Persons captured or detained by the U.S. Military Services shall normally be handed over for safeguarding to U.S. Army Military Police, or to detainee collecting points or other holding facilities and installations operated by U.S. Army Military Police as soon as practical. Detainees may be interviewed for intelligence collection purposes at facilities and installations operated by U.S. Army Military Police."

Joint Publication (JP) 1-02, Department of Defense Dictionary of Military and Associated Terms, 12 April 2001 (as amended through 23 March 2004), defines "tactical control", often abbreviated by the acronym "TACON". The specific language in the joint publication follows:

"tactical control — Command authority over assigned or attached forces or commands, or military capability or forces made available for tasking, that is limited to the detailed direction and control of movements or maneuvers within the operational area necessary to accomplish missions or tasks assigned. Tactical control is inherent in operational control. Tactical control may be delegated to, and exercised at any level at or below the level of combatant command. When forces are transferred between combatant commands, the command relationship the gaining commander will exercise (and the losing commander will relinquish) over these forces must be specified by the Secretary of Defense. Tactical control provides sufficient authority for controlling and directing the application of force or tactical use of combat support assets within the assigned mission or task. Also called TACON."

JP 2-01, Joint Intelligence Support to Military Operations, 20 November 1996, Appendix G, paragraph 1, subparagraph d, describes the organization and function of the Joint Interrogation and Debriefing Center (JIDC). The specific language in the joint publication follows:

"Joint Interrogation and Debriefing Center. The JFC normally tasks the Army component commander to establish, secure, and maintain an EPW camp system. Under some circumstances, particularly during MOOTW, the JFC may designate another component commander to be responsible for the EPW camp system. The subordinate joint force J-2 establishes a JIDC for follow-on exploitation. The establishment (when, where, and how) of the JIDC is highly situation dependent, with the main factors being the geographic nature of the JOA, the type and pace of military operations, the camp structure, and the number and type of the sources. The JIDC may be a central site where appropriate EPW are segregated for interrogation, or it may be more of a clearinghouse operation for dispatch of interrogators or debriefers to other locations.

- Organization. The JIDC interrogation and debriefing activities are managed by the subordinate joint force HUMINT staff section or HOC. The HOC will coordinate with the TFCICA within the J-2X for CI [counterintelligence] augmentation for exploitation of those personnel of CI [counterintelligence] interest, such as civil and/or military leadership, intelligence or political officers and terrorists. The staff is augmented by deployed DHS personnel, linguists and, as required, component personnel. The HUMINT appendix of Annex B (Intelligence) to the OPLAN or CONPLAN contains JIDC planning considerations.

- Responsibilities. Service component interrogators collect tactical intelligence from EPWs based on joint force J-2 criteria. EPWs (i.e., senior level EPWs) are screened by the components and those of further intelligence potential are identified and processed for follow-on interrogation and debriefing by the JIDC to satisfy theater strategic and operational requirements. In addition to EPW, the JIDC may also interrogate civilian detainees, and debrief refugees as well as other non-prisoner sources for operational and strategic information."

FM 3-31, Joint Force Land Component Commander Handbook (JFLCC), 13 December 2001, Appendix A, paragraph A-11, describes the roles of the Joint Interrogation Facility (JIF) and the Joint Interrogation and Debriefing Center (JIDC). The specific language in the field manual follows:

"The following may be established or requested by the JFLCC in addition to the J-2X [J-2 CI [counterintelligence] and HUMINT Support Element] and JACE [Joint Analysis and Control Element]:

Joint Interrogation Facility (JIF). JIF conducts initial screening and interrogation of EPWs, translation and exploitation of captured adversary documents, and debriefing of captured or detained US personnel released or escaped from adversary control. It coordinates exploitation of captured equipment with the JCMEC [Joint Captured Materiel Exploitation Center], documents with the JDEC [Joint Document Exploitation Center], and human sources with the JIDC [Joint Interrogation and Debriefing Center]. More than one JIF may be established in the JOA depending upon the anticipated number of EPWs.

JIDC. JIDC conducts follow-on exploitation of EPWs. EPWs are screened by the JIFs, and those of further intelligence potential are identified and forwarded to the JIDC for follow-on interrogation and debriefing in support of JTF and higher requirements. Besides EPWs, the JIDC may also interrogate civilian detainees, refugees, and other nonprisoner sources. JIDC activities are managed by the J-2X HOC [HUMINT Operations Cell]."

FM 34-52, Intelligence Interrogation, 28 September 1992, Preface, establishes this FM as the doctrinal foundation for interrogations of detainees. Chapter 1 defines and explains the purpose of interrogation. Chapter 2 describes the organization and operation of the Theater Interrogation Facility (TIF). The specific language in the field manual follows:

Preface -- "This manual provides doctrinal guidance, techniques, and procedures governing employment of interrogators as human intelligence (HUMINT) collection assets in support of the commander's intelligence needs. It outlines the interrogator's role within the intelligence collection effort and the supported unit's day-to-day operations.

This manual is intended for use by interrogators as well as commanders, staff officers, and military intelligence (MI) personnel charged with the responsibility of the interrogation collection effort."

Chapter 1 -- "Interrogation is the process of questioning a source to obtain the maximum amount of usable information. 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.

A good interrogation produces needed information, which is timely, complete, clear, and accurate."

Chapter 2 -- "At echelons above corps (EAC), the MI company (I&E), MI battalion (C&E) or (I&E), MI brigade (EAC), will form the Theater Interrogation Facility (TIF). The TIF, which is commanded by an MI captain, provides interrogation support to the theater or joint command and to national level intelligence agencies. The TIF will—

- Be located within the main theater EPW internment facility.
- Be tailored organizationally to meet requirements of the theater and situation.
- Include interrogators, CI [counterintelligence] personnel, and intelligence analysts from the Army, Air Force, Marine Corps, and, in some cases, the Navy.
- Be organized similarly to the CIF; that is, by function.

- Have intelligence analysts to handle requirements and keep interrogators informed of changes in the operational or strategic situation.
- Maintain the capability to deploy "GO" teams to multiple theater EPW camps, as well as to forward deploy them to corps and ECB as needed.
- Provide experienced senior interrogation warrant officers and NCOs who are graduates of the Department of Defense (DOD) Strategic Debriefing Course (additional skill identifier 9N or N7) and physical plant for the Joint Debriefing Center (JDC), where exploitation of high-level (Category A) sources takes place on operational and strategic topics."

"THEATER INTERROGATION FACILITY

The EAC interrogation facility will normally be designated as the TIF. A TIF is staffed by US Army interrogators and analysts, with support from Air Force, Navy, Marine Corps, and other US national agencies as required. In a multinational operation, a combined interrogation facility may be established with allied interrogator augmentation. In addition to conventional theater Army operations, a TIF may be established to support a joint or unified command to meet theater requirements during crisis or contingency deployments.

MI battalion companies, MI brigade (EAC) provide US Army interrogation support to the EAC TIF. The mission of the TIF is to—

- Establish liaison with host nation (HN) commanders to achieve critical intelligence information in response to theater and national level intelligence collection requirements.
- Ensure communication between HN and US military TF commanders, and establish rapport with HN interrogation activities.
- Coordinate for national level collection requirements.
- Interrogate PWs, high-level political and military personnel, civilian internees, defectors, refugees, and displaced persons.
- Participate in debriefings of US and allied personnel who have escaped after being captured, or who have evaded capture.
- Translate and exploit selected CEDs.
- Assist in technical support activity (TSA) operations (see FM 34-5(S)).

The MI battalion (I&E) has an HHC for C³, and three interrogation companies, of which one is Active Component (AC) and the other two are RC. The companies consist of two MI companies, I&E (EPW support) and one MI company, I&E (GS-EAC).

The two MI companies support EPW compound operations. Their elements are primarily for GS at EAC, but may be deployed for DS at corps and division. The MI company (I&E) (GS-EAC) provides priority interrogation and DOCEX support to corps and divisions, to the TIF, and to temporary EPW compounds as required.

A TIF is organized into a headquarters section, operations section, and two interrogation and DOCEX sections. It will normally have an attached TSA section from Operations Group, and a liaison team from the Joint Captured Materiel Exploitation Center (JCMEC). The JCMEC liaison team assists in exploiting sources who have knowledge of captured enemy weapons and equipment.

The headquarters section provides all command, administrative, logistical, and maintenance support to the TIF. It coordinates with—

- Commander, MI Battalion (I&E) for personnel status, administrative support, and logistical support prior to deployment.
- Battalion S3 for deployment of interrogation assets.
- Theater J2 for reporting procedures, operational situation update, and theater and national level intelligence requirements.
- Provost marshal for location of theater EPW camps, and for procedures to be followed by interrogators and MP for processing, interrogating, and internment.
- Commanders of theater medical support units and internment facility for procedures to treat, and clear for questioning, wounded EPWs.
- Commander, CI [counterintelligence] company, for CI [counterintelligence] requirements and joint interrogation and CI [counterintelligence] procedures.

OPERATIONS SECTION

This section (where ideally the officer in charge [OIC] has the 3Q additional skill identifier) is organized into the operations, OB, and communications elements. The operations section—

- Designates work areas for all TIF elements.
- Establishes and maintains TIF functional files.
- Establishes interrogation priorities.
- Maintains a daily log and journal.
- Disseminates incoming and outgoing distribution.
- Conducts liaison with local officials, adjacent and subordinate intelligence activities, CI [counterintelligence], MP, PSYOP, the JCMEC, Plans and Policy Directorate (J5), and provost marshal.
- Conducts coordination with holding area OIC or enclosure commander for screening site, medical support, access, movement, and evacuation procedures for EPWs.
- Conducts operations briefings when required.

- Manages screening operations.
- Manages EPW access for intelligence collection.
- Assigns control numbers (see DIAM 58-13).
- Supervises all intelligence collection activities within the TIF."

Army Regulation (AR) 190-8, Enemy Prisoners of War, Retained Personnel, Civilian Internees and Other Detainees, 1 October 1997, Chapter 2, paragraph 2-1, provides the regulatory guidance for interrogation of detainees in a combat zone. This regulation is a multi-service regulation implementing DOD Directive 2310.1 and incorporates Army Regulation 190-8 and 190-57 and SECNAV Instruction 3461.3, and Air Force Joint Instruction 31-304 and outlines policies, procedures, and responsibilities for treatment of enemy prisoners of war (EPW), retained personnel (RP), civilian internees (CI), and other detainees (OD) and implements international law for all military operations. The specific language in the regulation follows:

"(d) Prisoners may be interrogated in the combat zone. The use of physical or mental torture or any coercion to compel prisoners to provide information is prohibited. Prisoners may voluntarily cooperate with PSYOP personnel in the development, evaluation, or dissemination of PSYOP messages or products. Prisoners may not be threatened, insulted, or exposed to unpleasant or disparate treatment of any kind because of their refusal to answer questions. Interrogations will normally be performed by intelligence or counterintelligence personnel."

Field Manual (FM) 3-19.1, Military Police Operations, 31 January 2002, Chapter 4, paragraphs 4-42 and 4-43, describe the role of MP units in detainee operations and references MI. The specific language in the field manual follows:

"4-42. The Army is the Department of Defense's (DoD's) executive agent for all EPW/CI operations. Additionally, the Army is DoD's executive agent for long-term confinement of US military prisoners. Within the Army and through the combatant commander, the MP is tasked with coordinating shelter, protection, accountability, and sustainment for EPWs/CIs. The I/R function addresses MP roles when dealing with EPWs/CIs, dislocated civilians, and US military prisoners.

4-43. The I/R function is of humane as well as tactical importance. In any conflict involving US forces, safe and humane treatment of EPWs/CIs is required by international law. Military actions on the modern battlefield will result in many EPWs/CIs. Entire units of enemy forces, separated and disorganized by the shock of intensive combat, may be captured. This can place a tremendous challenge on tactical forces and can significantly reduce the capturing unit's combat effectiveness. The MP supports the battlefield commander by relieving him of the problem of handling EPWs/CIs with combat forces. The MP performs their I/R function of collecting, evacuating, and securing EPWs throughout the AO. In this process, the MP coordinates with MI to collect information that may be used in current or future operations."

FM 3-19.40, Military Police Internment/Resettlement Operations, 1 August 2001, Preface, establishes this FM as the doctrinal foundation for detainee operations. Chapter 2, paragraph 2-1, describes the role of the MP Battalion Commander. Chapter 3, paragraph 3-3, states the need for MP and MI to work closely, and paragraphs 3-64 to 3-66 describe the MP-MI

interaction at collecting points (CPs) and corps holding areas (CHAs). The specific language in the field manual follows:

"Field Manual (FM) 3-19.40 depicts the doctrinal foundation, principles, and processes that MP will employ when dealing with enemy prisoners of war (EPWs), civilian internees (CIs), US military prisoner operations, and MP support to civil-military operations (populace and resource control [PRC], humanitarian assistance [HA], and emergency services [ES]).

2-1. An MP battalion commander tasked with operating an I/R facility is also the facility commander. As such, he is responsible for the safety and well-being of all personnel housed within the facility. Since an MP unit may be tasked to handle different categories of personnel (EPW, CI, OD, refugee, and US military prisoner), the commander, the cadre, and support personnel must be aware of the requirements for each category.

3-3. The MP work closely with military intelligence (MI) interrogation teams at CPs and CHAs to determine if captives, their equipment, and their weapons have intelligence value.

3-64. To facilitate collecting enemy tactical information, MI may collocate interrogation teams at CPs and CHAs. This provides MI with direct access to captives and their equipment and documents. Coordination is made between MP and MI to establish operating procedures that include accountability. An interrogation area is established away from the receiving/processing line so that MI personnel can interrogate captives and examine their equipment and documents. If a captive or his equipment or documents are removed from the receiving/processing line, account for them on DD Form 2708 and DA Form 4137.

3-65. The MI interrogation teams screen captives at CPs and CHAs, looking for anyone who is a potential source of information. Screeners observe captives from an area close to the dismount point or processing area. As each captive passes, MI personnel examine the capture tag and look for branch insignias that indicate a captive with information to support command priority intelligence requirements (PIR) and information requirements (IR). They also look for captives who are willing or attempting to talk to guards; joining the wrong group intentionally; or displaying signs of nervousness, anxiety, or fear.

3-66. The MP assist MI screeners by identifying captives who may have answers that support PIR and IR. Because MP are in constant contact with captives, they see how certain captives respond to orders and see the type of requests they make. The MP ensure that searches requested by MI are conducted out of sight of other captives and that guards conduct same-gender searches."

FM 6-0, Mission Command: Command and Control of Army Forces, 11 August 2003, Appendix D, paragraph D-114, describes the responsibilities of the Provost Marshal (PM). The specific language in the field manual follows:

"PM responsibilities include—

- Internment and resettlement of EPWs and civilian internees, dislocated civilians, and US military prisoners, including their—
 - Collection.
 - Detention and internment.
 - Protection.
 - Sustainment.

- Evacuation.

- Coordinating for all logistic requirements relative to EPW and civilian internees, US military prisoners, and dislocated civilians (with the G-4).

- Coordinating on EPW and civilian internee pay support, and financial aspects of weapons bounty programs (with the finance officer and RM)."

FM 34-52, Intelligence Interrogation, 28 September 1992, Preface, establishes this FM as the doctrinal foundation for interrogations of detainees. Chapter 1 defines and explains the purpose of interrogation. Chapter 2 describes the role of MPs in the operation of CPs and CHAs. Chapter 3 describes the role of MPs in the MI screening process. Chapter 4 allows MI to assume control of detainees from MP for interrogation. The specific language in the field manual follows:

Preface -- "This manual provides doctrinal guidance, techniques, and procedures governing employment of interrogators as human intelligence (HUMINT) collection assets in support of the commander's intelligence needs. It outlines the interrogator's role within the intelligence collection effort and the supported unit's day-to-day operations.

This manual is intended for use by interrogators as well as commanders, staff officers, and military intelligence (MI) personnel charged with the responsibility of the interrogation collection effort."

"Chapter 1 – Interrogation is the process of questioning a source to obtain the maximum amount of usable information. 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.

A good interrogation produces needed information, which is timely, complete, clear, and accurate."

"Chapter 2 – The division's central EPW collecting point is operated by division MP under the supervision of the division provost marshal.

The capturing unit escorts or transports EPWs or detainees to the nearest collecting point, and turns them over to the MP. Interrogators in DS of the brigade will screen and categorize all EPWs or detainees, question them, and report information obtained in response to brigade PIR, IR, and SIR.

The corps MP commander operates the corps EPW holding area and provides escort guard support to divisions for EPW evacuation in routine or medical channels.

"Chapter 3 – 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."

"Chapter 4 – MI assumes control from the MP when interrogators determine a captured item or EPW is of intelligence value."

f. **Finding 6:**

(1) **Finding:** Military Intelligence units are not resourced with sufficient interrogators and interpreters, to conduct timely detainee screenings and interrogations in the current operating environment, resulting in a backlog of interrogations and the potential loss of intelligence.

(2) **Standard:** Army Regulation (AR) 190-8, Enemy Prisoners of War, Retained Personnel, Civilian Internees and Other Detainees, 1 October 1997, Chapter 2, paragraph 2-1, provides the regulatory guidance for interrogation of detainees in a combat zone. This regulation is a multi-service regulation implementing DOD Directive 2310.1 and incorporates Army Regulation 190-8 and 190-57 and SECNAV Instruction 3461.3, and Air Force Joint Instruction 31-304 and outlines policies, procedures, and responsibilities for treatment of enemy prisoners of war (EPW), retained personnel (RP), civilian internees (CI), and other detainees (OD) and implements international law for all military operations. The specific language in the regulation follows:

"(d) Prisoners may be interrogated in the combat zone. The use of physical or mental torture or any coercion to compel prisoners to provide information is prohibited. Prisoners may voluntarily cooperate with PSYOP personnel in the development, evaluation, or dissemination of PSYOP messages or products. Prisoners may not be threatened, insulted, or exposed to unpleasant or disparate treatment of any kind because of their refusal to answer questions. Interrogations will normally be performed by intelligence or counterintelligence personnel."

Field Manual (FM) 3-19.40, Military Police Internment/Resettlement Operations, 1 August 2001, Chapters 2 and 3, paragraphs 2-48, 3-3, 3-13, 3-65 to 3-68, describe doctrine for Military Intelligence (MI) operations in internment/resettlement (I/R) facilities. The specific language in the field manual follows:

"2-48. Personnel assigned or attached to I/R facilities are trained on the care and control of housed personnel. They are fully cognizant of the provisions of the Geneva and UN Conventions and applicable regulations as they apply to the treatment of housed personnel. A formal training program should include—

- Principles and laws of land warfare, specifically provisions of Geneva and UN Conventions and HN laws and customs.
- Supervisory and human relations techniques.
- Methods of self-defense.
- The use of force, the ROE, and the ROI.
- Firearms qualification and familiarization.
- Public relations, particularly CONUS operations.
- First aid.
- Stress management techniques.
- Facility regulations and SOPs.
- Intelligence and counterintelligence techniques.
- Cultural customs and habits of internees."

"3-3. The MP work closely with military intelligence (MI) interrogation teams at CPs and CHAs to determine if captives, their equipment, and their weapons have intelligence value. This process is accelerated when MI interrogation teams can observe captives during arrival and processing, and interrogators can also be used as interpreters during this phase. Before a

captive is interviewed by MI personnel, he must have a Department of Defense (DD) Form 2745 (Figure 3-1) attached to him and be accounted for on DD Form 2708.

3-13. The MP coordinate with MI interrogation teams to determine which confiscated items have intelligence value. Personal items (diaries, letters from home, and family pictures) can be taken by MI teams for review and then returned to the proper owner via MP."

"INTERROGATION TEAMS

"3-65. The MI interrogation teams screen captives at CPs and CHAs, looking for anyone who is a potential source of information. Screeners observe captives from an area close to the dismount point or processing area. As each captive passes, MI personnel examine the capture tag and look for branch insignias that indicate a captive with information to support command priority intelligence requirements (PIR) and information requirements (IR). They also look for captives who are willing or attempting to talk to guards; joining the wrong group intentionally; or displaying signs of nervousness, anxiety, or fear.

3-66. The MP assist MI screeners by identifying captives who may have answers that support PIR and IR. Because MP are in constant contact with captives, they see how certain captives respond to orders and see the type of requests they make. The MP ensure that searches requested by MI are conducted out of sight of other captives and that guards conduct same-gender searches.

3-67. The MI screeners examine captured documents, equipment and, in some cases, personal papers (journals, diaries, and letters from home). They are looking for information that identifies a captive and his organization, mission, and personal background (family, knowledge, and experience). Knowledge of a captive's physical and emotional status or other information helps screeners determine his willingness to cooperate.

LOCATION

3-68. Consider the following when planning an MI screening site:

- The site is located where screeners can observe captives as they are segregated and processed. It is shielded from the direct view of captives and is far enough away that captives cannot overhear screeners' conversations.
- The site has an operation, administrative, and interrogation area. The interrogation area accommodates an interrogator, a captive, a guard, and an interpreter as well as furniture. Lights are available for night operations.
- Procedures are implemented to verify that sick and wounded captives have been treated and released by authorized medical personnel.
- Guards are available and procedures are implemented for escorting captives to the interrogation site.
- Procedures are published to inform screeners who will be moved and when they will be moved.
- Accountability procedures are implemented and required forms are available."

FM 3-31, Joint Force Land Component Commander Handbook (JFLCC), 13 December 2001, Appendix A, paragraph A-11, describes the role of the Joint Interrogation and Debriefing Center (JIDC). The specific language in the field manual follows:

"JIDC conducts follow-on exploitation of EPWs. EPWs are screened by the JIFs, and those of further intelligence potential are identified and forwarded to the JIDC for follow-on interrogation and debriefing in support of JTF and higher requirements. Besides EPWs, the JIDC may also interrogate civilian detainees, refugees, and other nonprisoner sources. JIDC activities are managed by the J-2X HOC."

FM 27-10, The Law of Land Warfare, 18 July 1956 (change 1, 15 July 1976), Paragraph 93, describes guidelines for the questioning of enemy prisoners of war (EPWs). The specific language in the field manual follows:

"Every prisoner of war, when questioned on the subject, is bound to give only his surname, first names and rank, date of birth, and army, regimental, personal or serial number, or failing this equivalent information. If he willfully infringes this rule, he may render himself liable to a restriction of the privileges accorded to his rank or status. Each Party to a conflict is required to furnish the persons under its jurisdiction who are liable to become prisoners of war, with an identity card showing the owner's surname, first names, rank, army, regimental, personal or serial number or equivalent information, and date of birth. The identity card may, furthermore, bear the signature or the fingerprints, or both, of the owner, and may bear, as well, any other information the Party to the conflict may wish to add concerning persons belonging to its armed forces. As far as possible the card shall measure 6.5 x 10 cm. and shall be issued in duplicate. The identity card shall be shown by the prisoner of war upon demand, but may in no case be taken away from him. 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."

FM 34-52, Intelligence Interrogation, 28 September 1992, Chapter 1, defines and explains the purpose of interrogation. The specific language in the field manual follows:

"Interrogation is the process of questioning a source to obtain the maximum amount of usable information. 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.

A good interrogation produces needed information, which is timely, complete, clear, and accurate."

Special Text (ST) 2-22.7 (FM 34-7-1), Tactical Human Intelligence and Counterintelligence Operations, 11 April 2002, Chapter 1, paragraphs 1-19, 1-21 to 1-25, provides the doctrinal basis for the structure and utilization of tactical human intelligence assets. The specific language in the special text follows:

"1-19. The requirement for collectors is based on the density of the potential source pool. The basic methodology of collection does not change in the urban environment; however, the density of the population results in a proportional increase in the number of collectors required. This need for additional assets has been illustrated by recent operations in Somalia, Haiti, Bosnia, and Kosovo."

"ARMY CORPS AND BELOW

1-21. Army HUMINT and CI assets organic at corps and below are uniquely qualified to be the primary collection asset in many of our future conflicts. They are organic to—

- Tactical exploitation battalions (TEBs) and the corps support battalions (CSBs) at the Corps MI brigade.
- MI battalions at division.
- MI companies at armored cavalry regiments (ACRs) and separate brigades (SEP BDEs).
- MI elements at Special Forces Groups (SFGs).

1-22. Army HUMINT and CI assets provide technologically enhanced exploitation of human sources and media. This exploitation provides valuable intelligence to meet the critical requirements affecting the MDMP. The simultaneous digital interaction between operational HUMINT and CI teams and analytical elements provides the deployed commander with near-instantaneous information. This rapid transmission of critical intelligence to the user gives the supported command an information edge and a more complete vision of the battlespace.

INTERIM BRIGADE COMBAT TEAM

1-23. The brigade's intelligence system is a flexible force of Intelligence, Surveillance, and Reconnaissance (ISR) personnel, organizations, and equipment. Individually and collectively, these assets provide commanders throughout the brigade with the capability to plan and direct ISR operations, collect and process information, produce relevant intelligence, and disseminate combat information and intelligence to those who need it, when they need it. The brigade and its subordinate units possess organic ISR assets that enable the above actions. Based on METT-TC considerations the brigade task organizes its organic ISR assets for the operation and, in addition, may receive additional ISR assets from corps, joint, and national organizations.

1-24. The brigade's tactical HUMINT assets include an S2X team, a tactical HUMINT platoon with two operational management teams (OMTs) and tactical HUMINT teams, and troop HUMINT collectors in the reconnaissance, surveillance, and target acquisition (RSTA) squadron. The functions and responsibilities of these assets are the same as at higher echelons. The mission of the Troop HUMINT collector is limited to providing tactical questioning and DOCEX in support of the squadron's multidimensional reconnaissance and surveillance (R&S) mission and identifying possible sources of interest for the tactical HUMINT platoon. The functions of the different teams and offices in tactical HUMINT are similar through the echelons where tactical HUMINT is conducted.

RESERVE COMPONENT INTEGRATION

1-25. Given the Army's current operational tempo and force structure, the integration of RC forces into the AC is a near certainty for future operational deployments. Commanders must identify their requirements early and establish proactive coordination (both in garrison and while deployed) with their RC counterparts to fully integrate them during all phases of training and operations."

ST 2-91.6 Small Unit Support to Intelligence, March 2004, Chapter 2, paragraphs 2-13 to 2-17, explains the use of interpreters in tactical interrogations. The specific language in the special text follows:

2-13. The use of interpreters is an integral part of the information collection effort. Use of an interpreter is time consuming and potentially confusing. Proper use and control of an interpreter is a skill that must be learned and practiced to maximize the potential of collection.

2-14. Perhaps the most important guideline to remember is that an interpreter is essentially your mouthpiece; he says what you say, but in a different language. This sounds simple, but for those who have never worked with interpreters, problems can quickly develop.

2-15. Upon meeting your interpreter, it is important that you assess his proficiency in English. You need an interpreter with a firm grasp of English and the terminology you may encounter.

2-16. Interpreters are categorized as to capability and clearance they have been granted. The categories below are more fully detailed in Interpreter Ops, Multi-Service Reference Manual for Interpreter Operations, February 2004. This manual can be obtained from the Air Land Sea Application (ALSA) Center.

CATEGORIES OF INTERPRETERS

- CAT I Linguists - Locally hired personnel with an understanding of the English language. These personnel are screened and hired in-theater and do not possess a security clearance. During most operations, CAT I linguists are required to be re-screened by CI personnel on a scheduled basis. CAT I linguists should not be used for HUMINT collection operations.
- CAT II Linguists - CAT II linguists are United States citizens who have native command of the target language and near-native command of the English language. These personnel undergo a screening process, which includes a background check. Upon favorable findings, these personnel are granted an equivalent of a Secret Collateral clearance.
- CAT III Linguists - CAT III linguists are United States citizens who have native command of the target language and native command of the English language. These personnel undergo a screening process, which includes a special background check. Upon favorable findings, these personnel are granted an equivalent of a Top Secret (TS) clearance. CAT III linguists are used mostly for high-ranking official meetings and by strategic collectors.

2-17. The following are several tips that should prove useful when working with an interpreter.

Placement

- When standing, the interpreter should stand just behind you and to the side.
- When sitting, the interpreter should sit right beside you but not between you and the individual.

Body Language and Tone

- Have the interpreter translate your message in the tone you are speaking.

- Ensure the interpreter avoids making gestures.

Delivery

- Talk directly to the person with whom you are speaking, not the interpreter.
- Speak as you would in a normal conversation, not in the third person. For example, do not say, "Tell him that...." Rather say, "I understand that you..." and instruct the interpreter to translate as such.
- Speak clearly, avoid acronyms or slang, and break sentences uniformly to facilitate translation.
- Some interpreters will begin to translate while you are still speaking. This is frustrating for some people. If so, discuss the preference of translation with the interpreter.
- The most important principle to obey while using an interpreter is to remember that you control the conversation, not the interpreter.

Security

- Work on the premise that the interpreter is being debriefed by a threat intelligence service.
- Always assume the worst.
- Avoid careless talk.
- Avoid giving away personal details.
- Do not become emotionally involved!

Interpreter Checklist for Patrolling

- Tell the interpreter what you expect of him, and how you want him to do it.
- Tell the interpreter exactly what you want translated. The interpreter should translate all conversation between you and the individual without adding anything on his own.
- Just as questioning should be conducted in such a way as to disguise the true intent of the questioning from the source, you should not reveal intelligence requirements (FFIR, IR, or essential elements of friendly information [EEFI]) to the interpreter. Brief the interpreter on actions to take at the halt or in the event of enemy contact."

g. Finding 7:

(1) Finding: Tactical Military Intelligence officers are not adequately trained on how to manage the full spectrum of the collection and analysis of human intelligence.

(2) Standard: Army Regulation 350-1, Army Training and Education, 9 April 2003, Chapter 3, paragraph 3-2, requires that TRADOC establish training and education goals and objectives for all Army personnel. The specific language in the regulation follows:

"Training proponents. These would include TRADOC schools and colleges, USAJFKSWC&S and AMEDDC&S and would perform the following.

(a) Develop courses based on established training and education goals and objectives as well as the duties, responsibilities, and missions their graduates will be assigned.

(b) Develop, evaluate, and train leader, technical, and tactical tasks that focus on missions for the size or type units to which graduates will be assigned.

(c) Provide progressive and sequential training.

(d) Provide personnel serving at the same organizational level with training consisting of the same tasks, conditions, and standards.

(e) Provide leader, technical, and tactical training that affords soldiers and DA civilians an opportunity to acquire the skills and knowledge needed to perform more complex duties and missions of greater responsibility."

Field Manual (FM) 7-0, Training the Force, 22 October 2002, Chapter 1, paragraph 1-29, gives overall guidance for the implementation of Professional Military Education (PME). The specific language in the field manual follows:

"Professional Military Education - PME develops Army leaders. Officer, warrant officer, and NCO training and education is a continuous, career-long, learning process that integrates structured programs of instruction—resident at the institution and non-resident via distributed learning at home station. PME is progressive and sequential, provides a doctrinal foundation, and builds on previous training, education and operational experiences. PME provides hands-on technical, tactical, and leader training focused to ensure leaders are prepared for success in their next assignment and higher-level responsibility.

- Officer Education System (OES). Army officers must lead and fight; be tactically and technically competent; possess leader skills; understand how the Army operates as a service, as well as a component of a joint, multinational, or interagency organization; demonstrate confidence, integrity, critical judgment, and responsibility; operate in a complex, uncertain, and rapidly changing environment; build effective teams amid continuous organizational and technological change; and solve problems creatively. OES develops officers who are self-aware and adaptive to lead Army units to mission success.

- Warrant Officer Education System (WOES). Warrant officers are the Army's technical experts. WOES develops a corps of highly specialized experts and trainers who are fully competent and proficient operators, maintainers, administrators, and managers of the Army's equipment, support activities, and technical systems.

- NCO Education System (NCOES). NCOES trains NCOs to lead and train soldiers, crews, and subordinate leaders who work and fight under their leadership. NCOES provides hands-on technical, tactical, and leader training focused to ensure that NCOs are prepared for success in their next assignment and higher-level responsibility.

- Functional Training. In addition to the preceding PME courses, there are functional courses available in both resident and non-resident distributed learning modes that enhance functional skills for specific duty positions. Examples are Battalion S2, Battalion Motor Officer, First Sergeant, Battle Staff NCO, and Airborne courses."

FM 34-52, Intelligence Interrogation, 28 September 1992, Chapter 1, Intelligence Disciplines, states that the Intelligence Electronic Warfare (IEW) system includes three MI disciplines. The specific language in the field manual follows:

"HUMINT -

HUMINT is obtained from information collected from human sources and consists of the following intelligence collection operations. Interrogation of EPWs, civilian detainees, insurgents, defectors, refugees, displaced persons and agents and suspected agents.

- Long-range surveillance patrols.
- Strategic debriefing
- Controlled collection operations
- Open-source exploitation, to include publications and broadcasts.
- Reports of contact from forward units.
- Observation and listening posts
- Low-level source operations (LLSO)
- HUMINT liaison contacts

HUMINT is vital in all combat operations, regardless of echelon or intensity of conflict. By nature, HUMINT lends itself to the collection of information about the enemy's thought processes and intentions. HUMINT can provide information on almost any topic of intelligence interest, including order of battle (OB) factors, as well as scientific and technical (S&T) intelligence subjects. During operation Desert Storm, interrogators collected information which helped to -

- Develop a plan to breach Iraqi defensive belts.
- Confirm Iraqi supply line interdiction by coalition air strikes.
- Identify diminishing Iraqi troop morale.
- Identify a US Prisoner of war captured during the battle of Kanji."

h. Finding 8:

(1) Finding: The DAIG Team found that officially approved CJTF-7 and CJTF-180 policies and the early CJTF-180 practices generally met legal obligations under US law, treaty obligations and policy, if executed carefully, by trained soldiers, under the full range of safeguards. The DAIG Team found that policy was not clear and contained ambiguity. The DAIG Team found implementation, training, and oversight of these policies was inconsistent; the Team concluded, however, based on a review of cases through 9 June 2004 that no confirmed instance of detainee abuse resulted from the approved policies.

(2) Standard: Standard of treatment for detainees in OPERATION ENDURING FREEDOM (OEF): The Secretary of Defense determined that members of the Taliban militia and members of Al Qaida under the control of US Forces would be treated humanely and, to the extent appropriate and consistent with military necessity, in a manner consistent with the principles of the Geneva Conventions of 1949. The DAIG has therefore used the provisions of the Geneva Conventions as a benchmark against which to measure the treatment provided to detainees by U.S. Forces to determine if detainees were treated humanely. The use of these standards as benchmarks does not state or imply a position for the United States or U.S. Army on the legal status of its operations in OEF.

Chairman, Joint Chiefs of Staff (CJCS) Message dated 211933Z JAN 02, provides the determination regarding the humane treatment of Al Qaida and Taliban detainees. Convention Relative to the Treatment of Prisoners of War of August 12, 1949 (GPW) is the international

treaty that governs the treatment of prisoners of war, and Geneva Convention Relative to the Protection of Civilian Persons in Time of War (GC), August 12, 1949, is the international treaty that governs the treatment of civilian persons in time of war.

As the guidance did not define "humane treatment" but did state that the US would treat members of the Taliban militia and Al Qaida in a manner consistent with the Geneva Conventions, the DAIG determined that it would use Common Article 3 of the GCs as its floor measure of humane treatment, but would also include provisions of the Geneva Convention on the Treatment of Prisoners of War (GPW) and Geneva Convention Relative to the Protection of Civilian Persons in Time of War (GC) as other relevant indicia of "humane treatment." The use of this standard does not state or imply a position for the United States or U.S. Army on the legal status of its operations in OEF.

Standard of treatment for detainees in OPERATION IRAQI FREEDOM (OIF): OIF was an international armed conflict and therefore the provisions of the Geneva Conventions applied. Additionally, the United States was an occupying power and has acted in accordance with the obligations of an occupying power described in the Hague Convention No. IV Respecting the Laws and Customs of War on Land (H.IV), 18 October 1907, including, but not limited to, Articles 43-46 and 50; Geneva Convention Relative to the Treatment of Prisoners of War of August 12, 1949 (GPW), Geneva Convention Relative to the Protection of Civilian Persons in Time of War (GC), 12 August 1949. The GC supplements H.IV, providing the general standard of treatment at Article 27 and specific standards in subsequent Articles.

The minimum treatment provided by Common Article 3 of the Geneva Conventions is:
1) No adverse distinction based upon race, religion, sex, etc.; 2) No violence to life or person; 3) No taking hostages; 4) No degrading treatment; 5) No passing of sentences in absence of fair trial, and; 6) The wounded and sick must be cared for.

The specific language in the CJCS Message for OEF and the GPW/GC and H.IV follows:

CJCS Message dated 211933Z JAN 02, "Paragraph 3. The combatant commanders shall, in detaining Al Qaida and Taliban individuals under control of the Department of Defense, treat them humanely and, to the extent appropriate and consistent with military necessity, in a manner consistent with the principles of the Geneva Conventions of 1949."

GPW/GC, Article 3 (Common Article 3) – "In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each party to the conflict shall be bound to apply, as a minimum, the following provisions:

1. Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, color, religion or faith, sex, birth or wealth, or any other similar criteria.

To this end the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons:

(a) Violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;

(b) Taking of hostages;
(c) Outrages upon personal dignity, in particular, humiliating and degrading treatment;
(d) The passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court affording all the judicial guarantees which are recognized as indispensable by civilized peoples.

2. The wounded and sick shall be collected and cared for. An impartial humanitarian body, such as the International Committee of the Red Cross, may offer its services to the Parties to the conflict. The Parties to the conflict should further endeavour to bring into force, by means of special agreements, all or part of the other provisions of the present Convention. The application of the preceding provisions shall not affect the legal status of the Parties to the conflict."

Geneva Convention Relative to the Treatment of Prisoners of War, 12 August 1949, Part II, Article 13, requires that enemy prisoners of war (EPWs) be treated humanely at all times; Part III, Section I, Articles 13, 14, and 17, explain the protections afforded EPWs. The specific language in the convention follows:

"Article 13

Prisoners of war must at all times be humanely treated. Any unlawful act or omission by the Detaining Power causing death or seriously endangering the health of a prisoner of war in its custody is prohibited, and will be regarded as a serious breach of the present Convention. In particular, no prisoner of war may be subjected to physical mutilation or to medical or scientific experiments of any kind which are not justified by the medical, dental or hospital treatment of the prisoner concerned and carried out in his interest.

Likewise, prisoners of war must at all times be protected, particularly against acts of violence or intimidation and against insults and public curiosity.

Measures of reprisal against prisoners of war are prohibited.

Article 14

Prisoners of war are entitled in all circumstances to respect for their persons and their honour. Women shall be treated with all the regard due to their sex and shall in all cases benefit by treatment as favourable as that granted to men. Prisoners of war shall retain the full civil capacity which they enjoyed at the time of their capture. The Detaining Power may not restrict the exercise, either within or without its own territory, of the rights such capacity confers except in so far as the captivity requires."

Article 17

Every prisoner of war, when questioned on the subject, is bound to give only his surname, first names and rank, date of birth, and army, regimental, personal or serial number, or failing this, equivalent information. If he willfully infringes this rule, he may render himself liable to a restriction of the privileges accorded to his rank or status.

Each Party to a conflict is required to furnish the persons under its jurisdiction who are liable to become prisoners of war, with an identity card showing the owner's surname, first names, rank, army, regimental, personal or serial number or equivalent information, and date of

birth. The identity card may, furthermore, bear the signature or the fingerprints, or both, of the owner, and may bear, as well, any other information the Party to the conflict may wish to add concerning persons belonging to its armed forces. As far as possible the card shall measure 6.5 x 10 cm. and shall be issued in duplicate. The identity card shall be shown by the prisoner of war upon demand, but may in no case be taken away from him.

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 any unpleasant or disadvantageous treatment of any kind.

Prisoners of war who, owing to their physical or mental condition, are unable to state their identity, shall be handed over to the medical service. The identity of such prisoners shall be established by all possible means, subject to the provisions of the preceding paragraph.

The questioning of prisoners of war shall be carried out in a language which they understand."

Geneva Convention Relative to the Protection of Civilian Persons in Time of War, 12 August 1949, Part III, Section I, Articles 31, 32, and 100, prohibit coercion and abuse of civilian internees. The specific language in the convention follows:

"Article 31

No physical or moral coercion shall be exercised against protected persons, in particular to obtain information from them or from third parties.

Article 32

The High Contracting Parties specifically agree that each of them is prohibited from taking any measure of such a character as to cause the physical suffering or extermination of protected persons in their hands. This prohibition applies not only to murder, torture, corporal punishment, mutilation and medical or scientific experiments not necessitated by the medical treatment of a protected person but also to any other measures of brutality whether applied by civilian or military agents."

"Article 100

The disciplinary regime in places of internment shall be consistent with humanitarian principles, and shall internees any physical exertion dangerous to their health or involving physical or moral victimization. Identification by tattooing or imprinting signs or markings on the body, is prohibited. In particular, prolonged standing and roll-calls, punishment drill, military drill and manoeuvres, or the reduction of food rations, are prohibited."

Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 10 December 1984, Part I, Articles 1, 2, 10, 11 and 16(1) define torture (1), the basic responsibilities of states under the convention (2), the requirement for training personnel on this convention (10), the need to conduct systematic reviews of interrogations rules, instructions, methods and practices (11), and the requirement to prevent acts not amounting to "torture"

committed with consent or acquiescence of a public official or other person in an official capacity (16). The specific language in the convention follows:

"Article 1

1. For the purposes of this Convention, the term "torture" means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.

2. This article is without prejudice to any international instrument or national legislation which does or may contain provisions of wider application.

Article 2

1. Each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction.

2. No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture.

3. An order from a superior officer or a public authority may not be invoked as a justification of torture.

Article 10

1. Each State Party shall ensure that education and information regarding the prohibition against torture are fully included in the training of law enforcement personnel, civil or military, medical personnel, public officials and other persons who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment.

2. Each State Party shall include this prohibition in the rules or instructions issued in regard to the duties and functions of any such person.

Article 11

Each State Party shall keep under systematic review interrogation rules, instructions, methods and practices as well as arrangements for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment in any territory under its jurisdiction, with a view to preventing any cases of torture.

Article 16 (1)

Each State Party shall undertake to prevent in any territory under its jurisdiction other acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture as

defined in article 1, when such acts are committed by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. In particular, the obligations contained in articles 10, 11, 12 and 13 shall apply with the substitution for references to torture of references to other forms of cruel, inhuman or degrading treatment or punishment.

US Reservations, Declarations and Understandings the Convention Against Torture.
The United States Senate ratified the Convention Against Torture subject to certain reservations, declarations and understandings. Pertinent reservations and understandings are as follow:

Senate Reservations: (136 Cong Rec S 17486):

The Senate's advice and consent is subject to the following reservations:

(1) That the United States considers itself bound by the obligation under article 16 to prevent 'cruel, inhuman or degrading treatment or punishment', only insofar as the term 'cruel, inhuman or degrading treatment or punishment' means the cruel, unusual and inhumane treatment or punishment prohibited by the Fifth, Eighth, and/or Fourteenth Amendments to the Constitution of the United States.

Senate Understandings (136 Cong Rec S 17486):

The Senate's advice and consent is subject to the following understandings, which shall apply to the obligations of the United States under this Convention:

(1) (a) That with reference to article 1, the United States understands that, in order to constitute torture, an act must be specifically intended to inflict severe physical or mental pain or suffering and that mental pain or suffering refers to prolonged mental harm caused by or resulting from (1) the intentional infliction or threatened infliction of severe physical pain or suffering; (2) the administration or application, or threatened administration or application, of mind altering substances or other procedures calculated to disrupt profoundly the senses or the personality; (3) the threat of imminent death; or (4) the threat that another person will imminently be subjected to death, severe physical pain or suffering, or the administration or application of mind altering substances or other procedures calculated to disrupt profoundly the senses or personality.

(b) That the United States understands that the definition of torture in article 1 is intended to apply only to acts directed against persons in the offender's custody or physical control.

(c) That with reference to article 1 of the Convention, the United States understands that 'sanctions' includes judicially-imposed sanctions and other enforcement actions authorized by United States law or by judicial interpretation of such law provided that such sanctions or actions are not clearly prohibited under international law.

(d) That with reference to article 1 of the Convention, the United States understands that the term 'acquiescence' requires that the public official, prior to the activity constituting torture, have awareness of such activity and thereafter breach his legal responsibility to intervene to prevent such activity.

(e) That with reference to article 1 of the Convention, the United States understands that noncompliance with applicable legal procedural standards does not per se constitute torture.

Domestic Criminal Law: US Domestic Criminal law reflects treaty obligations and ratification reservations and understandings regarding torture in the adoption of 18 US CS §§2340, 2340A, which state:

18 USC§ 2340 Definitions
As used in this chapter [18 USCS §§ 2340 et seq.]-

(1) "torture" means an act committed by a person acting under the color of law specifically intended to inflict severe physical or mental pain or suffering (other than pain or suffering incidental to lawful sanctions) upon another person within his custody or physical control;

(2) "severe mental pain or suffering" means the prolonged mental harm caused by or resulting from-

(A) the intentional infliction or threatened infliction of severe physical pain or suffering;

(B) the administration or application, or threatened administration or application, of mind-altering substances or other procedures calculated to disrupt profoundly the senses or the personality;

(C) the threat of imminent death;

(D) the threat that another person will imminently be subjected to death, severe physical pain or suffering, or the administration or application of mind-altering substances or other procedures calculated to disrupt profoundly the senses or personality; and

(3) "United States" includes all areas under the jurisdiction of the United States including any of the places described in sections 5 and 7 of this title and section 46501(2) of title 49.

§ 2340A. Torture

(a) Offense. Whoever outside the United States commits or attempts to commit torture shall be fined under this title or imprisoned not more than 20 years, or both, and if death results to any person from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

(b) Jurisdiction. There is jurisdiction over the activity prohibited in subsection (a) if-

(1) the alleged offender is a national of the United States; or

(2) the alleged offender is present in the United States, irrespective of the nationality of the victim or alleged offender.

(c) Conspiracy. A person who conspires to commit an offense under this section shall be subject to the same penalties (other than the penalty of death) as the penalties prescribed for the offense, the commission of which was the object of the conspiracy.

Field Manual (FM) 34-52, Intelligence Interrogation, 28 September 1992, Chapter 1, explains the prohibitions against use of torture or coercion. Chapter 3 describes the interrogation approaches and techniques used by trained Army interrogators. The specific language in the field manual follows:

Chapter 1 – "One of the significant means used by the intelligence staff is the interrogation of the following:

- EPWs.
- Captured insurgents.
- Civilian internees.
- Other captured, detained, or retained persons.
- Foreign deserters or other persons of intelligence interest.

These persons are protected by the Geneva Conventions for the Protection of War Victims of August 12, 1949, as they relate to captured wounded and sick enemy personnel (GWS), retained enemy medical personnel and chaplains (GWS), enemy prisoners of war (GPW), and civilian internees (GC). Captured insurgents and other detained personnel whose status is not clear, such as suspected terrorists, are entitled to PW protection until their precise status has been determined by competent authority.

In conducting intelligence interrogations, the J2, G2, or S2 has primary staff responsibility to ensure these activities are performed in accordance with the GWS, GPW, and GC, as well as US policies, regarding the treatment and handling of the above-mentioned persons.

The GWS, GPW, GC, 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.

Such illegal acts are not authorized and will not be condoned by the US Army. Acts in violation of these prohibitions are criminal acts punishable under the UCMJ. If there is doubt as to the legality of a proposed form of interrogation not specifically authorized in this manual, the advice of the command judge advocate should be sought before using the method in question.

Experience indicates that the use of prohibited techniques is not necessary to gain the cooperation of interrogation sources. Use of torture and other illegal methods is a poor technique that yields unreliable results, may damage subsequent collection efforts, and can induce the source to say what he thinks the interrogator wants to hear.

Revelation of use of torture by US personnel will bring discredit upon the US and its armed forces while undermining domestic and international support for the war effort. It also may place US and allied personnel in enemy hands at a greater risk of abuse by their captors. Conversely, knowing the enemy has abused US and allied PWs does not justify using methods of interrogation specifically prohibited by the GWS, GPW, or GC, and US policy.

Limitations on the use of methods identified herein as expressly prohibited should not be confused with psychological ploys, verbal trickery, or other nonviolent or noncoercive ruses used by the interrogator in the successful interrogation of hesitant or uncooperative sources.

The psychological techniques and principles in this manual should neither be confused with, nor construed to be synonymous with, unauthorized techniques such as brainwashing, physical or mental torture, or any other form of mental coercion to include drugs that may induce lasting and permanent mental alteration and damage.

Physical or mental torture and coercion revolve around eliminating the source's free will, and are expressly prohibited by GWS, Article 13; GPW, Articles 13 and 17; and GC, Articles 31 and 32. Torture is defined as the infliction of intense pain to body or mind to extract a confession or information, or for sadistic pleasure.

Examples of physical torture include—

- Electric shock.
- Infliction of pain through chemicals or bondage (other than legitimate use of restraints to prevent escape).
- Forcing an individual to stand, sit, or kneel in abnormal positions for prolonged periods of time.
- Food deprivation.
- Any form of beating.

Examples of mental torture include—

- Mock executions.
- Abnormal sleep deprivation.=
- Chemically induced psychosis.

Coercion is defined as actions designed to unlawfully induce another to compel an act against one's will. Examples of coercion include—

- Threatening or implying physical or mental torture to the subject, his family, or others to whom he owes loyalty.
- Intentionally denying medical assistance or care in exchange for the information sought or other cooperation.
- Threatening or implying that other rights guaranteed by the GWS, GPW, or GC will not be provided unless cooperation is forthcoming.

Chapter 3 – "The number of approaches used is limited only by the interrogator's skill. Almost any ruse or deception is usable as long as the provisions of the GPW, as outlined in Figure 1-4, are not violated.

An interrogator must not pass himself off as a medic, chaplain, or as a member of the Red Cross (Red Crescent or Red Lion). To every approach technique, there are literally hundreds of possible variations, each of which can be developed for a specific situation or source. The variations are limited only by the interrogator's personality, experience, ingenuity, and imagination.

3-7 There are four primary factors that must be considered when selecting tentative approaches:

- The source's mental and physical state. Is the source injured, angry, crying, arrogant, cocky, or frightened? If so, how can this state be best exploited during interrogation.
- The source's background. What is the source's age and level of military or civilian experience.
- The objective of the interrogation. How much time is available for the interrogation? Is the commander interested only in specific areas (PIR, IR, SIR)? Is this source knowledgeable enough to require a full OB interrogation?
- The interrogator himself. What abilities does he have that can be brought into play? What weaknesses does he have that may interfere with the interrogation? Can his personality adapt to the personality of the source?

APPROACH COMBINATIONS

With the exception of the direct approach, no other approach is effective by itself. Interrogators use different approach techniques or combine them into a cohesive, logical technique. Smooth transitions, sincerity, logic, and conviction almost always make a strategy work. The lack of will undoubtedly dooms it to failure. Some examples of combinations are—

Direct—futility—incentive.

Direct—futility—love of comrades.

Direct—fear-up (mild)—incentive.

The number of combinations are unlimited. Interrogators must carefully choose the approach strategy in the planning and preparation phase and listen carefully to what the source is saying (verbally or nonverbally) for leads the strategy chosen will not work. When this occurs, the interrogator must adapt to approaches he believes will work in gaining the source's cooperation.

The approach techniques are not new nor are all the possible or acceptable techniques discussed below. Everything the interrogator says and does must be in concert with the GWS, GPW, GC, and UCMJ. The approaches which have proven effective are—

- Direct.
- Incentive.
- Emotional.
- Increased fear-up.
- Pride and ego.

Direct Approach

The interrogator asks questions directly related to information sought, making no effort to conceal the interrogation's purpose. The direct approach, always the first to be attempted, is used on EPWs or detainees who the interrogator believes will cooperate.